

JAN 23 2015

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 these 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 due to the
9 maintenance activities.

10 The purpose of this Act is to enable government agencies to
11 maintain roads whose ownership and jurisdiction are in dispute
12 between the State and the counties without implication of
13 ownership or jurisdiction.

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



1 "§662- Maintenance or repair of disputed roads;
2 quitclaim. (a) While ownership of a road remains in dispute
3 between the State and a county, no action by a government agency
4 to maintain or repair a road shall be construed or deemed to
5 establish ownership of or jurisdiction over the road solely
6 because of action to maintain or repair a road.

7 (b) 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 for purposes of this section.

10 (c) If a county provides county services to a property
11 adjacent to a disputed road, the State shall quitclaim to the
12 county any interest the State has in that road.

13 (d) For purposes of this section, the term "road" includes
14 a street, but excludes a private road or driveway, as those
15 terms are defined in section 291C-1."

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

18 "§46-15.9 Traffic regulation; repair and maintenance;
19 public right to use public streets, roads, or highways whose
20 ownership is in dispute. (a) Any provision of law to the
21 contrary notwithstanding, any county and its authorized



1 personnel may impose and enforce traffic laws and shall enforce
2 chapters 249; 286; 287; 291; 291C; 291E; 431, articles 10C and
3 10G; and 486, part III on public streets, roads, or highways
4 whose ownership is in dispute between the State and the county.

5 (b) ~~[Any provision of the law to the contrary~~
6 ~~notwithstanding, any county and its authorized personnel may~~
7 ~~repair or maintain, in whole or in part, public streets, roads,~~
8 ~~or highways whose ownership is in dispute between the State and~~
9 ~~the county.]~~ While ownership of a road remains in dispute
10 between the State and a county, no action by a government agency
11 to maintain or repair a road shall be construed or deemed to
12 establish ownership of or jurisdiction over the road solely
13 because of action to maintain or repair a road.

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

17 (d) If a county requests or requires title to a disputed
18 road, the State may quitclaim whatever interest it has in the
19 road to the county for purposes of this section.

20 ~~[-(d)]~~ (e) The general public shall have the unrestricted
21 right to use public streets, roads, or highways whose ownership



1 is in dispute between the State and the county to access the
2 shoreline and other public recreational areas; provided that
3 this subsection shall not apply to any private street, road, or
4 highway whose ownership is in dispute.

5 [~~e~~] (f) As used in this section:

6 "Public recreational area" means coastal and inland
7 recreational areas, including beaches, shores, public parks,
8 public lands, public trails, and bodies of water opened to the
9 public for recreational use.

10 "Road" includes a street, but excludes a private road or
11 driveway, as those terms are defined in section 291C-1."

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

14 SECTION 5. This Act shall take effect on July 1, 2015.

15

INTRODUCED BY: *Erzanne Chun Oakland*



S.B. NO. 484

Report Title:

Disputed Roads; Road Maintenance; Quitclaim

Description:

Specifies that a government agency does not assume ownership or jurisdiction over a disputed road solely through maintenance or repair activities. Authorizes the State to quitclaim ownership of roads in favor of counties.

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