



GOV. MSG. NO. 698

EXECUTIVE CHAMBERS  
HONOLULU

LINDA LINGLE  
GOVERNOR

May 1, 2008

The Honorable Colleen Hanabusa, President  
and Members of the Senate  
Twenty-Fourth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on May 1, 2008, the following bill was signed into law:

SB2900 SD1 HD1

A BILL FOR AN ACT RELATING TO PUBLIC LANDS.  
(ACT 56)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

Approved by the Governor

on MAY 1 2008

THE SENATE  
TWENTY-FOURTH LEGISLATURE, 2008  
STATE OF HAWAII

**ACT 056**  
**S.B. NO.** 2900  
S.D. 1  
H.D. 1

---

---

## 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

SB2900 HD1 HMS 2008-3432



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.




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.

APPROVED this 1 day of MAY, 2008

  
GOVERNOR OF THE STATE OF HAWAII



