
A BILL FOR AN ACT

RELATING TO EASEMENTS.

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

1 SECTION 1. The legislature finds that public agencies in
2 the State frequently encounter challenges in obtaining various
3 types of easements on public lands due to a requirement that
4 obtaining an easement also requires a formal subdivision
5 approval from the counties. The legislature further finds that
6 the formal subdivision process requires a significant investment
7 of time and resources, such as the hiring of a professional land
8 surveyor to prepare a map and metes and bounds descriptions of
9 the easement corridor, and can hinder progress in certain public
10 projects that could proceed but for resolution of the easement
11 issue. One example of this issue was raised by the Act 90
12 working group, which was established to determine the process,
13 status, challenges, and potential remedies regarding delays in
14 the transfer of certain non-agricultural park lands and assets
15 related to their management from the department of land and
16 natural resources to the department of agriculture. The Act 90
17 working group found that fifteen parcels would be considered



1 eligible for transfer if an easement were provided to allow
2 access to an adjacent parcel. The legislature additionally
3 finds that this issue, although raised by the Act 90 working
4 group, is not unique to non-agricultural park lands and should
5 be resolved to potentially benefit a much larger scope of public
6 lands.

7 The legislature concludes that the process of granting
8 easements on public lands would be simpler and more efficient if
9 the process did not also require approval of a formal
10 subdivision nor its related requirements, such as requirements
11 for professional surveying. The legislature believes that this
12 amendment to the process of obtaining easements on public lands
13 would serve a greater public purpose and is appropriate, as
14 easements are use rights rather than land development rights.

15 The purpose of this Act is to allow an exemption for the
16 granting of easements on public lands from formal subdivision
17 process and approval requirements, including requirements for
18 surveying and formalizing easements.

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



1 "§46- Easements; formal subdivision process and approval
2 exemption. Notwithstanding any provision of law to the
3 contrary, the granting of easements on public lands affecting
4 the transfer of undeveloped public lands between the department
5 of land and natural resources and department of agriculture,
6 pursuant to Act 90, Session Laws of Hawaii 2003, may be exempt
7 from formal subdivision process and approval requirements,
8 including requirements for surveying and formalizing easements.
9 The government agency that grants the easements may notify in
10 writing the county with jurisdiction to process and approve
11 the easements of the government agency's intent to invoke
12 this exemption."

13 SECTION 3. Section 46-66, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§46-66 Disposition of real property. Notwithstanding any
16 other law to the contrary[7] and except as provided in section
17 46- , each county, subject to the approval of the council, may
18 grant, sell, or otherwise dispose of any easement for particular
19 purposes in perpetuity by direct negotiation or otherwise,
20 subject to reverter to the county upon the termination or
21 abandonment of the specific purpose for which the easement was



1 granted, including easements over, under, through, and across
2 land bordering the ocean and easements for any governmental or
3 public utility purpose or for chilled water and seawater
4 distribution systems for renewable energy seawater air
5 conditioning district cooling systems."

6 SECTION 4. This Act does not affect rights and duties that
7 matured, penalties that were incurred, and proceedings that were
8 begun before its effective date.

9 SECTION 5. Statutory material to be repealed is bracketed
10 and stricken. New statutory material is underscored.

11 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Easements; Public Lands; Subdivision Process and Approval
Exemption; Counties

Description:

Allows the granting of easements on undeveloped public lands affecting the transfer of undeveloped public lands between the Department of Land and Natural Resources to the Department of Agriculture, pursuant to Act 90, Session Laws of Hawaii 2003, to be exempted from formal subdivision process and approval requirements, including requirements for surveying and formalizing easements. Effective 7/1/2050. (SD1)

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