

Honolulu, Hawaii

MAR 01 2019

RE: S.B. No. 1135
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1135, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO THE LAND USE COMMISSION,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Provide the Land Use Commission with the power to amend, revise, or modify a decision and order granting a district boundary amendment, or fine a petitioner, when there has been a finding by the Land Use Commission that a petitioner or its successors or assigns have not adhered to a representation made by the petitioner or a condition imposed by the Commission, regardless of whether there has been substantial commencement of use of the land; and
- (2) Define substantial commencement.

Your Committee received testimony in support of this measure from the Office of Planning and Land Use Commission. Your Committee received testimony in opposition to this measure from the Department of Planning and Permitting of the City and County of Honolulu, Building Industry Association of Hawaii, Land Use Research Foundation of Hawaii, and Chamber of Commerce of Hawaii.



Your Committee finds that the Land Use Commission has insufficient enforcement power to address noncompliance with district boundary amendments. Your Committee also finds that only in limited circumstances, can the Land Use Commission enforce its decisions before there has been substantial commencement of the use of the land. Furthermore, the Land Use Commission can only assess one type of penalty, which is reversion to the former land use classification, and is unable to change or modify conditions that could be more appropriate. This measure gives the Land Use Commission the authority and flexibility to amend, revise, or modify a decision after an evidentiary hearing and a finding of noncompliance regardless of whether there has been substantial commencement of use of the land. Furthermore, the Land Use Commission can remedy noncompliance violations without having to revoke permits and stop a project, which supports the State's economic and social interests of promoting project completion.

Your Committee has amended this measure by making it effective on January 1, 2020.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1135, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1135, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Judiciary
JDC

Bill / Resolution No.:* SB 1135 SD1	Committee Referral: WTL, JDC	Date: 2/26/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye /	Aye (WR)	Nay	Excused
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
FEVELLA, Kurt				✓
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes