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# 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 to 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 provided that the disclosure shall be prepared in good faith and  
14 with due care pursuant to section 508D-9.

15 (b) This section shall apply to the sale of residential or  
16 agricultural real property.

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



- 1        (1) Sale to a co-owner;
- 2        (2) Sale to a spouse, parent, or child of the seller;
- 3        (3) Transfer by devise, descent, or court order;
- 4        (4) Transfer by operation of law, including any transfer
- 5                by foreclosure, bankruptcy, or partition, or any
- 6                transfer to a seller's creditor incident to a deed or
- 7                assignment in lieu of a foreclosure, workout, or the
- 8                settlement or partial settlement of any preexisting
- 9                obligation of a seller owed to a creditor and any
- 10               subsequent sale of agricultural real property by the
- 11               creditor; and
- 12        (5) Sale by a lessor to a lessee resulting from the
- 13               conversion of land from leasehold to fee simple.
- 14        (d) For the purposes of this section:
- 15               "Agricultural real property" means fee simple or leasehold
- 16 real property with permissible uses in accordance with section
- 17 205-4.5.
- 18        "Buyer" includes a prospective buyer.
- 19        "Sale" includes a prospective sale.
- 20        "Seller" includes a prospective seller.
- 21        "Traditional public access" means access through
- 22 residential or agricultural real property by the general public



1 that has been established through continuous, open, actual, and  
2 hostile use for a period of not less than twenty years."

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

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

9 SECTION 4. New statutory material is underscored.

10 SECTION 5. This Act shall take effect on July 1, 3000.



**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 burdens the residential or agricultural real property being sold, and that the disclosure be prepared in good faith and with due care. Effective July 1, 3000. (HB518 HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

