

STAND. COM. REP. NO. **2598**

Honolulu, Hawaii

MAR 03 2016

RE: S.B. No. 2372
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 S.B. No. 2372, S.D. 1, entitled:

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

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Require 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;
- (2) Deem 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;
- (3) Exempt the State and counties from performing any construction, reconstruction, preservation, resurfacing, restoration, or rehabilitation on a surrendered highway, road, alley, street, way, lane, bikeway, bridge, or trail;



- (4) Exempt the State and counties from 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
- (5) Exempt the State and counties from liability due to the negligent acts or omissions of others that the State or county did not already benefit from before the surrender of the highway, road, alley, street, way, lane, bikeway, bridge, or trail, solely by reason of the surrender.

Your Committees received testimony in support of this measure from the Hawai'i Association of REALTORS and Bank of Hawaii. Your Committees received testimony in opposition to this measure from the Department of Land and Natural Resources; Department of the Attorney General; Department of Facility Maintenance, City and County of Honolulu; Department of Public Works, County of Hawaii; Office of the Mayor, County of Maui; and Hawaii Association for Justice.

Your Committees find that there are numerous roads throughout the State that are privately owned or whose ownership has been called into question. In many cases, these private roads are remnants of a road, or a small portion of a larger public road, whose ownership is disputed for various reasons. This has resulted in questions regarding who is responsible for the repair and maintenance of these roads, many of which are regularly used for vehicular traffic. Your Committees further find that since these private roads are not owned by a governmental entity, or their ownership is being disputed, they often do not receive proper repair and maintenance.

Your Committees have amended this measure by:

- (1) Inserting an effective date of July 1, 2016; and
- (2) 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 S.B. No. 2372, S.D. 1, as amended herein,



and recommend that it pass Third Reading in the form attached hereto as S.B. No. 2372, 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 Judiciary and Labor
JDL

Bill / Resolution No.:* SB2372 SD1	Committee Referral: TRE/PSM, JDL/WAM	Date: 2/24/16		
<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
KEITH-AGARAN, Gilbert S.C. (C)	/			
SHIMABUKURO, Maile S.L. (VC)	/			
GABBARD, Mike	/			
KAHELE, Kaial'i	/			
KIM, Donna Mercado	/			
THIELEN, Laura H.	/			
SLOM, Sam	/			
TOTAL	7			
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

