A BILL FOR AN ACT

RELATING TO PUBLIC ACCESS.

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

SECTION 1. The legislature finds that existing law requires subdividers and developers to dedicate land for public access to coastal shorelines and mountain areas. However, the lack of funding and assignment of responsibility for providing parking near and maintenance of the access renders the requirement meaningless.

The purpose of this Act is to make the requirement for public access more effective by providing the counties with authority to require a subdivider or a developer to establish and fund a stewardship fund for the improvement and maintenance of a right-of-way. In the alternative, the county may require the subdivider or developer (or its successor in interest) to form a planned community association to improve and maintain the right-of-way.

SECTION 2. Section 46-6.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:
"(c) Upon the dedication of land for a right-of-way, as required by this section [and acceptance by the county], the county concerned shall [thereafter] either:

(1) Accept the dedication and assume the cost of improvements for and the maintenance of the right-of-way[, and the subdivider shall accordingly be relieved from such costs]; provided that the county may require, by ordinance, that the subdivider or developer establish and initially fund a stewardship fund to be controlled by the county for the improvement and future maintenance of the right-of-way; or

(2) In the alternative to the county accepting dedication of the right-of-way, require, by ordinance, that the subdivider, or the subdivider's or developer's successor in interest in the form of a planned community association, improve and maintain the right-of-way."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.
SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect on January 1, 2021.

INTRODUCED BY: ___________________________

JAN 23 2020
Report Title:
Subdivisions; Public Access

Description:
Provides that where public access is required as a condition of a subdivision, either the county must accept dedication of and maintain the access or identify an entity to own and maintain the access. Authorizes the county to require the subdivider to establish a stewardship fund for maintenance purposes.

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