

JAN 26 2009

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-A 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.

12 **§663-B Land failure on unimproved land caused by natural**
13 **condition; liability.** A landowner shall not be liable for any
14 damage, injury, or harm to persons or property outside the
15 boundaries of the landowner's land caused by any naturally
16 occurring land failure originating on unimproved land.

17 **§663-C Natural condition.** For purposes of this part, the
18 natural condition of land exists and shall not be considered
19 altered or improved notwithstanding that the following has
20 occurred:

- 21 (1) Minor improvements, including the installation or
22 maintenance of utility poles and signage;



- 1 (2) Minor alterations undertaken for the preservation or
- 2 prudent management of the unimproved land, including
- 3 the installation or maintenance of fences, trails, or
- 4 pathways;
- 5 (3) Maintenance activities, including forest plantings and
- 6 weed, brush, rock, boulder, or tree removal; or
- 7 (4) The removal or securing of rocks or boulders
- 8 undertaken to reduce risk to downslope properties."

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. In codifying the new sections added by section
19 2 of this Act, the revisor of statutes shall substitute
20 appropriate section numbers for the letters used in designating
21 the new sections in this Act.



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

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INTRODUCED BY:

R. J. O'Neil
by request



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.

