
A BILL FOR AN ACT

RELATING TO ACCESS TO REAL PROPERTY.

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

1 SECTION 1. Chapter 508D, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§508D- Public access; residential and agricultural real
5 property. (a) In addition any other requirement under this
6 chapter, the seller or seller's agent shall disclose in writing
7 to the buyer the existence, if any, of:

8 (1) Any access, including an easement or court ordered
9 access; and

10 (2) Any traditional public access of which the seller has
11 actual knowledge,
12 that burdens or may burden the real property being sold.

13 (b) This section shall apply to the sale of residential
14 and agricultural real property.

15 (c) This section shall not apply to the following types of
16 transfers of agricultural real property:

17 (1) Sale to a co-owner;

18 (2) Sale to a spouse, parent, or child of the seller;



- 1 (3) Transfer by devise, descent, or court order;
2 (4) Transfer by operation of law, including but not
3 limited to any transfer by foreclosure, bankruptcy, or
4 partition, or any transfer to a seller's creditor
5 incident to a deed or assignment in lieu of a
6 foreclosure, workout, or the settlement or partial
7 settlement of any preexisting obligation of a seller
8 owed to a creditor and any subsequent sale of
9 agricultural real property by the creditor; and
10 (5) Sale by a lessor to a lessee resulting from conversion
11 of leased land to fee simple.

12 (d) For the purposes of this section:
13 "Agricultural real property" means fee simple or leasehold
14 real property with permissible uses in accordance with section
15 205-4.5.

16 "Buyer" includes a prospective buyer.

17 "Sale" includes a prospective sale.

18 "Seller" includes a prospective seller.

19 "Traditional public access" means access through
20 residential or agricultural real property by the general public
21 that has been established through continuous, open, actual, and
22 hostile use for a period of not less than twenty years."



1 SECTION 2. This Act shall not apply to any disclosure
2 statement made by a seller in compliance with chapter 508D,
3 Hawaii Revised Statutes, prior to its effective date.

4 SECTION 3. This Act does not affect rights and duties that
5 matured, penalties that were incurred, and proceedings that were
6 begun, before its effective date.

7 SECTION 4. New statutory material is underscored.

8 SECTION 5. This Act shall take effect on July 1, 2009.

9

INTRODUCED BY: *Hank DeKashima*

JAN 28 2009



Report Title:

Legal or Traditional Public Access; Written Disclosure

Description:

Requires a seller to disclose in writing to a buyer the existence, if any, of legal or traditional public access that burden the residential or real property being sold.

