
A BILL FOR AN ACT

RELATING TO EASEMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that public agencies in
2 the State frequently encounter challenges in obtaining various
3 types of easements on public lands due to a requirement that
4 obtaining an easement also requires a formal subdivision
5 approval from the counties. The legislature further finds that
6 the formal subdivision process requires a significant investment
7 of time and resources, such as the hiring of a professional land
8 surveyor to prepare a map and metes and bounds descriptions of
9 the easement corridor, and can hinder progress in certain public
10 projects that could proceed but for resolution of the easement
11 issue. One example of this issue was raised by the Act 90
12 working group, which was established to determine the process,
13 status, challenges, and potential remedies regarding delays in
14 the transfer of certain non-agricultural park lands and assets
15 related to their management from the department of land and
16 natural resources to the department of agriculture. The Act 90
17 working group found that fifteen parcels would be considered



1 eligible for transfer if an easement were provided to allow
2 access to an adjacent parcel.

3 The legislature concludes that the process of granting
4 easements on public lands would be simpler and more efficient if
5 the process did not also require approval of a formal
6 subdivision nor its related requirements, such as requirements
7 for professional surveying. The legislature believes that this
8 amendment to the process of obtaining easements on public lands
9 would serve a greater public purpose and is appropriate, as
10 easements are use rights rather than land development rights.

11 The purpose of this Act is to allow an exemption for the
12 granting of easements on public lands affecting the transfer of
13 lands between the department of land and natural resources and
14 the department of agriculture, pursuant to chapter 166E, Hawaii
15 Revised Statutes, from formal subdivision process and approval
16 requirements, including requirements for surveying and
17 formalizing easements; provided that the easements are created
18 for a public purpose on public or government-owned lands.

19 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
20 by adding a new section to part IV to be appropriately
21 designated and to read as follows:



1 "§46- Easements; formal subdivision process and approval
2 exemption. Notwithstanding any provision of law to the
3 contrary, the granting of easements on public lands affecting
4 the transfer of public lands between the department of land and
5 natural resources and department of agriculture, pursuant to
6 chapter 166E, may be exempt from formal subdivision process and
7 approval requirements, including requirements for surveying and
8 formalizing easements. Any exemption granted pursuant to this
9 section shall be limited to easements created for a public
10 purpose on public or other government-owned lands. The
11 government agency that grants the easements may notify in
12 writing the county having jurisdiction to process and approve
13 the easements of the government agency's intent to invoke
14 this exemption."

15 SECTION 3. Section 46-66, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "§46-66 Disposition of real property. Notwithstanding any
18 other law to the contrary[7] and except as provided in
19 section 46- , each county, subject to the approval of the
20 council, may grant, sell, or otherwise dispose of any easement
21 for particular purposes in perpetuity by direct negotiation or



1 otherwise, subject to reverter to the county upon the
2 termination or abandonment of the specific purpose for which the
3 easement was granted, including easements over, under, through,
4 and across land bordering the ocean and easements for any
5 governmental or public utility purpose or for chilled water and
6 seawater distribution systems for renewable energy seawater air
7 conditioning district cooling systems."

8 SECTION 4. This Act does not affect rights and duties that
9 matured, penalties that were incurred, and proceedings that were
10 begun before its effective date.

11 SECTION 5. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Easements; Public Lands; Subdivision Process and Approval
Exemption; Counties

Description:

Allows the granting of easements on undeveloped public lands affecting the transfer of public lands between the Department of Land and Natural Resources to the Department of Agriculture, pursuant to Chapter 166E, HRS, to be exempted from formal subdivision process and approval requirements, including requirements for surveying and formalizing easements. Limits exemptions to easements created for a public purpose on public or government-owned lands. (SD2)

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