

ACT 143

H. B. NO. 562

A Bill for an Act Relating to Public Access.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. **Findings and purpose.** The legislature finds that there is a great need for the establishment and the preservation of public access to many areas in the State. There are miles of coastal shorelines and waters under the

jurisdiction of the State which are inaccessible to the public due to the absence of public rights-of-way; the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties; the population of the islands is increasing while the presently accessible beach and shoreline areas remain fixed; and the absence of public access to Hawaii's coastal shorelines constitutes an infringement upon the fundamental right of free movement in public space and of access to and use of the sea. The legislature further finds that urbanization also may prevent or impede public access to mountains which have areas for hiking, hunting, fruit-picking, ti-leaf sliding and other recreational purposes.

The purpose of this Act is to guarantee the right of public access to the sea, coastal shoreline, and mountains.

SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"Sec. 46- Public access. (a) Each county shall adopt ordinances which shall require a subdivider or developer, as a condition precedent to final approval of a subdivision, in cases where public access is not already provided, to dedicate land for public access by right-of-way or easement for pedestrian travel from a public highway or public streets to the land below the high-water mark on any coastal shoreline, and to dedicate land for public access by right-of-way from a public highway to areas in the mountains where there are existing facilities for hiking, hunting, fruit-picking, ti-leaf sliding, and other recreational purposes, and where there are existing mountain trails.

(b) These ordinances shall be adopted within one year of the effective date of this Act.

(c) Upon the dedication of land for a right-of-way, as required by this section and acceptance by the county, the county concerned shall thereafter assume the cost of improvements for and the maintenance of the right-of-way, and the subdivider shall accordingly be relieved from such costs.

(d) For the purposes of this section, "subdivision" means any land which is divided or is proposed to be divided for the purpose of disposition into six or more lots, parcels, units, or interests and also includes any land whether contiguous or not, if six or more lots are offered as part of a common promotional plan of advertising and sale.

(e) The right-of-way shall be clearly designated on the final map of the subdivision or development.

(f) This section shall apply to the plan of any subdivision or development which has not been approved by the respective counties prior to July 1, 1973."

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 4. This Act shall take effect upon its approval.

(Approved May 22, 1973.)

*Edited accordingly.