SENATE CONCURRENT RESOLUTION

AUTHORIZING THE ISSUANCE OF TERM, NON-EXCLUSIVE EASEMENTS COVERING PORTIONS OF STATE SUBMERGED LANDS AT WAIOHULI-KEOKEA, WAILUKU, MAUI, FOR THE EXISTING SEAWALL, AND FOR THE USE, MAINTENANCE, AND REPAIR OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

WHEREAS, portions of an existing seawall fronting the property identified as Tax Map Key: (2) 3-9-011:seaward of 008, Waichuli-Keokea, Wailuku, Maui, were placed on state submerged lands; and

WHEREAS, the property is a condominium consisting of CPR 0001 owned by Rand 2013 Living Trust, Dated November 25, 2013 and CPR 0002 owned by Reconstruct Holdings USA, Inc.

WHEREAS, at its meeting of May 8, 2015, under agenda item D-8, the Board of Land and Natural Resources approved a grant of a 65-year non-exclusive easement to resolve the encroachment, to run with the land and to inure to the benefit of the abutting real property; and

WHEREAS, Senate Concurrent Resolution No. 2, adopted in the Twenty-eighth Legislature of the State of Hawaii, Regular Session of 2016, cited the purpose of the requested non-exclusive easement for seawall purposes; and

WHEREAS, it was later discovered that there were additional portions of the seawall which were not covered by the non-exclusive easement which were encroaching on state submerged lands; and

WHEREAS, the additional total encroachment area was determined to be approximately 928 square feet, more or less, subject to review and approval by the Department of Accounting and General Services' Survey Division; and

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WHEREAS, Reconstruct Holdings USA, Inc., the owner of CPR 0002, requested that the non-exclusive easement that was granted by the Board of Land and Natural Resources on May 8, 2015 be divided into two separate easements; and

WHEREAS, at its meeting of August 25, 2017, under agenda item D-9 as amended, and October 12, 2018 under agenda item D-5, the Board of Land and Natural Resources approved the grant of sixty-five (65) year, non-exclusive easements for the additional portions of the seawall on state submerged lands, to run with the land and inure to the benefit of CPR 0001 and CPR 0002, Waiohuli-Keokea, Wailuku, Maui of the abutting real property, to resolve the encroachments; and

WHEREAS the grantees shall pay the fair market value of the easements as determined by independent appraisal; and

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

BE IT RESOLVED by the Senate of the Thirtieth Legislature of the State of Hawaii, Regular Session of 2020, the House of Representatives concurring, that, pursuant to section 171-53, Hawaii Revised Statutes, the Board of Land and Natural Resources is hereby authorized to grant term, non-exclusive easements covering portions of state submerged lands fronting the property identified as Tax Map Keys (2) 3-9-011:seaward of 008 CPR 0001 and CPR 0002, Waiohuli-Keokea, Wailuku, Maui for the existing seawall, and the use, maintenance, and repair of the existing improvements constructed thereon; and

BE IT FURTHER RESOLVED that a certified copy of this concurrent resolution be transmitted to the Chairperson of the Board of Land and Natural Resources.

OFFERED BY: 

BY REQUEST
DEPARTMENT: Land and Natural Resources

TITLE: CONCURRENT RESOLUTION AUTHORIZING THE ISSUANCE OF TERM, NON-EXCLUSIVE EASEMENTS COVERING A PORTION OF STATE SUBMERGED LANDS AT WAIOHULI-KEOKEA, WAILUKU, MAUI, FOR THE EXISTING SEAWALL, AND FOR THE USE, MAINTENANCE, AND REPAIR OF THE EXISTING IMPROVEMENTS CONSTRUCTED THEREON.

PURPOSE: To seek the authorization of the Legislature by concurrent resolution of the issuance of term, non-exclusive easements by the Board of Land and Natural Resources (Board) for an existing seawall, 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: Portions of the existing seawall fronting the property identified as Tax Map Key: (2) 3-9-011:seaward of 008 CPR 0001 & CPR 0002, Waichuli-Keokea, Wailuku, Maui, was placed upon state submerged lands.

The property is a condominium consisting of CPR 0001 owned by Rand 2013 Living Trust, Dated November 5, 2013 and CPR 0002 owned by Reconstruct Holdings USA, Inc.

At its meeting of May 8, 2015, under agenda item D-8, the Board approved a grant of a 65-year non-exclusive easement to resolve the encroachment, to run with the land and to inure to the benefit of the abutting real property.

Senate Concurrent Resolution No. 2, adopted in the Twenty-eighth Legislature of the State of Hawaii, Regular Session of 2016, cited the purpose of the requested non-exclusive easement for seawall purposes.
It was later discovered that there were additional portions of the seawall which were not covered by the non-exclusive easement which were encroaching on state submerged lands. The additional total encroachment area was determined to be approximately 928 square feet, more or less, subject to review and approval by the Department of Accounting and General Services' Survey Division.

Reconstruct Holdings USA, Inc., the owner of CPR 0002, requested that the non-exclusive easement that was granted by the Board of Land and Natural Resources on May 8, 2015 be divided into two separate easements.

At its meetings of August 25, 2017, under agenda item D-9 as amended, and October 12, 2018 under agenda item D-5, the Board approved the grant of sixty-five (65) year, non-exclusive easements for the additional portions of the seawall on state submerged lands, to run with the land and inure to the benefit of CPR 0001 and CPR 0002, Waiohuli-Keokea, Wailuku, Maui of the abutting real property, to resolve the encroachments.

Both grantees are required to pay the fair market value of the easements, as determined by an independent appraisal.

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.