

**CHAPTER 115**  
**PUBLIC ACCESS TO COASTAL AND INLAND RECREATIONAL**  
**AREAS**

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## Note

Chapter heading amended by L 1977, c 164, §2.

## Cross References

Statewide trail and access system, see chapter 198D.

## Law Journals and Reviews

Beach Access: A Public Right? 23 HBJ 65.

Public Beach Access: A Right for All? Opening the Gate to Iroquois Point Beach. 30 UH L. Rev. 495.

## Case Notes

Existence of chapter does not preclude private right of action to force beach access. 65 H. 383, 652 P.2d 1130.

" **§115-1 Findings and purpose.** The legislature finds that miles of shorelines, waters, and inland recreational areas under the jurisdiction of the State are inaccessible to the public due to the absence of public rights-of-way; that the absence of public rights-of-way is a contributing factor to mounting acts of hostility against private shoreline properties and properties bordering inland recreational areas; that the population of the islands is increasing while the presently accessible beach, shoreline, and inland recreational areas remain fixed; and that the absence of public access to Hawaii's shorelines and inland recreational areas constitutes an infringement upon the fundamental right of free movement in public space and access to and use of coastal and inland recreational areas. The purpose of this chapter is to guarantee the right of public access to the sea, shorelines, and inland recreational areas, and transit along the shorelines, and to provide for the acquisition of land for the purchase and maintenance of public rights-of-way and public transit corridors. [L 1974, c 244, §1; am L 1977, c 164, §3]

" **§115-2 Acquisition of lands for public rights-of-way and public transit corridors.** When the provisions of section 46-6.5 are not applicable, the various counties shall purchase land for public rights-of-way to the shorelines, the sea, and inland recreational areas, and for public transit corridors where topography is such that safe transit does not exist. [L 1974, c 244, §2; am L 1977, c 164, §4]

" **[\$115-3] Criteria for public rights-of-way.** A distance at reasonable intervals taking into consideration the topography and physical characteristics of the land the public is desirous of reaching is established as the maximum between public rights-of-way for the purposes of this chapter. [L 1974, c 244, §3]

" **[\$115-3.5] Restricting passage over rights-of-way.** A county may restrict passage over a public right-of-way by resolution or ordinance, provided that the resolution or ordinance sets forth criteria for determining that the restriction is in the public interest. [L 1993, c 113, §1]

" **§115-4 Right of transit along shorelines.** The right of access to Hawaii's shorelines includes the right of transit along the shorelines. [L 1974, c 244, §4; am L 1991, c 37, §2]

" **§115-5 Beach transit corridor defined.** (a) The right of transit shall exist seaward of the shoreline and this area shall be defined as a beach transit corridor. For purposes of this section, "shoreline" shall have the same meaning as in section 205A-1.

However, in areas of cliffs or areas where the nature of the topography is such that there is no reasonably safe transit for the public along the shoreline below the private property lines, the counties by condemnation may establish along the makai boundaries of the property lines public transit corridors which shall be not less than six feet wide.

(b) Along beach transit corridors where the abutting landowner's human-induced, enhanced, or unmaintained vegetation interferes or encroaches with beach transit corridors, the department of land and natural resources may require the abutting landowner to remove the landowner's interfering or encroaching vegetation. [L 1974, c 244, §5; am L 2010, c 160, §3]

#### **Note**

Repeal and reenactment of section on June 30, 2013 by L 2010, c 160, §7 deleted by L 2013, c 120, §4.

" **[\$115-6] Procedure.** The provisions of this chapter shall be executed under provisions of chapter 101. [L 1974, c 244, §6]

" **[\$115-7] State and county co-sponsorship of programs.** The department of land and natural resources shall enter into agreements with the council of any county providing for the acquisition of public rights-of-way and public transit corridors

pursuant to this chapter; provided that the county shall match the funds which have been appropriated by the legislature. The development and maintenance of the rights-of-way and public transit corridors shall be the responsibility of the county. [L 1974, c 244, §7]

" **[\$115-8] Expending agency.** The department of land and natural resources shall expend all sums appropriated for the purposes of this chapter and in accordance with section 115-7. [L 1974, c 244, §8]

" **§115-9 Obstructing access to public property; penalty.**

(a) A person commits the offense of obstructing access to public property if the person, by action or by having installed a physical impediment, intentionally prevents a member of the public from traversing:

- (1) A public right-of-way;
- (2) A transit area;
- (3) A public transit corridor; or
- (4) A beach transit corridor;

and thereby obstructs access to and along the sea, the shoreline, or any inland public recreational area.

(b) Physical impediments that may prevent traversing include but are not limited to the following:

- (1) Gates;
- (2) Fences;
- (3) Walls;
- (4) Constructed barriers;
- (5) Rubbish;
- (6) Security guards;
- (7) Guard dogs or animals; and
- (8) A landowner's human-induced, enhanced, or unmaintained vegetation that interferes or encroaches within beach transit corridors.

(c) Obstructing access to public property is a misdemeanor.

(d) Minimum fines for violation under this section shall be as follows:

- (1) \$1,000 for a second conviction; and
  - (2) \$2,000 for any conviction after a second conviction.
- (e) As used in this section:

"Landowner" means the record owner of the property or the record owner's agent, including a lessee, tenant, property manager, or trustee.

"Person" means a natural person or a legal entity.

"Public recreational area" means public lands or bodies of water opened to the public for recreational use. [L 2004, c 169, §2; am L 2010, c 160, §4]

#### **Note**

Repeal and reenactment of section on June 30, 2013 by L 2010, c 160, §7 deleted by L 2013, c 120, §4.

" **[\$115-10 Duty to maintain access within beach transit corridors; remedies.]** (a) The department of land and natural resources shall maintain access within beach transit corridors under this chapter and chapter 183C, by requiring private property owners to ensure that beach transit corridors abutting their lands shall be kept passable and free from the landowner's human-induced, enhanced, or unmaintained vegetation that interferes or encroaches in the beach transit corridors.

(b) In addition to the criminal penalties in section 115-9, the department is authorized to issue notice to landowners who fail to maintain access within beach transit corridors, as set out in subsection (a), abutting their property. If any landowner fails to remove the landowner's human-induced, enhanced, or unmaintained vegetation within twenty-one days of notice being issued, the department shall take any action authorized under section 183C-7 as necessary to maintain access within beach transit corridors; provided that if the landowner contests the basis upon which the notice was issued prior to the expiration of the notice period, the department's enforcement actions under section 183C-7 shall be tolled until the final resolution of the contested matter.

(c) As used in this section, "landowner" means the record owner of the property or the record owner's agent, including a lessee, tenant, property manager, or trustee. [L 2010, c 160, §2]

#### **Note**

Repeal of section on June 30, 2013 by L 2010, c 160, §7 deleted by L 2013, c 120, §4.