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**SENATE 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  
29 encroachment upon state submerged lands by the revetment was  
30 never resolved; and

1           WHEREAS, in 2011, David Kim, the current owner (property  
2 owner), purchased the subject property, which abuts the portion  
3 of state submerged lands that contains the encroaching  
4 revetment; and  
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6           WHEREAS, around December 2022, the Department of Land and  
7 Natural Resources' Office of Conservation and Coastal Lands  
8 worked with the property owner to resolve the encroachment; and  
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10           WHEREAS, the Office of Conservation and Coastal Lands has  
11 found, based on a review of historical maps and documents  
12 submitted by Bishop Estate to the Department of Land and Natural  
13 Resources in conjunction with its 1964 permit applications, that  
14 the revetment fronting the residential real property is part of  
15 the subdivision revetment constructed by Bishop Estate pursuant  
16 to the 1964 authorization and right-of-entry permit issued by  
17 the Board of Land and Natural Resources; and  
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19           WHEREAS, the Office of Conservation and Coastal Lands has  
20 indicated its support for a non-exclusive easement to resolve  
21 the existing seawall encroachment; and  
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23           WHEREAS, on April 14, 2023, under agenda item D-5, the  
24 Board of Land and Natural Resources approved a grant of a 25-  
25 year non-exclusive easement to resolve the revetment  
26 encroachment, to run with the land and to inure to the benefit  
27 of the abutting real property; and  
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29           WHEREAS, the total encroachment area was determined to be  
30 2,894 square feet, subject to review and approval by the  
31 Department of Accounting and General Services' Survey Division;  
32 and  
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34           WHEREAS, the property owner has been working diligently  
35 with the Department of Land and Natural Resources' Land Division  
36 to execute a right-of-entry permit and revocable permit, as  
37 approved by the Board of Land and Natural Resources, as interim  
38 steps to resolve the encroachment until the Board of Land and  
39 Natural Resources-approved non-exclusive easement can be  
40 consummated, subject to terms including payment of \$831 monthly  
41 rent and provision of liability insurance to protect the  
42 interests of the State; and  
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1           WHEREAS, prior to execution of the non-exclusive easement,  
 2 the grantee shall pay the State the fair market value of the  
 3 non-exclusive easement as consideration for the use of state  
 4 submerged lands to be determined by an independent appraisal;  
 5 and

6  
 7           WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
 8 the prior approval of the Governor and prior authorization of  
 9 the Legislature by concurrent resolution to lease state  
 10 submerged lands; now, therefore,

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 12           BE IT RESOLVED by the Senate of the Thirty-second  
 13 Legislature of the State of Hawaii, Regular Session of 2024, the  
 14 House of Representatives concurring, that the Board of Land and  
 15 Natural Resources is hereby authorized to issue a term, non-  
 16 exclusive easement covering a portion of state submerged lands  
 17 fronting the property identified as Tax Map Key: (1) 3-5-  
 18 058:011, Waialae-Iki, Honolulu, Oahu, for the existing seawall  
 19 revetment, and for use, repair, and maintenance of the existing  
 20 improvements constructed thereon pursuant to section 171-53,  
 21 Hawaii Revised Statutes; and

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 23           BE IT FURTHER RESOLVED that certified copies of this  
 24 Concurrent Resolution be transmitted to the Chairperson of the  
 25 Board of Land and Natural Resources and the Governor.

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 29   OFFERED BY: 

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 31   BY REQUEST

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JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: 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.

PURPOSE: To seek the authorization of the Legislature by concurrent resolution for the issuance of a term, non-exclusive easement by the Board of Land and Natural Resources (Board) for the existing revetment, and for use, repair, and maintenance of the existing improvements constructed thereon.

MEANS: Concurrent resolution pursuant to section 171-53, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The existing revetment fronting the property identified as Tax Map Key: (1) 3-5-058:011, Waialae-Iki, Honolulu, Oahu (subject property), was placed on state submerged lands by a developer in the 1960s.

The Department's Office of Conservation and Coastal Lands worked with the current owner of the subject property, David Kim, (property owner), to resolve the encroachment and the Office of Conservation and Coastal Lands has indicated its support for a non-exclusive easement to resolve the existing seawall encroachment.

On April 14, 2023, under agenda Item D-5 the Board approved the grant of a 25-year non-exclusive easement to the property owner, as grantee, for an area of 2,894 square feet including the encroaching revetment with right, privilege, and authority to construct, use, maintain, and repair the existing revetment. Since that time, the property owner has worked with the

Department's Land Division to execute a right-of-entry permit, which will convert to a revocable permit. Once executed, the property owner will pay monthly rent of \$831, retroactive to April 14, 2023.

The property owner has agreed to pay for an appraisal of the encroachment area by an appraiser selected and contracted by the State of Hawaii to determine the value of the encroachment area and to pay a lump sum in the amount of the appraised value in exchange for a 25-year non-exclusive easement to resolve the encroachment from the existing seawall revetment seaward of the subject property.

Section 171-53, HRS, requires the prior approval of the Governor and prior authorization of the Legislature by concurrent resolution to lease state submerged lands. As such, this concurrent resolution has been prepared in compliance with the requirements of section 171-53, HRS.

Impact on the public: None.

Impact on the department and other agencies: None.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	LNR 101.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon adoption.