
A BILL FOR AN ACT

RELATING TO HIGHWAYS.

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 whose ownership has been
6 disputed or called into question. Because the ownership of
7 these roads is in dispute, these roads often do not receive
8 proper care and maintenance. These disputes create difficulties
9 for members of the public and government agencies when
10 individuals report repair or maintenance issues. The
11 legislature also finds that although counties have policies and
12 procedures to assist owners with the repair and maintenance of
13 private roads, these policies and procedures are only applicable
14 when the county can determine or locate the actual owner of the
15 road.

16 The legislature further finds that Act 221, Session Laws of
17 Hawaii 1965, provided that all public highways not under the



1 jurisdiction of the state department of transportation were
2 declared to be owned by the respective county governments.
3 However, notwithstanding that ownership of these highways was
4 transferred to the counties by law under Act 221, the counties
5 of the State have not acknowledged their ownership and
6 jurisdiction over these public highways, in part because title
7 for many of these roads was not transferred by deed of
8 conveyance or other tangible evidence of ownership.

9 The purpose of this Act is to:

- 10 (1) Effectuate the intent of Act 221, Session Laws of
11 Hawaii 1965, by requiring the administrative head of
12 each state department or agency to convey, by deed of
13 conveyance, the title of all disputed public highways
14 in counties with a population of five hundred thousand
15 or greater, to the respective county in which the
16 disputed public highway is situated; and
- 17 (2) Require each county with a population of five hundred
18 thousand or greater to take ownership and jurisdiction
19 over all roads for which there is a dispute over
20 ownership and jurisdiction between the State or any of
21 its political subdivisions and a private party.



1 SECTION 2. Chapter 264, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§264- County highways; ownership. (a) As used in this
5 section:

6 "Disputed public highway" means any public highway,
7 situated in any county with a population of five hundred
8 thousand or more, for which there is a dispute between the State
9 and a county over ownership and jurisdiction, as determined by
10 the department of transportation.

11 "Public highway" shall have the same meaning as defined in
12 section 264-1.

13 "Road" means any highway, road, alley, street, way, lane,
14 bikeway, bridge, or trail that is situated in a county with a
15 population of five hundred thousand or more.

16 (b) Without regard to chapter 171, by January 1, 2018, the
17 administrative head of each state department or agency shall
18 convey, by deed of conveyance, the title of all disputed public
19 highways to the respective county in which the disputed public
20 highway is situated; provided that the administrative head of



1 the department or agency first consults with the director of
2 transportation.

3 All conveyances of disputed public highways made pursuant
4 to this subsection shall be accepted by the pertinent county
5 without exercise of discretion.

6 (c) Any road that is open to the public and for which the
7 director of transportation determines that:

8 (1) There is a dispute over ownership and jurisdiction of
9 the road between the State or any of its political
10 subdivisions and a private party; and

11 (2) No party has exercised ownership over the road in the
12 five years prior to the effective date of this
13 section; provided that driving on the road shall not,
14 on its own, constitute an act of ownership,
15 shall be deemed to have been surrendered to the county in which
16 the road is situated, pursuant to an administrative order issued
17 by the director of transportation. The county shall accept
18 without exercise of discretion all surrendered roads, except
19 where the State has notified the county within thirty days of
20 the surrender that the State will accept the surrendered road.



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1 The county shall accept the road as surrendered and shall record
2 its ownership with the bureau of conveyances."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.

5

INTRODUCED BY:

JAN 19 2017



H.B. NO. 115

Report Title:

Highways; Roads in Limbo; Counties

Description:

Directs the head of each state department or agency to convey title of all disputed highways situated within a county with a population of 500,000 or more to the respective county. Requires each county with a population of 500,000 or more to take ownership and jurisdiction over all roads over which there is a dispute over ownership between the State or any of its political subdivisions and a private party.

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