

JAN 23 2015

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. The legislature finds that certain roadways and
2 streets located in the city and county of Honolulu, whether
3 State, city and county, or privately owned, have been in
4 disrepair for decades due to a jurisdictional dispute between
5 the State and counties over ownership of these roads, often
6 referred to as "roads in limbo". In general, because of
7 jurisdictional disputes between the counties and the State
8 regarding ownership and responsibility for maintenance and
9 improvement of roadways and easements, many taxpaying citizens
10 throughout the State have experienced considerable frustration
11 in obtaining necessary repairs to and maintenance of public
12 roads and easements bordering their property.

13 The origins of this problem arose from a 1963 amendment to
14 section 264-1, Hawaii Revised Statutes, which created two
15 categories of public highways: State highways, under the
16 jurisdiction of the department of transportation, and county
17 highways, which comprise all remaining highways. The State



1 claims that under this law all non-state roadways were
2 transferred from the State to the various counties and are now
3 the responsibility of the counties. However, the counties
4 maintain that a highway does not become a county highway unless
5 it is accepted or adopted as such by the appropriate county
6 council and therefore the counties accept no responsibility for
7 roadways they have not accepted in this fashion.

8 According to a legislative reference bureau report on roads
9 in limbo (Report No. 11, 1989), the real roots of the problem
10 reach back much further than 1963. Confusion over who owns
11 roads in Hawai'i stems from several sources. First, there is no
12 complete and accurate list of roads in the State. Second,
13 ownership of government roads is complicated by the varied ways
14 that a road can become public, such as dedication by a developer
15 to the county upon completion of development and consistent use
16 of a private road by the public so as to effectively create a de
17 facto public easement. Third, some public roads are not
18 formally recorded, so that their existence or exact location may
19 not be known by the government because of a lack of recording of
20 metes and bounds description.



1 The legislature finds that the safety of residents
 2 traveling over roads whose ownership and jurisdiction are in
 3 dispute between the State and the counties is affected by the
 4 lack of any maintenance to such roads. The legislature also
 5 finds that government agencies are unwilling to maintain these
 6 roads because the maintenance activities may be construed as
 7 assuming ownership and jurisdiction over the disputed roads due
 8 to the maintenance activities.

9 The purpose of this Act is to enable government agencies to
 10 maintain roads whose ownership and jurisdiction are in dispute
 11 between the State and the counties.

12 SECTION 2. Chapter 662, Hawaii Revised Statutes, is
 13 amended by adding a new section to be appropriately designated
 14 and to read as follows:

15 "§662- Maintenance or repair of disputed roads;
 16 quitclaim. (a) No action by a government agency to maintain or
 17 repair a road, ownership of which is in dispute between the
 18 State and a county, shall be used to establish the agency's
 19 ownership of or jurisdiction over the road and the agency shall
 20 not be deemed to have assumed ownership of or jurisdiction over



1 the road solely because of action to maintain or repair the
2 road.

3 (b) If a county requests or requires title to a disputed
4 road, the State may quitclaim whatever interest it has in the
5 road to the county."

6 SECTION 3. Section 46-15.9, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§46-15.9 Traffic regulation; repair and maintenance;**
9 **public right to use public streets, roads, or highways whose**
10 **ownership is in dispute.** (a) Any provision of law to the
11 contrary notwithstanding, any county and its authorized
12 personnel may impose and enforce traffic laws and shall enforce
13 chapters 249; 286; 287; 291; 291C; 291E; 431, articles 10C and
14 10G; and 486, part III on public streets, roads, or highways
15 whose ownership is in dispute between the State and the county.

16 (b) [~~Any provision of the law to the contrary~~
17 ~~notwithstanding, any county and its authorized personnel may~~
18 ~~repair or maintain, in whole or in part, public streets, roads,~~
19 ~~or highways whose ownership is in dispute between the State and~~
20 ~~the county.] No action by a government agency to maintain or
21 repair a road, ownership of which is in dispute between the~~



1 State and a county, shall be used to establish the agency's
2 ownership of or jurisdiction over the road and the agency shall
3 not be deemed to have assumed ownership of or jurisdiction over
4 the road solely because of action to maintain or repair a road.

5 (c) No presumption that a county owns a particular street,
6 road, or highway shall arise as a result of the county's
7 performance of the activities allowed by subsection (a) or (b).

8 (d) If a county requests or requires title to a disputed
9 road, the State may quitclaim whatever interest it has in the
10 road to the county.

11 [~~(d)~~] (e) The general public shall have the unrestricted
12 right to use public streets, roads, or highways whose ownership
13 is in dispute between the State and the county to access the
14 shoreline and other public recreational areas; provided that
15 this subsection shall not apply to any private street, road, or
16 highway whose ownership is in dispute.

17 [~~(e)~~] (f) As used in this section[
18 ~~"Public recreational area"~~], "public recreational area"
19 means coastal and inland recreational areas, including beaches,
20 shores, public parks, public lands, public trails, and bodies of
21 water opened to the public for recreational use."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2015;
4 provided that on December 31, 2025, this Act shall be repealed
5 and section 46-15.9, Hawaii Revised Statutes, shall be reenacted
6 in the form in which it read on the day prior to the effective
7 date of this Act.
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Report Title:

Liability; Road Maintenance; Disputed Roads

Description:

Specifies that a government agency does not assume ownership or jurisdiction over a disputed road solely through maintenance activities. Authorizes State to quitclaim ownership of roads in favor of counties. Repeals December 31, 2025.

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

