
A BILL FOR AN ACT

RELATING TO STATE LANDOWNER LIABILITY.

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

1 SECTION 1. The legislature finds that the State is the
2 largest landowner in Hawaii, and owns approximately 1,540,000
3 acres, including more than 1,000,000 acres on the island of
4 Hawaii, 156,000 acres on Kauai, 128,000 acres on Maui and 85,000
5 acres on Oahu. The legislature further finds that in many
6 cases, the State owns land that adjoins private homeowners or
7 other landowners. The legislature recognizes that all adjoining
8 landowners, including the State, have mutual rights, duties, and
9 liabilities. Because other landowners are expected to use their
10 property reasonably without causing damage to or imposing a
11 nuisance on the adjacent land of neighboring landowners, the
12 State should also maintain its land by trimming overgrown trees
13 and vegetation and addressing conditions that may cause
14 flooding, erosion, or other damage on adjoining properties.

15 Accordingly, the purpose of this Act is to address state
16 landowner liability by:



- 1 (1) Creating a civil cause of action against the State for
- 2 failure to properly maintain its lands; and
- 3 (2) Appropriating funds for necessary maintenance of state
- 4 lands.

5 SECTION 2. Chapter 662, Hawaii Revised Statutes, is
6 amended by adding a new section to be appropriately designated
7 and to read as follows:

8 **"§662- Duty to maintain state land; remedies for**
9 **breach.** (a) The State owes a duty of care to properly maintain
10 any parcel of state-owned land to avoid causing damage to or
11 imposing a nuisance on the adjacent land of neighboring
12 landowners.

13 (b) Actions constituting a violation of subsection (a)
14 shall include:

- 15 (1) Failing to keep all areas on the state-owned parcel in
16 a clean and safe condition, except for reasonable wear
17 and tear;
- 18 (2) Failing to trim the state-owned parcel's overgrown
19 trees and plants; or
- 20 (3) Allowing the state-owned parcel to remain in a
21 condition that poses an imminent threat to the health



1 or safety of neighboring landowners or their tenants
2 or lessees.

3 (c) If the State breaches the duty established under this
4 section, then in addition to any remedies provided by this
5 chapter or applicable law, any neighboring landowner may seek
6 relief pursuant to this section; provided the neighboring
7 landowner shall first notify the State of the breach by sending
8 the department of the attorney general a written notice by
9 certified mail, postage prepaid, and return receipt requested.

10 The notice shall specify:

11 (1) The tax map key number of the relevant state parcel;

12 (2) The nature of the breach;

13 (3) Whether the State may remedy the breach by:

14 (A) Compensating the landowner a specified sum for
15 the breach;

16 (B) Repairing the condition that caused the breach;

17 or

18 (C) A combination of subparagraphs (A) and (B); and

19 (4) The date by which the State is required to remedy the
20 breach; provided that the State shall have at least



1 thirty days to remedy the breach from the date of its
2 receipt of the written notice.

3 (d) Unless subsection (e) applies, if the breach is not
4 remedied by the deadline specified in the notice issued pursuant
5 subsection (c), the neighboring landowner may file an action in
6 court for the remedy specified pursuant to subsection (c)(3).

7 (e) If the neighboring landowner elects to repair the
8 condition causing the breach at the neighboring landowner's
9 expense and receive compensation from the State for the repair,
10 the neighboring landowner:

11 (1) May enter the state parcel, after the deadline
12 specified in the notice issued pursuant to subsection
13 (c), to the extent necessary for the limited purpose
14 of repairing the condition that is causing damage or
15 is the source of the nuisance to the neighboring
16 landowner's land; provided that the neighboring
17 landowner may elect to utilize the services of agents
18 for this purpose, including any contractors and
19 assistants, employees, or agents of the contractor;
20 provided further that a person acting in good faith
21 pursuant to this subparagraph shall be immune from



1 criminal or civil liability for trespass upon the
2 state parcel;

3 (2) After the completion of repairs pursuant to paragraph
4 (1), shall submit to the State through the department
5 of the attorney general a written notice by certified
6 mail, postage prepaid, and return receipt requested.

7 The notice shall specify:

8 (A) The sum sought as compensation for actual costs
9 incurred by the neighboring landowner for the
10 repairs;

11 (B) If applicable, the sum sought as compensation for
12 any damages caused by the breach;

13 (C) The date by which the State shall submit payment;
14 provided that the State shall have thirty days
15 after the notice is received by the State to
16 submit payment in full to the landowner; and

17 (3) Upon the State's failure to submit payment in full by
18 the deadline specified pursuant to paragraph (2)(C),
19 may file a complaint in court to recover the actual
20 costs incurred by the neighboring landowner for the



H.B. NO. 1497

Report Title:

State Liability; Property; State Lands; Neighbor's Remedy;
Appropriation

Description:

Establishes a cause of action for neighbors of state lands that have not been properly maintained. Authorizes compensation for damages incurred by the State's breach of duty and, if applicable, costs incurred by a neighbor who repairs state property that has not been maintained. Appropriates funds for necessary maintenance of state lands.

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