
A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

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

1 SECTION 1. Chapter 101, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§101- Right of eminent domain by adjacent landowners.

5 (a) Upon request by the owner of land adjacent to a privately
6 owned highway, roadway, or lane, the State shall initiate
7 condemnation proceedings for a public purpose pursuant to
8 section 101-2, unless the State makes a written determination
9 that a county is the more appropriate jurisdiction to initiate
10 condemnation proceedings on the private property. For the
11 purposes of this section "private property" means a privately
12 owned highway, roadway, or lane; provided that ownership of the
13 privately owned highway, roadway, or lane is not determinable
14 through public searches at the bureau of conveyances, land
15 court, or real property tax division of any county.

16 (b) If the State declines to exercise its power of eminent
17 domain to condemn the private property pursuant to subsection
18 (a), then the county in which the private property is located



1 shall initiate condemnation proceedings pursuant to section 101-
2 14.

3 (c) In fixing the compensation to be paid for condemnation
4 of the property, the amount shall be calculated using the
5 methods for valuation under section 101-23; provided that if no
6 real property taxes were paid in the ten years preceding
7 initiation of the condemnation action and the private property
8 owner can be located, the condemnation price shall be \$10.

9 (d) Following an exercise of condemnation under this
10 section, the State or the county that initiated the proceeding
11 shall be required to repair obvious defects on the condemned
12 property not less than two years after condemnation. Beginning
13 two years after condemnation, the State or county that initiated
14 the proceeding shall be legally responsible for any damage to an
15 adjacent landowner's property and any injury caused by negligent
16 maintenance; provided that failure by the State or county to
17 bring the condemned property into compliance with state laws or
18 county ordinances regulating the maintenance of property shall
19 not constitute evidence of negligence in any subsequent civil
20 action."

21 SECTION 2. Section 46-62, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§46-62 Eminent domain; proceedings according to chapter
2 101. (a) The proceedings to be taken on behalf of the county
3 for the condemnation of property as provided in section 46-61,
4 shall be taken and had in accordance with chapter 101, as the
5 same may be applicable.

6 (b) If the State declines to exercise its eminent domain
7 power under section 101- , the county in which the property is
8 located shall initiate condemnation proceedings as required by
9 section 101- ."

10 SECTION 3. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun before its effective date.

13 SECTION 4. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.



Report Title:

Eminent Domain; Condemnation by Adjacent Property Owners

Description:

Requires the State or, alternatively, the counties, to initiate eminent domain proceedings against private property owners upon request of an adjacent property owner. (HB836 HD1)

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

