



EXECUTIVE CHAMBERS  
HONOLULU

DAVID Y. IGE  
GOVERNOR

**GOV. MSG. NO. 1322**

July 12, 2017

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Ninth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,  
Speaker and Members of the  
House of Representatives  
Twenty-Ninth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

Re: HB115 HD1 SD1 CD1

HB115 HD1 SD1 CD1, entitled "A BILL FOR AN ACT RELATING TO HIGHWAYS" will become law without my signature, pursuant to Section 16 of Article III of the State Constitution.

The purpose of this bill is to address the roads "in limbo" throughout the State whose ownership has been disputed or called into question. The bill provides that a disputed road may be transferred ownership to a county as directed by the State Department of Transportation.

There is concern that on roads that are privately owned but the private owners cannot be easily determined or are unwilling to accept responsibility for the road will expose the counties to an unknown and unquantified potential liability. This could also be a potential unfunded mandate to the counties.

For the foregoing reasons, HB115 HD1 SD1 CD1 will become law as Act 208, Session Laws of Hawaii 2017, effective July 12, 2017, without my signature.

Sincerely,

DAVID Y. IGE  
Governor, State of Hawaii

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# 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  
18 jurisdiction of the state department of transportation were



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

8 The purpose of this Act is to require each county with a  
9 population of five hundred thousand or greater to take ownership  
10 and jurisdiction over all roads for which there is a dispute  
11 over ownership and jurisdiction between the State or any of its  
12 political subdivisions and a county or a private party, or  
13 between a county and a private party.

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

17 "§264- County highways; ownership. (a) As used in this  
18 section:

19 "Disputed road" means any highway, road, alley, street,  
20 way, lane, bikeway, bridge, or trail that is open to the public  
21 and is located in any county with a population of five hundred



1 thousand or more, for which there is a dispute over ownership  
2 and jurisdiction, as determined by the department of  
3 transportation, between the State or any of its political  
4 subdivisions and a county or a private party, or between a  
5 county and a private party.

6 (b) If no party has exercised ownership over the disputed  
7 road in the five years prior to the effective date of this  
8 section, the disputed road shall be deemed to have been  
9 surrendered to the county in which the road is situated,  
10 pursuant to an administrative order issued by the state director  
11 of transportation. The county shall accept without exercise of  
12 discretion all surrendered roads and shall record its ownership  
13 immediately with the bureau of conveyances.

14 For purposes of this subsection, driving on a disputed road  
15 shall not, on its own, constitute an act of ownership."

16 SECTION 3. New statutory material is underscored.

17 SECTION 4. This Act shall take effect on July 1, 2017.

APPROVED this            day of            , 2017

GOVERNOR OF THE STATE OF HAWAII



HB No. 115, HD 1, SD 1, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2017  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Twenty-Ninth Legislature of the State of Hawaii, Regular Session of 2017.



Joseph M. Souki  
Speaker  
House of Representatives




Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAII**

Date: May 2, 2017  
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the  
Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2017.

  
President of the Senate

  
Clerk of the Senate