
A BILL FOR AN ACT

RELATING TO LANDOWNER LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is in the best
2 interest of the public to provide public and private landowners
3 with conditional protection from liability arising from the
4 inherent risks of land failure caused by natural conditions on
5 unimproved lands when the conditional protection strikes an
6 equitable balance between the personal responsibility of
7 individuals owning, residing on, occupying, or using properties
8 situated adjacent to or nearby those lands and the public and
9 private landowners' duty to protect others from harm.

10 The legislature further finds that public and private
11 landowners lack sufficient resources to protect society against
12 every risk presented by nature and to provide compensation for
13 every harm caused by natural hazards.

14 The purpose of this Act is to establish a process that
15 provides public and private landowners with protection from
16 liability for land failure caused by natural conditions on
17 unimproved lands when the requirements set out in this Act are
18 met.



1 SECTION 2. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . UNIMPROVED LAND LIABILITY**

5 **§663-A Definitions.** As used in this part:

6 "Dangerous condition" means a condition of property that
7 creates a substantial risk of injury or property damage on that
8 property or on adjacent or nearby property.

9 "Land failure" means any movement of land, including a
10 landslide, debris flow, mudslide, creep, subsidence, rock fall,
11 and any other gradual or rapid movement of land.

12 "Unimproved land" means any land on which there is no
13 improvement, construction of any structure, building, facility,
14 or alteration of the land by grading, dredging, or mining, that
15 would cause a permanent change in the land area on which it
16 occurs and that would change the basic natural condition that
17 occurs on the land.

18 **§663-B Land failure on unimproved land caused by natural**
19 **condition; liability.** A landowner, whether public or private,
20 shall not be liable for any damage, injury, or harm to persons
21 or property caused by any land failure on unimproved land if a
22 natural condition caused the land failure.



1 **§663-C Natural condition.** For purposes of this chapter,
2 the natural condition of land exists notwithstanding minor
3 improvements for the preservation or prudent management of
4 unimproved lands. Minor improvements include the existence,
5 installation, or maintenance of trails, pathways, roads, fences,
6 signage, and routine maintenance activities, such as forest
7 plantings and weed, brush, and tree removal.

8 **§663-D Failure to warn.** (a) Section 663-B shall not
9 apply to any public or private landowner who had actual notice
10 of a dangerous condition with a reasonable opportunity to
11 provide a warning of the dangerous condition to other persons,
12 and who fails to provide the warning.

13 (b) Private and public landowners shall not be liable for
14 any damage, injury, or harm for providing a warning required
15 pursuant to subsection (a)."

16 SECTION 3. In codifying the new sections in the new part
17 added to chapter 663, part , Hawaii Revised Statutes, by
18 section 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for letters used in the section
20 designations in the new part.



H.B. NO. 1843

1 SECTION 4. This Act does not affect rights and duties that
 2 matured, penalties that were incurred, and proceedings that were
 3 begun, before its effective date.

4 SECTION 5. If any provision of this Act, or the
 5 application thereof to any person or circumstance is held
 6 invalid, the invalidity does not affect other provisions or
 7 applications of the Act, which can be given effect without the
 8 invalid provision or application, and to this end the provisions
 9 of this Act are severable.

10 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

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JAN 24 2007



Report Title:

Unimproved Land; Liability

Description:

Removes liability of public and private landowners of unimproved land if damages occurred because of any land failure caused by a natural condition.

