

---

# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1           SECTION 1. The legislature finds that the safety of  
2 residents traveling over roads whose ownership and jurisdiction  
3 are in dispute between the State and the counties, commonly  
4 known as "roads in limbo", is affected by the lack of any  
5 maintenance to such roads. The legislature also finds that  
6 government agencies are unwilling to maintain these roads  
7 because the maintenance activities may be construed as assuming  
8 ownership and jurisdiction over the disputed roads, and the  
9 government agency may be subject to liability due to the  
10 maintenance activities. The purpose of this Act is to enable  
11 government agencies to maintain roads whose ownership and  
12 jurisdiction are in dispute between the State and the counties  
13 without incurring liability or assuming ownership or  
14 jurisdiction over those roads.

15           SECTION 2. Chapter 662, Hawaii Revised Statutes, is  
16 amended by adding a new section to be appropriately designated  
17 and to read as follows:



1           "§662-    No liability for maintenance or repair of  
2 disputed roads.   A state agency maintaining or repairing a road  
3 whose ownership is in dispute between the State and a county  
4 shall not be liable to any person for injury or damage sustained  
5 when using that road and shall not be deemed to have assumed  
6 ownership or jurisdiction over the disputed road."

7           SECTION 3.   Section 46-15.9, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "§46-15.9 Traffic regulation; repair and maintenance;  
10 public right to use public streets, roads, or highways whose  
11 ownership is in dispute[-]; county liability.   (a) Any  
12 provision of law to the contrary notwithstanding, any county and  
13 its authorized personnel may impose and enforce traffic laws and  
14 shall enforce chapters 249; 286; 287; 291; 291C; 291E; 431,  
15 articles 10C and 10G; and 486, part III on public streets,  
16 roads, or highways whose ownership is in dispute between the  
17 State and the county.

18           (b) ~~[Any provision of the law to the contrary~~  
19 ~~notwithstanding, any county and its authorized personnel may~~  
20 ~~repair or maintain, in whole or in part, public streets, roads,~~  
21 ~~or highways whose ownership is in dispute between the State and~~  
22 ~~the county.]~~   A county agency maintaining or repairing a road

1 whose ownership is in dispute between the State and the county  
2 shall not be liable to any person for injury or damage sustained  
3 when using that road.

4 (c) No presumption that a county owns a particular street,  
5 road, or highway shall arise as a result of the county's  
6 performance of the activities allowed by subsection (a) or (b).

7 (d) If a county accepts by resolution the dedication of a  
8 road whose ownership is in dispute between the county and the  
9 State, the county shall not be liable to any person for injury  
10 or damage sustained while that person is using that road for a  
11 period of ten years following the acceptance of that road by  
12 resolution.

13 ~~[(d)]~~ (e) The general public shall have the unrestricted  
14 right to use public streets, roads, or highways whose ownership  
15 is in dispute between the State and the county to access the  
16 shoreline and other public recreational areas; provided that  
17 this subsection shall not apply to any private street, road, or  
18 highway whose ownership is in dispute.

19 ~~[(e)]~~ (f) As used in this section~~[-~~

20 ~~"Public recreational area"],~~ "public recreational area"

21 means coastal and inland recreational areas, including beaches,



1 shores, public parks, public lands, public trails, and bodies of  
2 water opened to the public for recreational use."

3 SECTION 4. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2050, and  
6 shall be repealed on December 31, 2023.



**Report Title:**

Liability; Road Maintenance; Disputed Roads

**Description:**

Allows state agencies that assume maintenance of disputed roads to improve the condition of the disputed road without incurring liability. Specifies that if a county accepts by resolution the dedication of a road in limbo, the county shall not be liable for injury or damage sustained while using that road for ten years after acceptance of that road by resolution. Specifies that a county agency maintaining or repairing a road whose ownership is in dispute between the State and the county shall not be liable to any person for injury or damage sustained when using that road. Effective 7/01/50. Repeals December 31, 2023 (SD2)

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

