

JAN 22 2021

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



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

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

7 "§27- Maintenance or repair of disputed public streets,
8 roads, or highways; quitclaim. (a) Whenever ownership of a
9 public street, road, or highway remains in dispute between the
10 State and a county, no action by a government agency to maintain
11 or repair a public street, road, or highway shall be used to
12 establish the agency's ownership of, or jurisdiction over, the
13 public street, road, or highway and the agency shall not be
14 deemed to have assumed ownership of, or jurisdiction over, the
15 public street, road, or highway solely because of action to
16 maintain or repair a public street, road, or highway.

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



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

3 **"§46-15.9 Traffic regulation; repair and maintenance;**
4 **public right to use public streets, roads, or highways whose**
5 **ownership is in dispute.** (a) Any provision of law to the
6 contrary notwithstanding, any county and its authorized
7 personnel may impose and enforce traffic laws and shall enforce
8 chapters 249; 286; 287; 291; 291C; 291E; 431, articles 10C and
9 10G; and 486, part III on public streets, roads, or highways
10 whose ownership is in dispute between the State and the county.

11 (b) Any provision of the law to the contrary
12 notwithstanding, any county and its authorized personnel may
13 repair or maintain, in whole or in part, public streets, roads,
14 or highways whose ownership is in dispute between the State and
15 the county.

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

19 (d) If a county requests or requires title to a disputed
20 public street, road, or highway, the State may transfer by



S.B. NO. 648

1 quitclaim any interest it has in the public street, road, or
2 highway to the county.

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

9 ~~[(e)]~~ (f) As used in this section~~[-~~
10 ~~"Public recreational area"]~~, "public recreational area"
11 means coastal and inland recreational areas, including beaches,
12 shores, public parks, public lands, public trails, and bodies of
13 water opened to the public for recreational use."

14 SECTION 4. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 5. This Act shall take effect on July 1, 2021.

17

INTRODUCED BY: ~~AC~~ *AC [Signature]*



S.B. NO. 648

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.

