

JAN 22 2008

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# A BILL FOR AN ACT

RELATING TO PUBLIC ACCESS.

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

1           SECTION 1. The purpose of this Act is to enact new and  
2 amend certain laws affecting public access to coastal and inland  
3 areas. This Act provides for greater protection of the public's  
4 right to access coastal and inland recreational areas, and  
5 requires state and county agencies to ensure that a public  
6 right-of-way is available before the approval of any development  
7 project, subdivision, or zoning change.

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

11           "§115-    Permits; zoning; development projects and

12 subdivisions.   Before the approval of:

13           (1) A dwelling unit, house, hotel, apartment, apartment  
14               hotel, motel, condominium project, condominium  
15               property regime, cooperative apartment, lodging unit,  
16               or rooming house;



1        (2) Improvements to a dwelling unit, house, hotel,  
2                    apartment, apartment hotel, motel, condominium  
3                    project, condominium property regime, cooperative  
4                    apartment, lodging unit, or rooming house; or

5        (3) Any development project, subdivision, or zoning  
6                    change,

7        that may affect public access to the sea, the shoreline, or any  
8        coastal or inland public recreational area, the relevant agency  
9        shall ensure that a public right-of-way is available to access  
10       any and all public recreational areas, including beaches,  
11       shores, parks, and trails.

12       As used in this section:

13       "Agency" means any board, commission, council, department,  
14       district, or office of the State, or any of the counties, that  
15       has the authority to issue a permit, license, or approval for  
16       the development project, subdivision project, or zoning change  
17       at issue.

18       "Approval" means the final approval granted by an agency  
19       including, but not limited to, the issuance of a license or  
20       building permit.

21       "Condominium project" shall have the same meaning as in  
22       514C-1.



1        "Development project" shall have the same meaning as  
2 provided in section 206-1.

3        "Dwelling unit" means a room or rooms connected together,  
4 constituting an independent housekeeping unit for a family and  
5 containing a single kitchen.

6        "Public recreational area" means coastal and inland  
7 recreational areas, including beaches, shores, public parks,  
8 public lands, public trails, and bodies of water opened to the  
9 public for recreational use.

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

15       "Subdivision" means the division of improved or unimproved  
16 land into two or more lots, parcels, sites, or other divisions  
17 of land, for the purpose, whether immediate or future, of sale,  
18 lease, rental, transfer of title to, or interest in, any or all  
19 such lots, parcels, sites, or division of land. The term  
20 includes resubdivision, and when appropriate to the context,  
21 shall relate to the land subdivided. The term also includes a



1 building or a group of buildings, other than a hotel, containing  
2 or divided into three or more dwelling units or lodging units.

3 "Zoning" refers to county zoning as provided in section  
4 46-4."

5 SECTION 3. New statutory material is underscored.

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

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**Report Title:**

Public Access

**Description:**

Requires state and county agencies to ensure that a public right-of-way is available prior to the approval of any development project, subdivision, or zoning change. Modifies definitions of "public recreational area."

