
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 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 regarding 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 ownership
14 is being disputed, they often do not receive proper repair and
15 maintenance. Although these roads are often used by, and are of
16 benefit to, the public, the public does not realize that the
17 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 may seek government assistance because they rarely have
9 the expertise, equipment, or ability to coordinate services
10 necessary to address road ownership and maintenance issues.

11 The purpose of this Act is to provide a means to resolve
12 jurisdictional questions regarding road ownership by:

- 13 (1) Allowing a state or county to acquire a road by
14 condemnation; and
15 (2) Exempting the state or county from requirements to
16 maintain or improve roads taken by condemnation.

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

19 "**§264-1 Public highways and trails.** (a) All roads,
20 highways, alleys, streets, ways, lanes, bikeways, bridges, and
21 all other real property highway related interests in the State,



1 opened, laid out, subdivided, consolidated, and acquired and
2 built by the government are declared to be public highways.

3 Public highways are of two types:

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

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

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



1 by or dedicated to a particular county, in which case it shall
2 be under the jurisdiction of that county.

3 (c) All highways, roads, alleys, streets, ways, lanes,
4 trails, bikeways, and bridges in the State, opened, laid out, or
5 built by private parties and dedicated or [~~surrendered~~]
6 condemned to the public use, are declared to be public highways
7 or public trails as follows:

8 (1) Dedication of public highways, roads, alleys, streets,
9 ways, lanes, bikeways, bridges, or trails shall be by
10 deed of conveyance naming the State as grantee in the
11 case of a state highway, road, alley, street, way,
12 lane, bikeway, bridge, or trail and naming the county
13 as grantee in the case of a county highway, road,
14 alley, street, way, lane, bikeway, bridge, or trail.

15 The deed of conveyance shall be delivered to and
16 accepted by the director of transportation in the case
17 of a state highway, road, alley, street, way, lane,
18 bikeway, or bridge, or the board of land and natural
19 resources in the case of a state trail. In the case
20 of a county highway, road, alley, street, way, lane,
21 bikeway, bridge, or county trail, the deed shall be



1 delivered to and accepted by the legislative body of a
 2 county[-]; provided that in every case where the
 3 highway, road, alley, street, way, lane, bikeway,
 4 bridge, or county trail is constructed and completed
 5 as required by any ordinance of the county or any
 6 rule, regulation, or resolution thereof having the
 7 effect of law, the legislative body of the county
 8 shall accept the dedication of the same without
 9 exercise of discretion.

10 (2) [~~Surrender~~] Condemnation of public highways, roads,
 11 alleys, streets, ways, lanes, bikeways, bridges, or
 12 trails shall be deemed to have taken place [if no act
 13 of ownership by the owner of the road, alley, street,
 14 bikeway, way, lane, trail, or bridge has been
 15 exercised for five years] if the state or county
 16 initiates condemnation proceedings pursuant to chapter
 17 101 to acquire the public highway, road, alley,
 18 street, way, lane, bikeway, bridge, or trail [and
 19 when, in the case of a county highway, in addition
 20 thereto, the legislative body of the county has,



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

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

9 (d) If a privately owned highway, road, alley, street,
10 way, lane, bikeway, bridge, or trail is deemed to have been
11 condemned by the State or county pursuant to paragraph (c) (2),
12 the State or county shall be exempt from any state laws or rules
13 adopted pursuant thereto that would require the State or county
14 to perform construction, reconstruction, preservation,
15 resurfacing, restoration, or rehabilitation upon it.

16 ~~[(d)]~~ (e) All county public highways and trails once
17 established shall continue until vacated, closed, abandoned, or
18 discontinued by a resolution of the legislative body of the
19 county wherein the county highway or trail lies. All state
20 trails once established shall continue until lawfully disposed
21 of pursuant to the requirements of chapter 171."



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

3 SECTION 4. This Act shall take effect on July 1, 2116.



Report Title:

Private Roads; Repair and Maintenance

Description:

Authorizes the State or a county to obtain ownership over a road by condemnation pursuant to the State's powers of eminent domain. Exempts the State and counties from maintaining or improving condemned roads. (HB2049 HD2)

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