

ACT 216

S.B. NO. 1274

A Bill for an Act Relating to the Statewide Trail and Access System.

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

SECTION 1. Chapter 198D, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§198D- Agreements to defend and indemnify. (a) The department may enter into agreements with owners of public or private land to further the purposes of this chapter. Agreements between the State and an owner may provide that the State will defend the owner from claims made against the owner by public users of the owner’s land. These agreements may also provide that the State will indemnify the owner for losses incurred due to public use.

(b) The existence of an agreement does not allow an action to be brought against the State. The State shall not be made a party in any action solely because of the existence of an agreement to defend or indemnify. Any action defended by the State pursuant to an agreement shall be deemed an action against the owner, and the State may assert all defenses available to the owner.

(c) If the agreement provides for indemnification by the State, no judgment shall be executed against an owner until the legislature has reviewed and approved the judgment.”

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved June 12, 1992.)

Note

1. Edited pursuant to HRS §23G-16.5.