

JAN 23 2025

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# SENATE CONCURRENT RESOLUTION

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AUTHORIZING THE ISSUANCE OF A TWENTY-FIVE-YEAR TERM, NON-  
EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED  
LANDS AT EWA BEACH, EWA, OAHU, FOR A SEAWALL, AND FOR USE,  
REPAIR, AND MAINTENANCE OF THE IMPROVEMENTS CONSTRUCTED  
THEREON.

1 WHEREAS, the existing seawall seaward of the property  
2 identified as Tax Map Key: (1) 9-1-024:027, Ewa Beach, Ewa,  
3 Oahu, is situated on state submerged land; and  
4

5 WHEREAS, in 2022, Poni LLC, a domestic limited liability  
6 company, purchased the residential real property identified as  
7 Tax Map Key: (1) 9-1-024:027, which abuts the portion of state  
8 submerged land containing the seawall; and  
9

10 WHEREAS, in 1966, when the seawall was constructed in  
11 compliance with a City and County of Honolulu building permit,  
12 it was located mauka of the shoreline within the boundaries of  
13 the private residential property identified as Tax Map Key: (1)  
14 9-1-024:027 and was likely intended to serve as a landscaping  
15 element or boundary marker; and  
16

17 WHEREAS, due to mauka shoreline migration over the past  
18 forty years, the seawall is now located within state submerged  
19 lands and constitutes an encroachment onto state submerged  
20 lands; and  
21

22 WHEREAS, the Office of Conservation and Coastal Lands has  
23 no objection to a non-exclusive easement to resolve the  
24 encroachment; and  
25

26 WHEREAS, the total encroachment area was determined to be  
27 one-hundred sixty-five square feet, subject to review and  
28 approval by the Department of Accounting and General Services'  
29 Survey Division; and

1 WHEREAS, at its meeting on May 24, 2024, under agenda item  
2 D-7, the Board of Land and Natural Resources approved the grant  
3 of a twenty-five-year term, non-exclusive easement to Poni LLC  
4 for the seawall, to run with the land and to inure to the  
5 benefit of the abutting residential real property identified by  
6 the Tax Map Key: (1) 5-5-002:032; and  
7

8 WHEREAS, at the same meeting, the Board approved an  
9 immediate right of entry permit and revocable permit to allow  
10 the property owners to maintain the structure during the  
11 pendency of the easement process subject to payment of \$42  
12 monthly rent, posting of a removal bond, and provision of  
13 liability insurance for the structure; and  
14

15 WHEREAS, the right of entry permit and revocable permit  
16 will be executed once the shoreline is certified; and  
17

18 WHEREAS, Poni LLC shall pay the State the fair market value  
19 of the non-exclusive easement as consideration for the use of  
20 state submerged lands, to be determined by an independent  
21 appraisal; and  
22

23 WHEREAS, section 171-53(c), Hawaii Revised Statutes,  
24 requires the prior approval of the Governor and the prior  
25 authorization of the Legislature by concurrent resolution to  
26 lease state submerged land; now, therefore,  
27

28 BE IT RESOLVED by the Senate of the Thirty-third  
29 Legislature of the State of Hawaii, Regular Session of 2025, the  
30 House of Representatives concurring, that the Board of Land and  
31 Natural Resources is hereby authorized to issue a twenty-five-  
32 year term, non-exclusive easement covering a portion of state  
33 submerged land seaward of the property identified as Tax Map  
34 Key: (1) 9-1-024:027, Ewa Beach, Ewa, Oahu, to Poni, LLC, for  
35 the seawall, and for the use, repair, and maintenance of the  
36 improvements constructed thereon pursuant to section 171-53,  
37 Hawaii Revised Statutes; and  
38

39 BE IT FURTHER RESOLVED that a certified copy of this  
40 Concurrent Resolution be transmitted to the Chairperson of the  
41 Board of Land and Natural Resources.  
42

43 OFFERED BY: \_\_\_\_\_  
44

BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Land and Natural Resources

TITLE: AUTHORIZING THE ISSUANCE OF A TWENTY-FIVE YEAR TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT EWA BEACH, EWA, OAHU, FOR A SEAWALL, AND FOR USE, REPAIR, AND MAINTENANCE OF THE 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 a seawall and for use, repair, and maintenance of the existing improvements constructed thereon.

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

JUSTIFICATION: The seawall located seaward of the property identified as Tax Map Key: (1) 9-1-024:027, Ewa Beach, Ewa, Oahu, was constructed in 1966 in compliance with a City and County of Honolulu building permit. At the time it was built, the seawall was located mauka of the shoreline within the boundaries of the private, residential property and was likely intended to be serve as a landscaping feature or boundary marker. Now, due to forty years of shoreline migration mauka, the seawall constitutes an encroachment on state submerged lands.

In May 2024, the Board approved the grant of a twenty-five-year term, non-exclusive easement to the abutting landowner, Poni LLC, as grantee, for an area of one-hundred sixty-five square feet including a seawall with right, privilege, and authority to construct, use, maintain, and repair the seawall. As of August 2024, execution of permits for the right to occupy and use the premises and obligation to pay \$42 monthly

rent is pending certification of the shoreline.

Poni LLC 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 twenty-five-year term, non-exclusive easement to resolve the encroachment.

The Department's Office of Conservation and Coastal Lands has no objection to the non-exclusive easement to resolve the encroachment.

Section 171-53(c), 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(c), 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.