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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

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

4       "§264- Orphan streets; ownership. (a) Notwithstanding  
5       any provision of law to the contrary, fee simple absolute title  
6       of an orphan street shall be transferred to an adjacent owner  
7       pursuant to subsection (b), when:

8       (1) If the subdivider is an entity, the subdivider has  
9       dissolved or ceased to exist for no less than five  
10       years; or

11       (2) If the subdivider is an individual, the subdivider is  
12       deceased and either the heirs disclaim their interest  
13       in the orphan street or no heirs can be located with  
14       reasonable diligence and a court order authorizing  
15       notice by publication is obtained in the action  
16       described in subsection (b).



1        (b) The following shall apply to an action for transfer of  
2 title brought pursuant to subsection (a):

3        (1) The action may be commenced in the circuit court for  
4        the county where the property is located by any  
5        adjacent owner;

6        (2) The action shall include a sufficient survey or map to  
7        illustrate the property to be transferred and which  
8        portions will become part of any other property;

9        (3) The party filing the action shall serve notice on all  
10       other adjacent owners. Any adjacent owner shall be  
11       entitled to appear and raise any objection to how the  
12       petitioner proposes to transfer title to the orphan  
13       street;

14       (4) Notice of a hearing before the court shall be given to  
15       the parties identified in paragraph (3); and

16       (5) The court:

17       (A) May require proof of payment of unpaid property  
18       taxes assessed against the orphan street, if  
19       applicable;



1           (B) May, if necessary, determine any issues of  
2           responsibility for existing or future maintenance  
3           obligations; and

4           (C) If the petitioner has established the criteria  
5           required under this section and has provided a  
6           survey or map that the court determines is a  
7           proper division of the title to the orphan  
8           street, shall issue an order confirming the  
9           transfer of title which will be effective when  
10           the order is recorded in the bureau of  
11           conveyances; provided that if the property or any  
12           portion thereof is registered with the land  
13           court, the order shall be recorded with the  
14           office of the assistant registrar of the land  
15           court, and the assistant registrar shall issue a  
16           certificate of title to the prevailing adjacent  
17           owner covering the affected portion of the orphan  
18           street as described in the court order.

19           (c) Any transfer of title pursuant to this section shall  
20           not operate to terminate, diminish, or restrict any easements,  
21           covenants, utilities, or rights of access, including implied



1 rights of access, in favor of an adjacent owner, over, under, or  
2 across the orphan street that existed before the transfer of  
3 title.

4 (d) For the purposes of this section:

5 "Adjacent owner" means a person, firm, corporation,  
6 partnership, association, trust, or other legal entity or  
7 combination thereof, including a community association, that  
8 owns property that is contiguous to the orphan street in  
9 question.

10 "Community association" means a nonprofit homeowners or  
11 community association existing pursuant to covenants running  
12 with the land.

13 "Orphan street" means a highway, road, alley, street, way,  
14 lane, bikeway, bridge, or trail, title to which is vested in a  
15 subdivider that no longer holds an interest in title to any of  
16 the other lots or portions of the lots on the plat of  
17 consolidation or subdivision that created the orphan street and  
18 that has never been dedicated by deed of conveyance naming the  
19 State or county as grantee.

20 "Subdivider" means a person, firm, corporation,  
21 partnership, association, trust, or other legal entity or



1 combination thereof that caused the consolidation or subdivision  
2 creating the orphan street, or the duly authorized agent or  
3 lessee thereof."

4 SECTION 2. New statutory material is underscored.

5 SECTION 3. This Act shall take effect on July 1, 3000.



# S.B. NO. 321 S.D. 1 H.D. 2

**Report Title:**

Orphan Streets; Subdividers; Title; Fee Simple; Ownership

**Description:**

Establishes a process for transferring fee simple absolute title of orphan streets to adjacent property owners under certain conditions, such as when the subdivider has dissolved, has ceased to exist, or is deceased, and includes legal procedures for filing the action for transfer. Effective 7/1/3000. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

