
A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 SECTION 1. In 1989, the legislative reference bureau
2 published a study entitled *Roads in Limbo: An Analysis of the*
3 *State-County Jurisdictional Dispute*. In that study, it was
4 found that "[t]here is a considerable and uncatalogued number of
5 public highways in the state whose ownership, as between the
6 State and the counties, is in dispute, as the State holds paper
7 title to these roads but contends that ownership of these roads
8 has passed to the counties by the operation of law." The study
9 further noted that among the causes for this jurisdictional
10 dispute are that neither the State nor the counties want to be
11 responsible for the cost of maintaining the roads and the
12 potential liability that would arise from ownership of the
13 roads.

14 A result of this ownership dispute is that both the State
15 and the counties are reluctant to enforce laws and rules
16 regarding the use of roads in limbo by private parties.
17 Consequently, individuals have improperly blocked access to



1 these roads, believing that neither the State nor the counties
2 will enforce laws and rules that would otherwise allow the
3 public to use them to access coastal and inland recreational
4 areas.

5 The purpose of this Act is to:

- 6 (1) Establish that any county has the power to enforce
7 laws and rules applicable to the use of public
8 streets, roads, or highways whose ownership is in
9 dispute between the State and county;
- 10 (2) Establish that any county may repair and provide
11 maintenance of public streets, roads, or highways
12 whose ownership is in dispute between the State and
13 county without claiming their ownership; and
- 14 (3) Ensure that the general public retains the right to
15 use these public streets, roads, or highways to access
16 coastal and inland recreational areas, including
17 beaches, shores, parks, and trails.

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

21 "§46- Traffic regulation; repair and maintenance; public
22 right to use public streets, roads, or highways whose ownership



1 is in dispute. (a) Any provision of law to the contrary
2 notwithstanding, any county and its authorized personnel may
3 impose and enforce traffic laws and shall enforce chapters 286
4 and 291C on public streets, roads, or highways whose ownership
5 is in dispute between the State and the county.

6 (b) Any provision of the law to the contrary
7 notwithstanding, any county and its authorized personnel may
8 repair or maintain, in whole or in part, public streets, roads,
9 or highways whose ownership is in dispute between the State and
10 the county.

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

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

20 (e) As used in this section:

21 "Public recreational area" means coastal and inland
22 recreational areas, including beaches, shores, public parks,



1 public lands, public trails, and bodies of water opened to the
2 public for recreational use."

3 SECTION 3. New statutory material is underscored.

4 SECTION 4. This Act shall take effect upon its approval.



Report Title:

Public Streets, Roads, and Highways; Ownership in Dispute

Description:

Authorize any county to enforce laws and rules applicable to the use of public streets, roads, or highways whose ownership is in dispute between the State and county. Authorizes any county to repair and provide maintenance for these public streets, roads, or highways. Ensures that the general public retains the right to use these public streets, roads, or highways to access coastal and inland recreational areas, including beaches, shores, parks, and trails. (SB2900 HD1)

