

## **HB 115, HD1**

### **RELATING TO HIGHWAYS.**

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.

(HB115 HD1)



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of  
SUZANNE D. CASE  
Chairperson**

**Before the Senate Committees on  
PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS  
and  
TRANSPORTATION AND ENERGY**

**Thursday, March 16, 2017  
1:30 P.M.**

**State Capitol, Conference Room 229**

**In consideration of  
HOUSE BILL 115, HOUSE DRAFT 1  
RELATING TO HIGHWAYS**

House Bill 115, House Draft 1, proposes to require each state agency to convey title to disputed highways in counties with a population of 500,000 or more to the respective county, and also requires the county to accept ownership and jurisdiction over all disputed highways. **The Department of Land and Natural Resources (Department) offers the following comments on this measure.**

The Department believes that a deed is not necessary to transfer disputed highways to the counties as title should already be vested with the counties pursuant to Chapter 264, Hawaii Revised Statutes (HRS). In addition, it would be time-consuming and cost-prohibitive<sup>1</sup> to survey all disputed highways to the standards required by the State Surveyor, and process subdivisions that may be required in some cases. Furthermore, this measure provides no funding for this work. If the intent of this bill is to facilitate the counties' acceptance of the management of disputed public highways, then the Department recommends that the bill be amended to clearly state that the State agencies would deliver a quitclaim deed without the need for any legal description.

Accordingly, the Department recommends that SECTION 2, subsection (b) be amended to read as follows:

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<sup>1</sup> All departments have limited budgets and spending authority.

**SUZANNE D. CASE**  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

**KEKOA KALUHIWA**  
FIRST DEPUTY

**JEFFREY T. PEARSON, P.E.**  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

“(b) Without regard to chapter 171, by January 1, 2018, the administrative head of each state department or agency shall [~~convey, by deed of conveyance, the~~] remise, release and forever quitclaim, without the need for any formal legal description (i.e., no metes and bounds description or map required) all title of all disputed public highways to the respective county in which the disputed public highway is situated; provided that the administrative head of the department or agency first consults with the director of transportation.

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

Based on the 500,000 population requirement in the bill, it appears the City and County of Honolulu (City) is the focus of this legislation. The Department is aware of many private roads built by developers that were never dedicated to the Department of Transportation or the City. Today, many of those roads are in disrepair and do not meet City standards. The Department understands that subsection (c) of this bill allows the Director of Transportation to surrender such disputed public highways to the counties by an administrative order. The Department notes that in Kakaako there is a private landowner claiming to be the owner of roads. It is unclear how the Director of Transportation could surrender such disputed roads to the City when a private party is claiming ownership.

Finally, under Section 171-64.7, HRS, a supermajority approval of both houses of the Legislature is required to approve the conveyance of state lands. If this measure is intended to exempt conveyances of roads to the counties from the effect of Section 171-64.7, HRS, the Department believes such intent should be clearly stated.

Thank you for the opportunity to comment on this measure.



HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY



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STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR  
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE

SENATE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL,  
AND MILITARY AFFAIRS, AND TRANSPORTATION AND ENERGY

ON

Thursday, March 16, 2017  
1:30 P.M.

State Capitol, Conference Room 229

in consideration of

**HB 115, HD1 – RELATING TO HIGHWAYS**

Chairs Nishihara and Inouye, Vice Chairs Wakai and Dela Cruz, and members of the committee.

This testimony reflects my view alone. The Hawaii Community Development Authority (HCDA) has not acted on HB 115, HD1.

In my capacity as the HCDA Executive Director, I respectfully offer **comments** on HB 115, HD1.

This bill could be a useful tool for state agencies. The deadline date in section 2, subsection (b) of the bill is problematic as it does not leave enough time for us to identify all affected properties, and complete the due diligence to convey any parcels that are identified. This work includes title searches, surveys, appraisals, conveyance documents, and procurement to contract for these specialized services.

I recommend removing the deadline date to allow state agencies to use this tool as necessary.

Subsection (c) of the bill appears to involve private third parties. HCDA is a party in two legal matters with private parties on roads in the Kakaako Community Development District. On advice of legal counsel, we respectfully reserve our comments on that portion of HB 115, HD1.

