

STAND. COM. REP. NO. **3518**

Honolulu, Hawaii

APR 08 2016

RE: H.B. No. 2049
H.D. 2
S.D. 2

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committees on Judiciary and Labor and Ways and Means, to which was referred H.B. No. 2049, H.D. 2, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TRANSPORTATION,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Authorize the State or a county to obtain ownership over a public highway, road, alley, way, lane, bikeway, bridge, or trail by condemnation pursuant to the State's powers of eminent domain;
- (2) Exempt the State and counties that condemn a privately owned highway, road, alley, street, way, lane, bikeway, bridge, or trail from laws or rules that would require construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation upon it;
- (3) Clarify that if a privately owned highway, road, alley, street, way, lane, bikeway, bridge, or trail complied with construction codes at the time of construction, then upon transfer of that privately owned highway, road, alley, street, way, lane, bikeway, bridge, or trail to a county, the county that accepts the transfer shall not be required to do any construction, renovation, or repair to bring the privately owned highway, road, alley, street, way, lane, bikeway,



bridge, or trail up to any construction code existing at the time of transfer;

- (4) Establish a Commission on Remnant Private Roads to identify all roads by street address and tax map key number located in the State and in each county that are deemed to be remnant private roads; and
- (5) Authorize the Commission on Remnant Private Roads to assign ownership of identified remnant private roads to the State or county and require the commission to report to the Legislature prior to the convening of the Regular Session of 2018 identifying the remnant private roads.

Your Committees received testimony in support of this measure from the Department of the Attorney General, Chamber of Commerce Hawaii, Bank of Hawaii, and Hawai'i Association of REALTORS. Your Committees received testimony in opposition to this measure from the Department of Land and Natural Resources; Department of Transportation; Department of Public Works, County of Hawai'i; and one individual. Your Committees received comments on this measure from the Office of the Mayor, City and County of Honolulu.

Your Committees find that while federal, state, and county agencies maintain jurisdiction over and are responsible for the repair and maintenance of the majority of roads throughout Hawaii, there are numerous roads throughout the State that are privately owned. A number of these privately owned roads are termed remnant roads, or roads that abut or are sandwiched between sections of county-owned roads that should have been dedicated to the county by developers but were not for unknown reasons. Over the decades, the roads have remained open to the public with unrestricted access, including access for cars, buses, and refuse trucks.

Your Committees further find that questions still remain as to who is responsible for the repair and maintenance of such roads. This has been an ongoing challenge for the State and the counties, as well as neighboring residents and landowners. This measure will provide a process for the State or a county to obtain ownership over the road by use of the State's condemnation process and not require the government entity to improve the road to today's standards.

Your Committees have amended this measure by:



- (1) Deleting language that would have authorized the State or a county to obtain ownership over a public highway, road, alley, way, lane, bikeway, bridge, or trail by condemnation pursuant to the State's powers of eminent domain and reinstating State or county ownership by surrender;
- (2) Exempting the State and counties for an unspecified number of years after condemning a private highway, road, alley, street, way, lane, bikeway, bridge, or trail from state laws or rules that require maintenance or improvements thereon;
- (3) Adding the Chairperson of the Board of Land and Natural Resources or the Chairperson's designee as a member of the Commission on Remnant Private Roads;
- (4) Inserting a blank appropriation to the Commission on Remnant Private Roads to identify all roads by street address and tax map key number located in the State and in each county that are deemed to be remnant private roads; and
- (5) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Judiciary and Labor and Ways and Means that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 2049, H.D. 2, S.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as H.B. No. 2049, H.D. 2, S.D. 2.

Respectfully submitted on
behalf of the members of the
Committees on Judiciary and
Labor and Ways and Means,



JILL N. TOKUDA, Chair

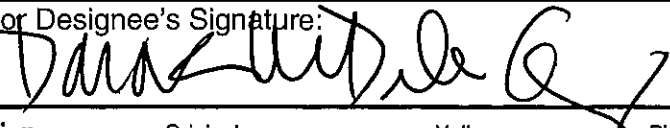


GILBERT S.C. KEITH-AGARAN, Chair



The Senate
 Twenty-Eighth Legislature
 State of Hawai'i

Record of Votes
Committee on Ways and Means
WAM

Bill / Resolution No.:* HB 2049, HD2, SD1	Committee Referral: TRE/PSM, SDL/WAM	Date: 4/4/11		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
TOKUDA, Jill N. (C)	/			
DELA CRUZ, Donovan M. (VC)	/			
CHUN OAKLAND, Suzanne	/			Excused
ENGLISH, J. Kalani	/			Excused
GALUTERIA, Brickwood	/			Excused
HARIMOTO, Breene	/			
INOUYE, Lorraine R.	/			
RIVIERE, Gil	/			
TANIGUCHI, Brian T.	/			
WAKAI, Glenn	/			
SLOM, Sam	/			
TOTAL	10			1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes