

JAN 15 2014

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 the roads. The legislature also finds that
6 government agencies are unwilling to maintain these disputed
7 roads because the maintenance activities may be construed as
8 assuming ownership and jurisdiction over the roads, and the
9 government agency may be subject to liability due to the
10 maintenance activities.

11 The purpose of this Act is to enable government agencies to
12 maintain roads whose ownership and jurisdiction are in dispute
13 between the State and the counties without incurring liability
14 or assuming ownership or 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 requests or requires title to a disputed
8 road, the State may quitclaim whatever interest it has in the
9 road to the county.

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

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

22 [~~(e)~~] (g) As used in this section[+]



S.B. NO. 2109

1 ~~"Public recreational area"]~~, "public recreational area" means
2 coastal and inland recreational areas, including beaches,
3 shores, public parks, public lands, public trails, and bodies of
4 water opened to the public for recreational use."

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 Statutory material to be repealed is bracketed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

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

8

INTRODUCED BY:

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BY REQUEST



S.B. NO. 2109

Report Title:

HSAC Package (3); Roads in Limbo; Liability; Road Maintenance

Description:

Allows the counties and the State to maintain roads whose ownership is in dispute without incurring liability.

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

