

Honolulu, Hawaii
March 24, 2016

RE: S.B. No. 2372
S.D. 3
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred S.B. No. 2372, S.D. 3, entitled:

"A BILL FOR AN ACT RELATING TO PRIVATE ROADS,"

begs leave to report as follows:

The purpose of this measure is to address questions regarding responsibility for the repair and maintenance of privately owned highways. Specifically, this measure, among other things:

- (1) Requires the counties to accept the surrender of a highway, road, alley, street, way, lane, bikeway, bridge, or trail if there has been an absence of any act of private ownership over the highway, road, alley, street, way, lane, bikeway, bridge, or trail for five years or the county has undertaken repair and maintenance of the highway, road, alley, street, way, lane, bikeway, bridge, or trail pursuant to a county maintenance and repair program;
- (2) Deems a highway, road, alley, street, way, lane, bikeway, bridge, or trail that has been commonly used by residents of a particular area for emergency access purposes or for health and safety reasons to be publicly accessible for those reasons, without regard to actual ownership or responsibility for maintenance; and



- (3) Exempts the State and counties from:
- (A) Maintaining surrendered highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails;
 - (B) Liability arising from use of a surrendered highway, road, alley, street, way, lane, bikeway, bridge, or trail for a period of two years following the performance of construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation; and
 - (C) Acquiring liability due to the negligent acts or omissions of others that the State or county did not already have before the surrender of the highway, road, alley, street, way, lane, bikeway, bridge, or trail, solely by reason of the surrender.

The Hawaii Association of Realtors and Bank of Hawaii testified in support of this measure. The Chamber of Commerce Hawaii testified in support of the intent of this measure. The Office of the Mayor of the City and County of Honolulu, Department of the Attorney General, Department of Land and Natural Resources, Department of Public Works of the County of Hawaii, Hawaii Association for Justice, and two concerned individuals testified in opposition to this measure. The Department of Transportation commented on this measure.

Your Committee finds 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 roads are 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. However, questions still remain as to who is responsible for the repair and maintenance of such roads. Your Committee finds that this important issue must be addressed.



Your Committee has amended this measure by deleting its contents and replacing it with language that:

- (1) Establishes a temporary roads commission within the Department of Transportation to, among other things, determine ownership of each private road and road in limbo, advise the appropriate legislative body of the determination of ownership of the private road or road in limbo, and recommend action regarding the private road or road in limbo to the appropriate legislative body, including the initiation of condemnation proceedings as appropriate;
- (2) Expands the State and counties' authority to condemn public highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails;
- (3) Allows any private owner of a highway, road, alley, street, way, lane, bikeway, bridge, or trail to petition the Mayor of the county in which the highway, road, alley, street, way, lane, bikeway, bridge, or county trail is located to initiate condemnation proceedings if certain conditions are met;
- (4) Exempts highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails constructed and completed in accordance with the requirements of any ordinance, rule, or regulation in effect at the time of construction and completion from meeting construction standards in place at the time of transfer to the county;
- (5) Exempts the State and counties from requirements to maintain or improve highways, roads, alleys, streets, ways, lanes, bikeways, bridges, or trails taken by condemnation; and
- (6) Appropriates funds for road repair work, including resurfacing, flood mitigation, and installation of drainage infrastructure to certain roads.

Your Committee has also amended this measure by:

- (1) Inserting a severability clause; and



- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2372, S.D. 3, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2372, S.D. 3, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Transportation,


HENRY J.C. AQUINO, Chair



