SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT COVERING A PORTION OF STATE SUBMERGED LANDS AT LAHAINA, MAUI FOR SEAWALL ENCROACHMENT PURPOSES AND AUTHORIZING THE ISSUANCE OF A TERM, NON-EXCLUSIVE EASEMENT FOR THE RIGHT, PRIVILEGE, AND AUTHORITY TO USE, MAINTAIN, REPAIR, AND REPLACE AN EXISTING SEAWALL OVER, UNDER, AND ACROSS STATE-OWNED LAND IN LAHAINA, MAUI.

WHEREAS, the Board of Land and Natural Resources approved the request of Paul D. Gossman, as trustee of the Paul D. Gossman Residence Trust Dated December 18, 2008, for a term, non-exclusive easement over a portion of state-owned land located in Lahaina, Maui, on August 9, 2013, under agenda item D-10; and

WHEREAS, the seaward boundary of the Paul D. Gossman Residence Trust property fronts the ocean and a seawall straddles the seaward boundary of the Paul D. Gossman Residence Trust property and submerged public land, which is state owned and identified by tax key map number (2)4-5-003, seaward of parcel 026. A portion of the seawall encroaches into the state-owned submerged land; and

WHEREAS, the area of the seawall comprising approximately two hundred sixty square feet has encroached on state-owned submerged land prior to 1974; and

WHEREAS, the character of the use of the easement is the right, privilege, and authority to use, maintain, repair, replace, and remove the existing seawall over, under, and across state-owned land; and

WHEREAS, the easement term is for fifty-five years in consideration for a one-time payment to be determined by independent appraisal establishing a fair market rent, subject
WHEREAS, in a separate matter, the Association of Apartment Owners of Lahaina Roads, a non-profit corporation, is planning to conduct minor repairs to the existing nonconforming seawall fronting the Lahaina Roads complex in Lahaina, Maui, tax key map number (2)4-5-013, seaward of 027, an area of approximately 2,352 square feet; and

WHEREAS, the Association of Apartment Owners of Lahaina Roads seeks a grant of a term, non-exclusive easement for the right, privilege, and authority to use, maintain, repair, and replace an existing seawall over, under, and across state-owned land in Lahaina, Maui; and

WHEREAS, the Board of Land and Natural Resources approved the request of the Association of Apartment Owners of Lahaina Roads of a term, non-exclusive easement for a portion of state-owned land located in Lahaina, Maui, on July 27, 2012, under agenda item D-3; and

WHEREAS, a site plan approval was submitted to the Office of Conservation and Coastal Lands for review and approval; and

WHEREAS, the Office of Conservation and Coastal Lands has determined that the issuance of an easement for the encroachments would have no adverse impacts on beach and recreational resources and does not act as a detriment to public access, and that no after-the-fact conservation use permit is required to cure the encroachment; and

WHEREAS, the Office of Conservation and Coastal Lands is in support of the easement, which is required for the use of public lands for the area that the encroachment encumbers; and

WHEREAS, the staff at the Department of Land and Natural Resources believes that the easement involves an encroachment onto a portion of submerged lands and fast lands which may impact the value pursuant to section 171-53(b), Hawaii Revised Statutes, and require prior approval of the Governor and the
prior authorization of the Legislature by concurrent resolution, pursuant to section 171-53(c), Hawaii Revised Statutes; and

WHEREAS, at a meeting of the Board of Land and Natural Resources on July 27, 2012, the Board imposed a fine of $500 for illegal encroachment and assessed a penalty for administrative costs of $200 for staff time incurred in resolving the matter; and

WHEREAS, pursuant to section 171-53(c), Hawaii Revised Statutes, the Board of Land and Natural Resources, with the approval of the Governor and the prior authorization of the Legislature by concurrent resolution, may lease state submerged lands and lands beneath tidal waves; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-eighth Legislature of the State of Hawaii, Regular Session of 2015, the House of Representatives concurring, that the fifty-five year term for a non-exclusive easement to Paul D. Gossman as trustee of the Paul D. Gossman Residence Trust Dated December 18, 2008, for seawall encroachment purposes, is authorized by the Legislature, subject to confirmation by survey of the Department of Accounting and General Services, according to the terms and conditions approved by the Board of Land and Natural Resources on August 9, 2013; and

BE IT FURTHER RESOLVED that the issuance of a term, non-exclusive easement for the right, privilege, and authority to use, maintain, repair, and replace an existing seawall over, under, and across state-owned land, tax key map number (2)4-5-013, seaward of 027, an area of approximately 2,352 square feet, in Lahaina, to the Association of Apartment Owners of Lahaina Roads is authorized by the Legislature, subject to confirmation by survey of the Department of Accounting and General Services, according to the terms and conditions approved by the Board of Land and Natural Resources on July 27, 2012; and

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