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# A BILL FOR AN ACT

RELATING TO HIGHWAYS.

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

1           SECTION 1. Section 264-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§264-1 Public highways and trails. (a) All roads,  
4 alleys, streets, ways, lanes, bikeways, bridges, and all other  
5 real property highway related interests in the State, opened,  
6 laid out, subdivided, consolidated, and acquired and built by  
7 the government are declared to be public highways. Public  
8 highways are of two types:

9           (1) State highways, which are those lands, interests, or  
10 other real property rights, as defined above, having  
11 an alignment or possession of a real property highway  
12 related interest as established by law, subdivided and  
13 acquired in accordance with policies and procedures of  
14 the department of transportation, separate and exempt  
15 from any county subdivision ordinances, and all those  
16 under the jurisdiction of the department of  
17 transportation; and

18           (2) County highways, which are all other public highways.



1 (b) All trails, and other nonvehicular rights-of-way in  
2 the State declared to be public rights-of-ways by the Highways  
3 Act of 1892, or opened, laid out, or built by the government or  
4 otherwise created or vested as nonvehicular public rights-of-way  
5 at any time thereafter, or in the future, are declared to be  
6 public trails. A public trail is under the jurisdiction of the  
7 state board of land and natural resources unless it was created  
8 by or dedicated to a particular county, in which case it shall  
9 be under the jurisdiction of that county.

10 (c) All roads, alleys, streets, ways, lanes, trails,  
11 bikeways, and bridges in the State, opened, laid out, or built  
12 by private parties and dedicated or surrendered to the public  
13 use, are declared to be public highways or public trails as  
14 follows:

15 (1) Dedication of public highways or trails shall be by  
16 deed of conveyance naming the State as grantee in the  
17 case of a state highway or trail and naming the county  
18 as grantee in the case of a county highway or trail.  
19 The deed of conveyance shall be delivered to and  
20 accepted by the director of transportation in the case  
21 of a state highway or the board of land and natural  
22 resources in the case of a state trail. In the case



1 of a county highway or county trail, the deed shall be  
2 delivered to and accepted by the legislative body of a  
3 county.

4 (2) Surrender of public highways or trails shall be deemed  
5 to have taken place if no act of ownership by the  
6 owner of the road, alley, street, bikeway, way, lane,  
7 trail, or bridge has been exercised for five years and  
8 when, in the case of a state or county highway, [~~in~~  
9 ~~addition thereto,~~] the legislature, by concurrent  
10 resolution in the case of a state highway, and the  
11 legislative body of the county [~~has, thereafter~~], by a  
12 resolution[~~7~~] in the case of a county highway, has  
13 adopted the same as a state or county highway [~~or~~  
14 ~~trail~~].

15 In every case where the road, alley, street, bikeway, way, lane,  
16 trail, bridge, or highway is constructed and completed as  
17 required by any ordinance of the county or any rule, regulation,  
18 or resolution thereof having the effect of law, the legislative  
19 body of the county shall accept the dedication or surrender of  
20 the same without exercise of discretion.

21 (d) If a privately owned highway is deemed to have been  
22 surrendered to the State or county pursuant to subsection (c)(2)



1 the State or county shall be exempt from any state laws or rules  
 2 adopted pursuant thereto that would require the State or county  
 3 to perform construction or any improvement upon the highway.

4 [~~d~~] (e) All county public highways and trails once  
 5 established shall continue until vacated, closed, abandoned, or  
 6 discontinued by a resolution of the legislative body of the  
 7 county wherein the county highway or trail lies. All state  
 8 trails once established shall continue until lawfully disposed  
 9 of pursuant to the requirements of chapter 171."

10 SECTION 2. Statutory material to be repealed is bracketed  
 11 and stricken. New statutory material is underscored.

12 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: Karl Ahn

JAN 16 2013



# H.B. NO. 35

**Report Title:**

Highways; Private Streets; Surrender; Improvements

**Description:**

Exempts the State and counties from laws or rules that require the performance of construction or improvements upon a private highway if it has been surrendered to the State or a county and the legislature or county council adopts a legislative measure accepting the surrender.

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

