

JAN 23 2009

A BILL FOR AN ACT

RELATING TO THE CONDITION OF LAND.

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

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Landowner duty to inspect; rockslides; natural
5 hazards. (a) A land occupier or landowner shall have a
6 continuing duty to inspect, or cause to be inspected, the land
7 owned by the landowner or occupied by the land occupier, as
8 applicable, for risk of rockslide or landslide or the presence
9 of natural or man-made hazard; provided that the inspection
10 shall be made at a frequency and at intervals as appropriate to
11 the measure of the risk, as is reasonable under the
12 circumstances.

13 (b) A land occupier or landlord, as applicable under
14 subsection (a), shall keep written records of each inspection;
15 provided that the written records shall be admissible as
16 evidence in any court proceeding relating to any claim of



1 liability related to a rockslide, landslide, or the presence of
2 a natural or man-made hazard.

3 (c) This section shall not be deemed to preclude a county
4 from adopting ordinances not less stringent than contained in
5 this section.

6 As used in this section:

7 "Land occupier" means a person who occupies, resides on, or
8 utilizes land or real estate of a landowner pursuant to a
9 written lease agreement.

10 "Landowner" means the possessor of a fee simple absolute
11 title in land or real estate and shall include the State and its
12 political subdivisions in their capacities as owners of public
13 lands.

14 "Landslide" means the rapid downward movement of a mass or
15 rock, earth, or artificial fill on a slope.

16 "Man-made hazard" means a condition of the land created by
17 an element of human intent, negligence, or error that may cause
18 a rockslide, landslide, or other disaster.

19 "Natural hazard" means biological, geological,
20 hydrological, or seismic conditions that may cause a rockslide,
21 landslide, or other disaster, including a hazard potential as
22 defined in section 179D-3.



1 "Reasonable under the circumstances" means an effort made
2 under reasonably foreseeable circumstances that would prevent a
3 rockslide, landslide, or natural or man-made hazard from causing
4 harm, including but not limited to:

5 (1) Personal injury or death to persons coming onto the
6 land, or coming onto or occupying surrounding land; or

7 (2) Property damage to surrounding land.

8 "Rockslide" means:


9 (1) The usual rapid downward movement of detached segments
10 of hillside or bedrock; or

11 (2) The rock mass that has reached its current position
12 through erosion."

13 SECTION 2. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun, before its effective date.

16 SECTION 3. New statutory material is underscored.

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

18 INTRODUCED BY: 

Report Title:

Rockslides; Natural Hazards; Man-Made Hazards; Duty to Inspect

Description:

Imposes on a landowner or land occupier a continuing duty to inspect the property for risk of rockslide, landslide, and for natural hazards and man-made hazards that could result in harm to persons or property.

