

ACT 244

H.B. NO. 104

A Bill for an Act Establishing Access to and Transit Along Shorelines and Waters Under State Jurisdiction.

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

SECTION 1. Findings and purpose. The legislature finds that miles of shorelines and waters under the jurisdiction of the State are inaccessible to the public due to the absence of public rights-of-way; that the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties; that the population of the islands is increasing while the presently accessible beach and shoreline areas remain fixed; and that the absence of public access to Hawaii's shorelines constitutes an infringement upon the fundamental right of free movement in public space and of access to and use of the sea. The purpose of this Act is to guarantee the right of public access to the sea and shorelines and transit along the shorelines, and to provide for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit corridors along the shorelines in the State.

SECTION 2. Acquisition of lands for public rights-of-way and public transit corridors. When the provisions of section 46-6.5 are not applicable, the various counties shall purchase land for public rights-of-way to the shorelines and the sea and for public transit corridors where topography is such that safe transit does not exist along the shoreline.

SECTION 3. Criteria for public rights-of-way. A distance at reasonable intervals taking into consideration the topography and physical characteristics of the land the public is desirous of reaching is established as the maximum between public rights-of-way for the purposes of this Act.

SECTION 4. Right of transit along shorelines. The right of access to Hawaii's shorelines includes the right of transit along the shorelines under conditions of safety for the public.

SECTION 5. Transit area and public transit corridor defined. The right of transit along the shoreline exists below the private property line which is defined as being along the upper reaches of the wash of waves,

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usually evidenced by the edge of vegetation or by the debris left by the wash of waves. However, in areas of cliffs or areas where the nature of the topography is such that there is no reasonably safe transit for the public along the shoreline below the private property lines, the counties by condemnation shall establish along the makai boundaries of the property lines public transit corridors which shall be not less than six feet wide.

SECTION 6. Procedure. The provisions of this Act shall be executed under provisions of chapter 101, Hawaii Revised Statutes.

SECTION 7. State and county co-sponsorship of programs. The department of land and natural resources shall enter into agreements with the council of any county providing for the acquisition of public rights-of-way and public transit corridors pursuant to this Act; provided that the county shall match the funds which have been appropriated by the legislature. The development and maintenance of the rights-of-way and public transit corridors shall be the responsibility of the county.

SECTION 8. Expending agency. The department of land and natural resources shall expend all sums appropriated for the purposes of this Act and in accordance with section 7 of this Act.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 15, 1974.)