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# SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT MAALAEA BEACH LOTS, WAIKAPU, WAILUKU, MAUI, FOR THE EXISTING SEAWALL AND ROCK REVETMENT, AND FOR USE, MAINTENANCE, REPAIR, REPLACEMENT, AND REMOVAL OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

1           WHEREAS, a portion of the existing seawall and rock  
2 revetment fronting the property identified as Tax Map Key: (2)  
3 3-8-014: seaward of 022, Maalaea Beach Lots, Waikapu, Wailuku,  
4 Maui, is on state submerged lands; and  
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6           WHEREAS, around August 2015, the Department of Land and  
7 Natural Resources' Office of Conservation and Coastal Lands  
8 worked with the property owners, the Association of Apartment  
9 Owners of Milowai-Maalaea, to resolve the encroachment; and  
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11           WHEREAS, the Office of Conservation and Coastal Lands  
12 indicated they would support a long-term easement to resolve the  
13 encroachment because the seawall has no discernable effect on  
14 beach and recreational resources, and does not act as a  
15 detriment to public access; and  
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17           WHEREAS, the Office of Conservation and Coastal Lands has  
18 determined that no improvement would be gained by removing the  
19 encroaching seawall because there are similar seawalls  
20 neighboring the property and to the east stretching along the  
21 shoreline of Maalaea Bay; and  
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23           WHEREAS, the Office of Conservation and Coastal Lands has  
24 determined the encroachment serves as primary erosion control  
25 for potentially threatened structures, but that impacts to the  
26 adjacent and upland developments must also be considered; and  
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1 WHEREAS, at its meeting of October 9, 2015, under agenda  
2 item D-6, the Board of Land and Natural Resources approved a  
3 grant of a fifty-five year term, non-exclusive easement to  
4 resolve the seawall and rock revetment encroachment, and  
5 authorized the easement to run with the land and inure to the  
6 benefit of the abutting real property; and  
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8 WHEREAS, at its meeting of January 8, 2021, under agenda  
9 item D-5, the Board of Land and Natural Resources approved an  
10 amendment to the Board action of October 9, 2015, item D-6, to  
11 shorten the term of the easement from fifty-five to twenty-five  
12 years, or in the event the applicant is not successful in  
13 acquiring the fee or obtaining an extension of the ground lease  
14 of the abutting apartment property, to end on December 31, 2038,  
15 concurrent with the expiration of the ground lease for the  
16 abutting apartment property; and  
17

18 WHEREAS, the total encroachment area was determined to be  
19 1,737 square feet as reviewed and approved by the Department of  
20 Accounting and General Services' Survey Division; and  
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22 WHEREAS, section 171-53, Hawaii Revised Statutes, requires  
23 the prior approval of the Governor and prior authorization of  
24 the Legislature by Concurrent Resolution to lease state  
25 submerged lands; now, therefore,  
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27 BE IT RESOLVED by the Senate of the Thirty-second  
28 Legislature of the State of Hawaii, Regular Session of 2023, the  
29 House of Representatives concurring, that the Board of Land and  
30 Natural Resources is hereby authorized to issue a term, non-  
31 exclusive easement covering a portion of state submerged lands  
32 fronting the property identified as Tax Map Key: (2) 3-8-014:  
33 seaward of 022, Maalaea Beach Lots, Waikapu, Wailuku, Maui, for  
34 the existing seawall and rock revetment, and for use,  
35 maintenance, repair, replacement, and removal of the existing  
36 improvements constructed thereon pursuant to section 171-53,  
37 Hawaii Revised Statutes; and  
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39 BE IT FURTHER RESOLVED that the Board of Land and Natural  
40 Resources is requested to require the easement to provide for  
41 either public access to the shoreline from the grass next to the  
42 seawall or for the installation of a railing along the top of



1 the seawall to allow the public lateral access to the shoreline;  
2 and

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4 BE IT FURTHER RESOLVED that a certified copy of this  
5 Concurrent Resolution be transmitted to the Chairperson of the  
6 Board of Land and Natural Resources.