Thank you for the opportunity to provide comments on this bill.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 14, 2017 12:44 PM  
**To:** TRE Testimony  
**Cc:** musicians677@gmail.com  
**Subject:** \*Submitted testimony for HB115 on Mar 16, 2017 13:30PM\*

**HB115**

Submitted on: 3/14/2017

Testimony for TRE/PSM on Mar 16, 2017 13:30PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Steve Pearson	Musicians' Association Of Hawai'i • AFM Local 677	Support	No

**Comments:**

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**TESTIMONY TO THE COMMITTEES ON PUBLIC SAFETY, INTERGOVERNMENTAL, AND MILITARY AFFAIRS  
AND TRANSPORTATION AND ENERGY  
Thursday, March 16, 2017, 1:30 p.m.  
State Capitol, Conference Room 229**

**TO:** The Honorable Clarence K. Nishihara, Chair  
The Honorable Glenn Wakai, Vice Chair  
Members of the Committee on Public Safety, Intergovernmental, and Military Affairs

The Honorable Lorraine R. Inouye, Chair  
The Honorable Donovan M. Dela Cruz, Vice Chair  
Members of the Committee on Transportation and Energy

**TESTIMONY IN SUPPORT OF HB115 HD1 RELATING TO HIGHWAYS**

I am Stafford Kiguchi with Bank of Hawaii testifying in support of HB115 HD1 dealing with the ownership of disputed public highways and certain private roads. This is a perennial issue and we appreciate and support the committee's initiative and efforts in addressing this long-standing issue and public concern.

Bank of Hawaii is on title to a number of roads that were acquired when it purchased Hawaiian Trust and Bishop Trust companies back to the 1980s. It is believed that decades ago when the homes adjacent to these roads were developed and deeded to the homeowners by the trust companies as agent for the developers, these roads, by right, should have been dedicated to the city. However, for unknown reasons, that transfer never occurred and legal title appears to have remained in the trust companies and subsequently with Bank of Hawaii as successor in interest.

Over the decades, the roads have remained open to the public with unrestricted access for cars, buses, refuse trucks, and emergency vehicles, etc. Many of these roads are termed "remnants" and abut or are sandwiched between sections of city-owned roads or streets. As a result, we know that in many cases the city currently provides maintenance services for these roads.

Despite its "ownership," the bank does not enjoy the normal rights and privileges associated with ownership. We would not build on the roads nor would we deny homeowners access to their homes that front these roads. At the same time, there is no acceptable mechanism to assess any fees that could be applied toward road maintenance. As a result, the situation exists where Bank of Hawaii may have obligations but no rights.

- More -

We also recognize that there is the issue of some older roads or streets not conforming to current codes. There are no remedies available to a non-government owner to address this dilemma. If there is a desire to bring such roads up to modern standards, there would potentially need to be an exercise of eminent domain of which only a government entity could do.

As noted in the bill, people seeking help when a road or street is in need of repair may face frustration and confusion when attempting to identify the proper authority to have repairs or maintenance issues addressed.

We believe that maintenance and ownership of such roads best belongs within the jurisdiction of the city and county. The city is best equipped with the knowledge and equipment to conduct any necessary planning, road repair and maintenance work. For these reasons, we believe it makes most practical sense for the city to own and maintain these types of roads. It would provide the public a single point of contact to address its needs, and would also provide both clarity and consistency for the residents and homeowners.

We appreciate the Committee's interest and willingness to continue to examine solutions for this important issue.

Thank you for the opportunity to testify.

Stafford Kiguchi  
Executive Vice President, Bank of Hawaii  
694-8580

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, March 16, 2017 1:15 AM  
**To:** TRE Testimony  
**Cc:** jamesfmoffitt@gmail.com  
**Subject:** Submitted testimony for HB115 on Mar 16, 2017 13:30PM

**HB115**

Submitted on: 3/16/2017

Testimony for TRE/PSM on Mar 16, 2017 13:30PM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
James Moffitt	Individual	Support	No

Comments: Hello, I support HB115. maintenance of roads with a dispute of ownership is best left with the counties, who are best equipped to conduct any necessary repairs, planning. Thank you, james Moffitt

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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