
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 safe condition, except for reasonable wear and tear;

17 (2) Failing to trim the state-owned parcel's overgrown
18 trees and plants; or

19 (3) Allowing the state-owned parcel to remain in a
20 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 that the neighboring
7 landowner first notify the State of the breach by sending the
8 department of land and natural resources 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) The sum sought as compensation for actual costs
14 incurred by the neighboring landowner for repairs or
15 maintenance;

16 (4) If applicable, the sum sought as compensation for any
17 damages caused by the breach; and

18 (5) The date by which the State shall respond and submit
19 payment; provided that the State shall have thirty
20 days after the notice is received to submit payment in
21 full to the landowner.



1 (d) The department of land and natural resources may be
2 responsible for all costs specified in the notice pursuant to
3 subsection (c).

4 (e) Upon the State's failure to submit payment in full by
5 the deadline specified in the notice pursuant to subsection (c),
6 the adjacent landowner may file a complaint in court to recover
7 the actual costs incurred by the neighboring landowner for the
8 repairs and, if applicable, compensation for any damages caused
9 by the breach; provided that all court costs shall be paid from
10 the natural area reserve fund, established in section 195-9.

11 (f) For the purposes of this section, "neighboring
12 landowner" means the owner of any land situated adjacent to the
13 land upon which the alleged breach of the duty to maintain the
14 premises occurred."

15 SECTION 3. There is appropriated out of the natural area
16 reserve fund established in section 195-9, Hawaii Revised
17 Statutes, the sum of \$ or so much thereof as may be
18 necessary for fiscal year 2017-2018 and the same sum or so much
19 thereof as may be necessary for fiscal year 2018-2019 for tree
20 and vegetation trimming and other necessary maintenance of state
21 lands pursuant to this Act.



1 The sums appropriated shall be expended by the department
2 of land and natural resources for the purposes of this Act.

3 SECTION 4. New statutory material is underscored.

4 SECTION 5. This Act shall take effect on July 1, 2050.



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 due to the State's breach of duty and, if applicable, costs for repairs and maintenance. Appropriates funds for necessary maintenance of state lands. (HB1497 HD1)

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