

STAND. COM. REP. NO.

2747

Honolulu, Hawaii

MAR 02 2018

RE: S.B. No. 3083  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Twenty-Ninth State Legislature  
Regular Session of 2018  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B.  
No. 3083 entitled:

"A BILL FOR AN ACT RELATING TO EMERGENCY MANAGEMENT,"

begs leave to report as follows:

The purpose and intent of this measure is to clarify that certain types of remuneration received by an owner of private property who in good faith provides emergency access to land, shelter, or subsistence during a disaster shall not disqualify the owner from receiving the exemption provided under section 663-10.7, Hawaii Revised Statutes, from civil liability for any resulting injury or damage.

Your Committee received testimony in support of this measure from the Department of Emergency Management of the City and County of Honolulu and Oahu County Committee on Legislative Priorities of the Democratic Party of Hawai'i. Your Committee received comments on this measure from the Hawaii Association for Justice.

Your Committee finds that ensuring citizens have access to adequate land, shelter, and subsistence during a disaster is a vital interest of the State. In many cases, owners of private property are reluctant to make their property or facilities available to the general public for use as emergency shelter due to concerns about liability. Act 291, Session Laws of Hawaii 2012, exempts from civil liability for injury or damage an owner



of private property who provides, in good faith, emergency access to land, shelter, or subsistence during a disaster, without remuneration or expectation of remuneration, with certain exceptions. At present, it is unclear whether the exemption from civil liability applies if the persons being sheltered are paying guests of a transient accommodation, wards of healthcare facilities, students of an educational facility, or buyers of commodities sold by the property owner. This measure clarifies the definition of remuneration as it applies to compensation received by owners of private transient accommodations; hospitals, care homes, or healthcare agencies; or day care, preschool, or educational facilities and provides that such compensation shall not disqualify an owner from receiving the exemption from liability unless the owner violates the prohibition against price gouging.

Your Committee further finds that the ballistic missile alert that was broadcast in error to the public on January 13, 2018, has highlighted a need for additional public emergency shelters throughout the State. Senate Bill No. 2534, Regular Session of 2018, contains substantive provisions that would increase the number of emergency shelters open to the public. Your Committee notes that Senate Bill No. 2534 was originally referred to your Committee on Public Safety, Intergovernmental, and Military Affairs, and that further discussion on the language from that measure is necessary.

Your Committee has amended this measure by:

- (1) Adding a new part to include the substantive provisions of Senate Bill No. 2534, Regular Session of 2018, which:
  - (A) Requires the owners of buildings open to the public to provide shelter to visiting members of the public in cases of emergency or disaster;
  - (B) Requires the owners of buildings open to the public to inform the appropriate county emergency management agency of the designated shelter area; and
  - (C) Provides immunity from civil liability for owners of buildings open to the public who provide shelter

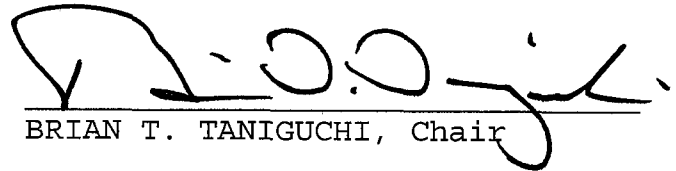


to visiting members of the public in cases of emergency or disaster;

- (2) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 3083, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 3083, S.D. 1.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



BRIAN T. TANIGUCHI, Chair



The Senate  
Twenty-Ninth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:* <div style="font-size: 1.2em; font-family: cursive;">SB 3083</div>	Committee Referral: <div style="font-size: 1.2em; font-family: cursive;">PSM, JDC</div>	Date: <div style="font-size: 1.2em; font-family: cursive;">2/27/2018</div>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="text-align: center;"> <input type="checkbox"/> Pass, unamended 2312         </div> <div style="text-align: center;"> <input checked="" type="checkbox"/> Pass, with amendments 2311         </div> <div style="text-align: center;"> <input type="checkbox"/> Hold 2310         </div> <div style="text-align: center;"> <input type="checkbox"/> Recommit 2313         </div> </div>				
Members	Aye	Aye (WR)	Nay	Excused
TANIGUCHI, Brian T. (C)	✓			
RHOADS, Karl (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
THIELEN, Laura H.	✓			
<b>TOTAL</b>	5	0	0	0
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted           <input type="checkbox"/> Not Adopted         </div>				
Chair's or Designee's Signature: <div style="font-size: 1.5em; font-family: cursive; margin-left: 20px;">Karl Rhoads</div>				
<b>Distribution:</b> <div style="display: flex; justify-content: space-between; font-size: 0.8em;"> <div>Original File with Committee Report</div> <div>Yellow Clerk's Office</div> <div>Pink Drafting Agency</div> <div>Goldenrod Committee File Copy</div> </div>				

\*Only one measure per Record of Votes