

JAN 23 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. Chapter 205A, Hawaii Revised Statutes, is  
2 amended by adding a new section to part II to be appropriately  
3 designated and to read as follows:

4           "§205A-    Privately owned shoreline access paths in  
5 special management areas. (a) Notwithstanding any law to the  
6 contrary, development shall not be approved for a privately  
7 owned shoreline access path that will obstruct access by the  
8 public by action or by having installed a physical impediment  
9 that is intentionally done to prevent a member of the public  
10 from traversing to tidal and submerged lands, beaches, portions  
11 of rivers and streams within the special management areas and  
12 the mean high tide line where there is no beach; unless all of  
13 the following conditions are met:

14           (1) The privately owned shoreline access path is owned and  
15           used by more than one household;



1        (2) The privately owned shoreline access path is kept open  
2        and accessible to the public, at the minimum, from  
3        7:00 a.m. to 6:00 p.m.;

4        (3) The owners of the privately owned shoreline access  
5        path maintains the access path to be reasonably  
6        accessible by members of the public, including but not  
7        limited to individuals with disabilities requiring  
8        assistance unless the accessibility is unfeasible due  
9        to the topography of the access path; and

10       (4) The owners of the privately owned shoreline access  
11       path posts signs at each end of the path providing  
12       notice of accessibility hours.

13       (b) Physical impediments that may prevent traversing  
14       include but at not limited to the following:

15       (1) Gates;

16       (2) Fences;

17       (3) Walls;

18       (4) Constructed barriers;

19       (5) Rubbish;

20       (6) Security guards; and

21       (7) Guard dogs or animals.



1        (c) For purposes of this section, "one household" means a  
2 single residential property with a single tax map key."

3        SECTION 2. Section 205A-22, Hawaii Revised Statutes, is  
4 amended by amending the definition of "development" to read as  
5 follows:

6        "Development" means any of the uses, activities, or  
7 operations on land or in or under water within a special  
8 management area that are included below:

- 9        (1) Placement or erection of any solid material or any  
10        gaseous, liquid, solid, or thermal waste;
- 11        (2) Grading, removing, dredging, mining, or extraction of  
12        any materials;
- 13        (3) Change in the density or intensity of use of land,  
14        including but not limited to the division or  
15        subdivision of land;
- 16        (4) Change in the intensity of use of water, ecology  
17        related thereto, or of access thereto; ~~and~~
- 18        (5) Construction, reconstruction, demolition, or  
19        alteration of the size of any structure[-]; and
- 20        (6) Creation or termination of, including any physical  
21 impediments to easements, covenants, shoreline access  
22 paths, or other rights in structures or land.



- 1 "Development" does not include the following:
- 2 (1) Construction of a single-family residence that is not  
3 part of a larger development;
- 4 (2) Repair or maintenance of roads and highways within  
5 existing rights-of-way;
- 6 (3) Routine maintenance dredging of existing streams,  
7 channels, and drainage ways;
- 8 (4) Repair and maintenance of underground utility lines,  
9 including but not limited to water, sewer, power, and  
10 telephone and minor appurtenant structures such as pad  
11 mounted transformers and sewer pump stations;
- 12 (5) Zoning variances, except for height, density, parking,  
13 and shoreline setback;
- 14 (6) Repair, maintenance, or interior alterations to  
15 existing structures;
- 16 (7) Demolition or removal of structures, except those  
17 structures located on any historic site as designated  
18 in national or state registers;
- 19 (8) Use of any land for the purpose of cultivating,  
20 planting, growing, and harvesting plants, crops,  
21 trees, and other agricultural, horticultural, or  
22 forestry products or animal husbandry, or aquaculture



- 1 or mariculture of plants or animals, or other  
2 agricultural purposes;
- 3 (9) Transfer of title to land;
- 4 ~~[(10) Creation or termination of easements, covenants, or~~  
5 ~~other rights in structures or land;~~
- 6 ~~(11)]~~ (10) Subdivision of land into lots greater than  
7 twenty acres in size;
- 8 ~~[(12)]~~ (11) Subdivision of a parcel of land into four or  
9 fewer parcels when no associated construction  
10 activities are proposed; provided that any land which  
11 is so subdivided shall not thereafter qualify for this  
12 exception with respect to any subsequent subdivision  
13 of any of the resulting parcels;
- 14 ~~[(13)]~~ (12) Installation of underground utility lines and  
15 appurtenant aboveground fixtures less than four feet  
16 in height along existing corridors;
- 17 ~~[(14)]~~ (13) Structural and nonstructural improvements to  
18 existing single-family residences, where otherwise  
19 permissible;
- 20 ~~[(15)]~~ (14) Nonstructural improvements to existing  
21 commercial structures; and



1        [~~16~~] (15) Construction, installation, maintenance, repair,  
2                            and replacement of civil defense warning or signal  
3                            devices and sirens;  
4 provided that whenever the authority finds that any excluded  
5 use, activity, or operation may have a cumulative impact, or a  
6 significant environmental or ecological effect on a special  
7 management area, that use, activity, or operation shall be  
8 defined as "development" for the purpose of this part."

9        SECTION 3. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11        SECTION 4. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun, before its effective date.

14        SECTION 5. If any provision of this Act, or the  
15 application thereof to any person or circumstance is held  
16 invalid, the invalidity does not affect other provisions or  
17 applications of the Act, which can be given effect without the  
18 invalid provision or application, and to this end the provisions  
19 of this Act are severable.

20        SECTION 6. This Act shall take effect on July 1, 2008.

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*Mike Galt*

INTRODUCED BY:

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**Report Title:**

Public Access; Beach; Private Landowners

**Description:**

Requires owners of privately owned shoreline access paths to keep access to the shoreline open to the public, at minimum, from 7:00 am to 6:00 pm.

