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# A BILL FOR AN ACT

RELATING TO LANDOWNER LIABILITY.

**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 landowners  
4 arising from the inherent risks of land failures caused by  
5 natural conditions to persons and property outside the  
6 boundaries of their land when these risks have not been created  
7 or increased by artificial improvements or alterations to the  
8 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.

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

16                   "PART           .   UNIMPROVED LAND; LIABILITY

17           §663-       Definitions. As used in this part:



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

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

- 13 (1) Minor improvements, including the installation or  
14 maintenance of utility poles and signage;
- 15 (2) Minor alterations undertaken for the preservation or  
16 prudent management of the unimproved land, including  
17 the installation or maintenance of fences, trails, or  
18 pathways;
- 19 (3) Maintenance activities, including forest plantings and  
20 weed, brush, rock, boulder, or tree removal; or
- 21 (4) The removal or securing of rocks or boulders  
22 undertaken to reduce risk to downslope properties.



1           §663-       Land failure on unimproved land caused by natural  
2   condition; liability. A landowner shall not be liable for any  
3   damage, injury, or harm to persons or property outside the  
4   boundaries of the landowner's land caused by any naturally  
5   occurring land failure originating on unimproved land; provided  
6   that a landowner shall remain liable for damages proximately  
7   caused by negligence or wanton acts or omissions committed in  
8   the course of any activities on the unimproved land."

9           SECTION 3. This Act does not affect rights and duties that  
10   matured, penalties that were incurred, and proceedings that were  
11   begun, before its effective date.

12           SECTION 4. If any provision of this Act, or the  
13   application thereof to any person or circumstance is held  
14   invalid, the invalidity does not affect other provisions or  
15   applications of the Act that can be given effect without the  
16   invalid provision or application, and to this end the provisions  
17   of this Act are severable.

18           SECTION 5. This Act shall take effect on January 1, 2046.



**Report Title:**

Landowner Liability; Unimproved Land

**Description:**

Relieves landowner of liability for any damage, injury, or harm to persons or property outside the boundaries of the landowner's land caused by naturally occurring land failure originating on unimproved land, except for harm arising from negligent or wanton acts by the owner of the unimproved land. (HB951 HD1)

