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# HOUSE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT WAIALAE-IKI, HONOLULU, OAHU, FOR THE EXISTING REVETMENT, AND FOR USE, REPAIR, AND MAINTENANCE OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1           WHEREAS, the existing revetment fronting the property  
2 identified as Tax Map Key: (1) 3-5-058:011, Waialae-Iki,  
3 Honolulu, Oahu (subject property), was placed upon state  
4 submerged lands; and

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6           WHEREAS, on April 10, 1964, Bishop Estate, the original  
7 developer of the Kai-Nani subdivision containing the subject  
8 property, applied to the Board of Land and Natural Resources to  
9 request approval for construction of the revetment to run along  
10 the shoreline of multiple house lots of the same subdivision for  
11 erosion protection purposes; and

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13           WHEREAS, on October 1, 1964, the Department of Land and  
14 Natural Resources' Division of Land Management informed the  
15 developer by letter that the Board of Land and Natural Resources  
16 approved a construction right-of-entry permit and authorized the  
17 developer to proceed with construction of the revetment; and

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19           WHEREAS, the same letter stated that the Division of Land  
20 Management was processing the sale of an easement for the  
21 revetment; and

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23           WHEREAS, although the Board of Land and Natural Resources  
24 approved construction of the revetment and the Division of Land  
25 Management indicated that it was processing an easement for the  
26 portion of state submerged land occupied by the revetment, for  
27 reasons that are currently unknown to the Department of Land and  
28 Natural Resources, the easement was never consummated and the



1 encroachment upon state submerged lands by the revetment was  
2 never resolved; and

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4 WHEREAS, in 2011, David Kim, the current owner (property  
5 owner), purchased the subject property, which abuts the portion  
6 of state submerged lands that contains the encroaching  
7 revetment; and

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9 WHEREAS, around December 2022, the Department of Land and  
10 Natural Resources' Office of Conservation and Coastal Lands  
11 worked with the property owner to resolve the encroachment; and

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13 WHEREAS, the Office of Conservation and Coastal Lands has  
14 found, based on a review of historical maps and documents  
15 submitted by Bishop Estate to the Department of Land and Natural  
16 Resources in conjunction with its 1964 permit applications, that  
17 the revetment fronting the residential real property is part of  
18 the subdivision revetment constructed by Bishop Estate pursuant  
19 to the 1964 authorization and right-of-entry permit issued by  
20 the Board of Land and Natural Resources; and

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22 WHEREAS, the Office of Conservation and Coastal Lands has  
23 indicated its support for a non-exclusive easement to resolve  
24 the existing seawall encroachment; and

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26 WHEREAS, on April 14, 2023, under agenda item D-5, the  
27 Board of Land and Natural Resources approved a grant of a 25-  
28 year non-exclusive easement to resolve the revetment  
29 encroachment, to run with the land and to inure to the benefit  
30 of the abutting real property; and

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32 WHEREAS, the total encroachment area was determined to be  
33 2,894 square feet, subject to review and approval by the  
34 Department of Accounting and General Services' Survey Division;  
35 and

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37 WHEREAS, the property owner has been working diligently  
38 with the Department of Land and Natural Resources' Land Division  
39 to execute a right-of-entry permit and revocable permit, as  
40 approved by the Board of Land and Natural Resources, as interim  
41 steps to resolve the encroachment until the Board of Land and  
42 Natural Resources-approved non-exclusive easement can be



1 consummated, subject to terms including payment of \$831 monthly  
2 rent and provision of liability insurance to protect the  
3 interests of the State; and  
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5 WHEREAS, prior to execution of the non-exclusive easement,  
6 the grantee shall pay the State the fair market value of the  
7 non-exclusive easement as consideration for the use of state  
8 submerged lands to be determined by an independent appraisal;  
9 and  
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11 WHEREAS, in 2022, the National Oceanic and Atmospheric  
12 Administration issued a technical report that found that sea  
13 level rise will create a profound shift in coastal flooding over  
14 the next thirty years by causing tide and storm surge heights to  
15 increase and reach further inland; and  
16

17 WHEREAS, by 2050, moderate and typically damaging coastal  
18 flooding is expected to occur on average more than ten times as  
19 often as it does today and can be intensified by local factors;  
20 and  
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22 WHEREAS, in Hawaii, sea-level rise and coastal erosion are  
23 occurring at an accelerated rate, with moderate estimates  
24 projecting the sea level to increase by six to eight inches by  
25 mid-century; and  
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27 WHEREAS, the practice of issuing easements to private  
28 landowners for state submerged lands on a case-by-case basis is  
29 not prudent as a long-term strategy when considered in relation  
30 to the public trust doctrine and in the context of planning for  
31 landscape-scale adaptation and retreat; and  
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33 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
34 the prior approval of the Governor and prior authorization of  
35 the Legislature by concurrent resolution to lease state  
36 submerged lands; now, therefore,  
37

38 BE IT RESOLVED by the House of Representatives of the  
39 Thirty-second Legislature of the State of Hawaii, Regular  
40 Session of 2024, the Senate concurring, that the Board of Land  
41 and Natural Resources is hereby authorized to issue a non-  
42 exclusive easement, with a term not to exceed fifteen years,



1 covering a portion of state submerged lands fronting the  
2 property identified as Tax Map Key: (1) 3-5-058:011, Waialae-  
3 Iki, Honolulu, Oahu, for the existing seawall revetment, and for  
4 use, repair, and maintenance of the existing improvements  
5 constructed thereon pursuant to section 171-53, Hawaii Revised  
6 Statutes; and

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8 BE IT FURTHER RESOLVED that certified copies of this  
9 Concurrent Resolution be transmitted to the Chairperson of the  
10 Board of Land and Natural Resources and Governor.

