

JAN 21 2022

A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. The legislature finds that there are roads in
2 Hawaii whose ownership or jurisdiction is disputed between the
3 State and counties. The legislature further finds that the
4 safety of persons traveling over these so called "roads in
5 limbo" is affected by the lack of maintenance to these roads.
6 The legislature also finds that neither state nor county
7 agencies are willing to maintain these roads because the
8 maintenance activities may be construed as assuming ownership
9 and jurisdiction over the disputed roads.

10 The purpose of this Act is to enable government agencies to
11 maintain roads whose ownership or jurisdiction is in dispute
12 between the State and the counties by:

13 (1) Specifying that the maintenance or repair of disputed
14 roads by any agency shall not be deemed to be an
15 indication that the agency has assumed ownership or
16 jurisdiction of the disputed road; and



(2) Allowing the State to transfer by quitclaim any interest it has in a disputed road if the county requests title to the disputed road.

SECTION 2. Chapter 27, Hawaii Revised Statutes, is amended by adding a new section to part V to be appropriately designated and to read as follows:

"§27- Maintenance or repair of disputed public streets, roads, or highways; quitclaim. (a) Whenever ownership of a public street, road, or highway remains in dispute between the State and a county, any action by a government agency to maintain or repair a public street, road, or highway shall not be used to establish the agency's ownership of, or jurisdiction over, the public street, road, or highway and the agency shall not be deemed to have assumed ownership of, or jurisdiction over, the public street, road, or highway solely because of action to maintain or repair a public street, road, or highway.

(b) If a county requests or requires title to a disputed public street, road, or highway, the State may transfer by quitclaim any interest it has in the public street, road, or highway to the county.



1 (c) For the purposes of this section, "disputed public
2 street, road, or highway" means any highway, road, alley,
3 street, way, lane, bikeway, bridge, or trial that is open to the
4 public for which there is a dispute over ownership and
5 jurisdiction, as determined by the department of transportation,
6 between the State or any of its political subdivisions and a
7 county or a private party or between a county and a private
8 party."

9 SECTION 3. Section 46-15.9, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§46-15.9 Traffic regulation; repair and maintenance;**
12 **public right to use public streets, roads, or highways whose**
13 **ownership is in dispute. (a) Any provision of law to the**
14 **contrary notwithstanding, any county and its authorized**
15 **personnel may impose and enforce traffic laws and shall enforce**
16 **chapters 249; 286; 287; 291; 291C; 291E; 431, articles 10C and**
17 **10G; and 486, part III on public streets, roads, or highways**
18 **whose ownership is in dispute between the State and the county.**

19 (b) Any provision of the law to the contrary
20 notwithstanding, any county and its authorized personnel may
21 repair or maintain, in whole or in part, public streets, roads,



1 or highways whose ownership is in dispute between the State and
2 the county.

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

6 (d) If a county requests or requires title to a disputed
7 public street, road, or highway, the State may transfer by
8 quitclaim any interest it has in the public street, road, or
9 highway to the county.

10 ~~[(d)]~~ (e) The general public shall have the unrestricted
11 right to use public streets, roads, or highways whose ownership
12 is in dispute between the State and the county to access the
13 shoreline and other public recreational areas; provided that
14 this subsection shall not apply to any private street, road, or
15 highway whose ownership is in dispute.

16 ~~[(e)]~~ (f) As used in this section~~[-~~
17 ~~"public recreational area"]~~, "public recreational area"
18 means coastal and inland recreational areas, including beaches,
19 shores, public parks, public lands, public trails, and bodies of
20 water opened to the public for recreational use."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2022.

4

INTRODUCED BY: ~~SEN~~ SC Kirk-Aga



S.B. NO. 2366

Report Title:

Disputed Roads; Road Maintenance; Quitclaim

Description:

Specifies that a government agency does not assume ownership or jurisdiction over a disputed road solely through maintenance or repair activities. Authorizes the State to transfer ownership of roads in favor of counties by quitclaim if requested by the county.

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

