
A BILL FOR AN ACT

RELATING TO ROAD REPAIR AND MAINTENANCE IN HOUSING SUBDIVISIONS.

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

1 SECTION 1. The legislature finds that some housing
2 subdivisions in the State have been approved without a
3 requirement that the lot owners fund the repair and maintenance
4 of the private roads and other infrastructure within the
5 subdivision. Unlike condominium property regimes, many housing
6 subdivisions are not subject to a statutory framework or an
7 oversight agency to oversee the creation, monitoring, training,
8 and auditing of the various volunteer associations responsible
9 for the subdivision infrastructure. Accordingly, the judicial
10 system has created a patchwork system through judgments in
11 various lawsuits that does not provide adequate oversight.

12 The legislature further finds that in the case of *Paradise*
13 *Hui Hanalike v. Hawaiian Paradise Park Corp.*, 66 Haw. 362, 662
14 P.2d 211 (1983), the Hawaii supreme court found that there
15 exists a legal duty for property owners whose property abuts
16 subdivision roads to contribute to the necessary maintenance of
17 those subdivision roads. More recently, in *Kaanapali Hillside*



1 *Homeowners' Ass'n v. Doran*, 112 Hawai'i 356, 145 P.3d 899 (App.
2 2006), property owners questioned an association's authority to
3 collect an assessment because that authority was not recorded
4 against the property owners' lot.

5 Currently, there is no oversight agency for some
6 associations whose assessment collections are more than
7 \$1,000,000 per year. The inability to collect contributions
8 from lot owners of some subdivisions with no court-approved
9 corporation, association, or entity has caused substandard and
10 deeply rutted roads that delay emergency vehicles responding to
11 emergency situations. For example, there was an allegation
12 regarding the Dana Ireland murder case in Hawaii county that the
13 delayed response by an ambulance was a major factor in Ireland's
14 death. Further, there have been numerous instances in which
15 structures were destroyed but could have been saved had a fire
16 truck been able to arrive in time.

17 The legislature further finds that because the counties
18 approve housing subdivisions and collect real property taxes
19 from the owners in those subdivisions, it is appropriate that
20 counties oversee the maintenance and repair of roads in housing
21 subdivisions.



1 The purpose of this Act is to address the problem of
2 substandard roads in housing subdivisions in counties with a
3 population of more than one hundred eighty thousand but less
4 than two hundred fifty thousand.

5 SECTION 2. (a) There is established a three-year
6 subdivision road maintenance pilot project to address the
7 problem of substandard roads in housing subdivisions that are
8 not part of a planned community. The pilot project shall apply
9 only to counties with a population of more than one-hundred
10 eighty thousand but less than two-hundred fifty thousand. The
11 pilot project shall be developed and implemented by the
12 department of transportation.

13 (b) For the purposes of the pilot project:

14 "Department" means the department of transportation.

15 "Housing subdivision" or "subdivision" means land that has
16 been divided into two or more lots for the construction of
17 housing under the applicable county code, including the
18 designation of easements for the purpose of sale, lease, rental,
19 or transfer of title, and is not a planned community.



1 "Maintenance" shall include the costs of management,
2 maintenance, and repair of roads and infrastructure, insurance
3 costs and fees for the management and collection of assessments.

4 (c) The pilot project shall:

- 5 (1) Require the department, in conjunction with the
6 county, to identify roads within housing subdivisions
7 that are in such disrepair that emergency vehicles
8 traversing the roads would experience unreasonable
9 delay;
- 10 (2) Require the county to assess and collect fees from lot
11 owners in a housing subdivision to pay for the
12 maintenance and improvement of the roads; and
- 13 (3) Require the county to expend the funds collected to
14 maintain and improve the subdivision roads.

15 (d) The department shall establish rules pursuant to
16 chapter 91 to carry out the purposes of the pilot project.

17 (e) The department may adopt interim rules to carry out
18 the purposes of the pilot project without regard to chapter 91;
19 provided that:

- 20 (1) The department shall hold at least one public hearing
21 prior to the adoption of interim rules;



- 1 (2) The interim rules shall comply with all applicable
2 federal, state, and county laws; and
- 3 (3) The interim rules shall be effective for no more than
4 one year after their adoption or until rules are
5 established pursuant to subsection (d), whichever
6 occurs sooner.
- 7 (f) The department shall submit a report on the results of
8 the pilot project, including any proposed legislation, to the
9 legislature no later than twenty days prior to the convening of
10 the 2019, 2020, and 2021 regular session. The report shall
11 detail:
- 12 (1) Efforts undertaken by the department and the county to
13 identify the roads in need of maintenance and
14 improvement;
- 15 (2) Locations of the roads in need of maintenance and
16 improvement;
- 17 (3) Efforts undertaken by the county to collect
18 assessments and expend funds for the maintenance and
19 improvement of the roads;
- 20 (4) Amount of assessments collected and expended each
21 fiscal year;



1 (5) Identification of the roads selected for maintenance
2 and improvement; and

3 (6) Cost and timeline to complete the needed road
4 maintenance and improvement.

5 SECTION 3. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so much
7 as may be necessary for fiscal year 2018-2019 for the department
8 of transportation to carry out the purposes of the pilot
9 project.

10 The sum appropriated shall be expended by the department of
11 transportation for the purposes of this Act.

12 SECTION 4. This Act shall take effect on January 1, 2050;
13 provided that Section 3 shall take effect on July 1, 2018.



Report Title:

Housing Subdivisions; Road Repair and Maintenance; Assessments;
County Duties

Description:

Establishes a three-year pilot project to require the Department of Transportation, in conjunction with the counties having a population more than one-hundred eighty thousand but less than two hundred fifty thousand, to identify housing subdivision roads needing repair. Requires the county to collect fees from lot owners and expend the collected funds for road maintenance and repair. (HB2570 HD1)

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

