

JAN 17 2008

A BILL FOR AN ACT

RELATING TO LANDOWNER LIABILITY FOR NATURAL CONDITIONS.

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

1 SECTION 1. The legislature finds that it is in the best
2 interest of the public to provide certainty in the law with
3 respect to the legal duties and obligations of public and
4 private landowners arising from the inherent risks of land
5 failures caused by natural conditions to persons and property
6 outside the boundaries of such land when these risks have not
7 been created or increased by artificial improvements or
8 alterations to the land.

9 The purpose of this Act is to codify the common law that
10 currently exists in Hawaii with respect to the legal duties and
11 obligations pertaining to damages and injuries caused by natural
12 conditions to property and persons outside the land, except for
13 natural conditions on public land that cause damage or injuries
14 on public roadways.

15 SECTION 2. Chapter 663, Hawaii Revised Statutes, is
16 amended by adding a new part to be appropriately designated and
17 to read as follows:

18 **"PART . UNIMPROVED LAND LIABILITY**



1 **§663-A Definitions.** As used in this part:

2 "Naturally occurring land failure" means any movement of
3 land, including a landslide, debris flow, mudslide, creep,
4 subsidence, rock fall, and any other gradual or rapid movement
5 of land, that is not caused by alterations to, or improvements
6 constructed upon, the land.

7 "Unimproved land" means any land upon which there is no
8 improvement, construction of any structure, building, facility,
9 or alteration of the land by grading, dredging, or mining that
10 would cause a permanent change in the land area on which it
11 occurs and that would change the basic natural condition that
12 exists on the land.

13 "Public roadway" means any street, road, or highway owned
14 or maintained by any governmental entity that is open to the
15 general public for vehicular travel.

16 **§663-B Land failure on unimproved land caused by natural**
17 **condition; liability.** (a) A private landowner shall not be
18 liable for any damage, injury, or harm to persons or property
19 outside the boundaries of such land caused by any naturally
20 occurring land failure originating on unimproved land.

21 (b) A public landowner shall not be liable for any damage,
22 injury, or harm to persons or property outside the boundaries of



1 such land, other than upon a public roadway, caused by any
2 naturally occurring land failure originating on unimproved land
3 owned by the public landowner. With respect to a naturally
4 occurring land failure originating on publicly owned land that
5 causes damage, injury, or harm to persons on a public roadway,
6 normal principles of negligence apply.

7 **§663-C Natural condition.** For purposes of this part, the
8 natural condition of land exists notwithstanding minor
9 improvements, such as the installation or maintenance of utility
10 poles, fences, and signage; or minor alterations undertaken for
11 the preservation or prudent management of the unimproved land,
12 such as the installation or maintenance of trails or pathways or
13 maintenance activities, such as forest plantings and weed,
14 brush, rock, boulder, or tree removal."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun, before its effective date.

18 SECTION 4. If any provision of this Act, or the
19 application thereof to any person or circumstance is held
20 invalid, the invalidity does not affect other provisions or
21 applications of the Act that can be given effect without the



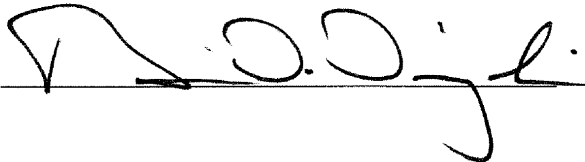
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1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 5. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 6. This Act shall take effect upon its approval.

8

INTRODUCED BY: 

Report Title:

Unimproved Land; Liability

Description:

Codifies common law regarding non-liability of landowners regarding natural conditions on their land that cause damage outside the land and applies standard of negligence upon public landowners regarding natural conditions that cause damage on public roadways.

