

Honolulu, Hawaii

FEB 17 2023

RE: S.B. No. 1468

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 1468 entitled:

"A BILL FOR AN ACT RELATING TO RIGHT OF ENTRY FOR PROFESSIONAL SURVEYORS,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize professional land surveyors to enter any private property to perform land surveying, subject to certain provisions regarding notice, identification, and liability; and
- (2) Shield land surveyors from prosecution under criminal trespass laws when performing their duties.

Your Committee received testimony in support of this measure from the City and County of Honolulu; Board of Professional Engineers, Architects, Surveyors, and Landscape Architects; DLB & Associates, LLC; and nine individuals. Your Committee received comments on this measure from the Department of the Attorney General and Hawaii Association of REALTORS.

Your Committee finds that professional land surveyors often require the right to access private property for the purposes of producing a thorough and complete land survey. The current



practice for surveyors and assistants is to verbally ask for permission to enter a property for purposes of surveying. However, without a right of entry, a professional land surveyor conducting a land survey is subject to trespass laws, prohibiting them from conducting a land survey required to ensure the public's interest in maintaining a sound and uniform real property system. This measure seeks to mitigate certain risks while balancing property rights and protect land surveying professionals.

Your Committee acknowledges the testimony of the Department of the Attorney General, which raises concerns that enabling the right of access onto private property beyond the property of the person requesting a survey could be considered a regulatory taking of property, which could expose the government to financial liability. Your Committee notes, however, that twenty-six other states have enacted legislation that grants a right of entry to land surveyors in the performance of their duties, similar to this measure. Additionally, your Committee finds the amendments proposed by the Department of the Attorney General help to clarify this measure, and further believes that extending the notice requirement improve this measure.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that a land surveyor's right of entry is granted to a land surveyor's assistant only if the assistant is under the direct supervision of the land surveyor;
- (2) Clarifying that the land surveyor is required to send a written notice to the owner of, or person with an interest in, the property to be surveyed;
- (3) Inserting a requirement that a land surveyor entering private property must carry a government issued identification in addition to the surveyor's certificate of licensure or authorized seal or stamp;
- (4) Extending the required written notice a land surveyor must provide before entering private property from five days to ten days' written notice; and



- (5) Inserting an effective date of July 1, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1468, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1468, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on:
behalf of the members of the
Committee on Commerce and
Consumer Protection,

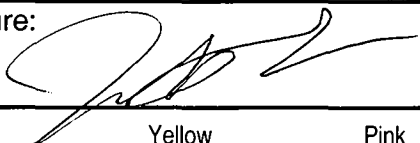


JERRELL KEOHOKALOLE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce and Consumer Protection
CPN

Bill / Resolution No.:*	Committee Referral:	Date:		
SB1468	CPN, JDC	2/10/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
KEOHOKALOLE, Jarrett (C)	✓			
FUKUNAGA, Carol (VC)	✓			
MCKELVEY, Angus L.K.	✓			
RICHARDS, III, Herbert M. "Tim"	✓			
AWA, Brenton			✓	
TOTAL	4	0	1	0
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes