

---

---

# 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 part, the  
2 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 of unimproved land who  
10 had actual notice of a dangerous condition on the unimproved  
11 land with a reasonable opportunity to provide a warning of the  
12 dangerous condition to other persons, and who fails to provide  
13 the warning.

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

17           SECTION 3. This Act does not affect rights and duties that  
18 matured, penalties that were incurred, and proceedings that were  
19 begun, before its effective date.

20           SECTION 4. If any provision of this Act, or the  
21 application thereof to any person or circumstance is held  
22 invalid, the invalidity does not affect other provisions or



1 applications of the Act, which can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 5. In codifying the new part added to chapter 663,  
5 Hawaii Revised Statutes, by section 2 of this Act, the revisor  
6 of statutes shall substitute appropriate section numbers for  
7 letters used in the section designations in the new part.

8 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Unimproved Land; Liability

**Description:**

Removes liability of public and private landowners of unimproved land if damages occurred because of any unknown land failure caused by a natural condition. (HB1843 HD1)

