
A BILL FOR AN ACT

RELATING TO PRIVATE ROADS.

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

1 SECTION 1. The legislature finds that while federal,
2 state, and county agencies maintain jurisdiction over, and are
3 responsible for, the repair and maintenance of the majority of
4 highways, streets, and roads throughout Hawaii, there are
5 numerous roads throughout the State that are privately owned, or
6 whose ownership has been called into question. In many cases,
7 these "private roads" are remnants of a road, or a small portion
8 of a larger public road, with disputed ownership for various
9 reasons. This has resulted in questions arising as to who is
10 responsible for the repair and maintenance of these roads, many
11 of which are regularly used for vehicular traffic.

12 The legislature further finds that since these "private
13 roads" are not owned by a governmental entity, or their
14 ownership is being disputed, they often do not receive proper
15 repair and maintenance. Although these roads are often used by,
16 and benefit, the public, the public does not often realize that
17 the road is not owned by a governmental agency. This creates



1 difficulties for members of the public and government agencies
2 when individuals report repair or maintenance issues.

3 The legislature also finds that while counties have
4 policies and procedures to assist owners with the repair and
5 maintenance of private roads, these policies and procedures are
6 only applicable when the county can determine or locate the
7 actual owner of the road. Additionally, the owners of private
8 roads often seek government assistance because they rarely have
9 the expertise, equipment, or coordination to address road
10 ownership and maintenance issues.

11 The purpose of this Act is to provide a means to repair and
12 maintain the private roads.

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

15 "**§264-1 Public highways and trails.** (a) All highways,
16 roads, alleys, streets, ways, lanes, bikeways, bridges, and all
17 other real property highway related interests in the State,
18 opened, laid out, subdivided, consolidated, and acquired and
19 built by the government are declared to be public highways.
20 Public highways are of two types:

1 (1) State highways, which are those lands, interests, or
2 other real property rights, as defined above, having
3 an alignment or possession of a real property highway
4 related interest as established by law, subdivided and
5 acquired in accordance with policies and procedures of
6 the department of transportation, separate and exempt
7 from any county subdivision ordinances, and all those
8 under the jurisdiction of the department of
9 transportation; and

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

11 (b) All trails, and other nonvehicular rights-of-way in
12 the State declared to be public rights-of-ways by the Highways
13 Act of 1892, or opened, laid out, or built by the government or
14 otherwise created or vested as nonvehicular public rights-of-way
15 at any time thereafter, or in the future, are declared to be
16 public trails. A public trail is under the jurisdiction of the
17 state board of land and natural resources unless it was created
18 by or dedicated to a particular county, in which case it shall
19 be under the jurisdiction of that county.

20 (c) All highways, roads, alleys, streets, ways, lanes,
21 [~~trails,~~] bikeways, [~~and~~] bridges, and trails in the State,



1 opened, laid out, or built by private parties and dedicated or
2 surrendered to the public use, are declared to be public
3 highways or public trails as follows:

4 (1) Dedication of public highways or trails shall be by
5 deed of conveyance naming the State as grantee in the
6 case of a state highway or trail and naming the county
7 as grantee in the case of a county highway or trail.
8 The deed of conveyance shall be delivered to and
9 accepted by the director of transportation in the case
10 of a state highway or the board of land and natural
11 resources in the case of a state trail. In the case
12 of a county highway or county trail, the deed shall be
13 delivered to and accepted by the legislative body of a
14 county.

15 (2) Surrender of public highways or trails shall be deemed
16 to have taken place if no act of ownership by the
17 owner of the highway, road, alley, street, [~~bikeway,~~]
18 way, lane, [~~trail, or~~] bikeway, bridge, or trail has
19 been exercised for five years and when, in the case of
20 a county highway, in addition thereto, the legislative



1 body of the county has, thereafter, by a resolution,
2 adopted the same as a county highway or trail.

3 In every case where the highway, road, alley, street, [~~bikeway,~~
4 way, lane, [~~trail,~~] bikeway, bridge, or [~~highway~~] trail is
5 constructed and completed as required by any ordinance of the
6 county or any rule, regulation, or resolution thereof having the
7 effect of law, the legislative body of the county shall accept
8 the dedication or surrender of the same without exercise of
9 discretion.

10 (d) If a privately owned highway, road, alley, street,
11 way, lane, bikeway, bridge, or trail is deemed to have been
12 surrendered to the county pursuant to subsection (c)(2), the
13 county shall be responsible for performing construction,
14 reconstruction, preservation, resurfacing, restoration, and
15 rehabilitation upon the highway, road, alley, street, way, lane,
16 bikeway, bridge, or trail pursuant to all state laws and rules
17 applicable to the public highway or public trail.

18 [~~(d)~~] (e) All county public highways and trails once
19 established shall continue until vacated, closed, abandoned, or
20 discontinued by a resolution of the legislative body of the
21 county wherein the county highway or trail lies. All state



1 trails once established shall continue until lawfully disposed
2 of pursuant to the requirements of chapter 171.

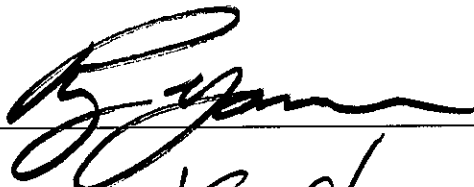
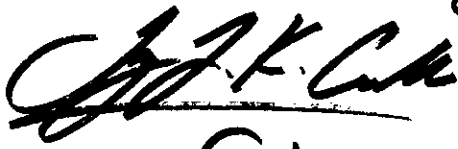




3 (f) For purposes of the section, "privately owned highway,
4 road, alley, street, way, lane, bikeway, bridge, or trail" means
5 any highway, road, alley, street, way, lane, bikeway, bridge, or
6 trail not owned by the State or any county, but has been
7 maintained or repaired by the county at any time after June 30,
8 1995."

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

11 SECTION 4. This Act shall take effect upon its approval.

12

INTRODUCED BY:

JAN 29 2015



H.B. NO. 1408

Report Title:

Private Roads; Repair and Maintenance

Description:

Requires the counties to repair and maintain private roads that have been previously maintained by the county and surrendered to the county after the absence of any act of private ownership over the road for five years.

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

