
A BILL FOR AN ACT

RELATING TO PUBLIC ACCESS TO COASTAL AND INLAND RECREATIONAL
AREAS.

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

1 SECTION 1. The legislature finds that public access to the
2 State's coastal and mountain areas may become obstructed or
3 limited when private property changes ownership, is developed or
4 subdivided, or is rezoned. The purpose of this Act is to
5 protect the public's right to have access to coastal and inland
6 recreational areas and to require state and county agencies to
7 ensure that a public right-of-way is available for public use
8 before approving a development project, subdivision project, or
9 zoning initiative that may affect public access.

10 SECTION 2. Chapter 115, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§115- Permits; zoning; development and subdivision
14 projects. Prior to granting or renewing a permit for or
15 approving a development project, subdivision project, or zoning
16 initiative that may affect public access to the sea, the
17 shoreline, or any coastal or inland public recreational areas,



1 an agency shall ensure that a public right-of-way is available
2 for the general public to use to access a public beach, shore,
3 park, trail, or other public recreational area.

4 As used in this section:

5 "Agency" means any board, commission, council, department,
6 district, or office of the State, or any of the counties, with
7 the authority to issue a permit, license, or approval for a
8 development project, subdivision project, or zoning initiative.

9 "Public recreational area" means public lands or bodies of
10 water opened to the public for recreational use.

11 "Public right-of-way" means an easement or way over which
12 the general public has the right to travel and which is used by
13 or intended for use by the general public primarily to access a
14 public beach, shore, park, trail, or other public recreational
15 area, including a lateral easement along the shoreline,
16 coastline, or beach."

17 SECTION 3. Section 115-6, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[+]§115-6[+] Procedure. (a) The provisions of this
20 chapter shall be executed under provisions of chapter 101.

21 (b) Prior to an eminent domain action, a public
22 prescriptive easement shall be established on the condition that



1 the general public has used the right-of-way continuously to
2 access a public beach, shore, park, trail, or other public
3 recreational area for not less than five years."

4 SECTION 4. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 5. This Act shall take effect upon its approval.
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Report Title:
Public Access

SB. NO. 3091

Description:

Requires that agencies protect public rights-of-way to coastal or inland recreational areas. Creates a public prescriptive easement if the right-of-way has been used continuously by the public for over five years.

