

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,

LINDA LINGLE

THE SENATE TWENTY-FOURTH LEGISLATURE, 2008 STATE OF HAWAII ACT 0 5 6 S.B. NO. S.D. 1 H.D. 1

A BILL FOR AN ACT

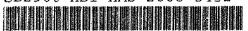
RELATING TO PUBLIC LANDS.

RE 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
- will enforce laws and rules that would otherwise allow the 2
- public to use them to access coastal and inland recreational 3
- 4 areas.
- 5 The purpose of this Act is to:
- (1)Establish that any county has the power to enforce
- laws and rules applicable to the use of public
- streets, roads, or highways whose ownership is in 8
- 9 dispute between the State and county;
- Establish that any county may repair and provide (2) 10
- maintenance of public streets, roads, or highways 11
- 12 whose ownership is in dispute between the State and
- 13 county without claiming their ownership; and
- Ensure that the general public retains the right to 14 (3)
- 15 use these public streets, roads, or highways to access
- 16 coastal and inland recreational areas, including
- 17 beaches, shores, parks, and trails.
- SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended 18
- by adding a new section to part I to be appropriately designated 19
- 20 and to read as follows:
- 21 Traffic regulation; repair and maintenance; public
- right to use public streets, roads, or highways whose ownership 22



- 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
- public for recreational use."
- 3 SECTION 3. New statutory material is underscored.
- 4 SECTION 4. This Act shall take effect upon its approval.

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APPROVED this

day of

AΔY

2008

GOVERNOR OF THE STATE OF HAWAI