
A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 SECTION 1. Chapter 264, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§264- Orphan streets; ownership. (a) Notwithstanding
5 any provision of law to the contrary, fee simple absolute title
6 of an orphan street shall be transferred to an adjacent owner
7 pursuant to subsection (b), when:

8 (1) If the subdivider is an entity, the subdivider has
9 dissolved or ceased to exist for no less than five
10 years; or

11 (2) If the subdivider is an individual, the subdivider is
12 deceased and either the heirs disclaim their interest
13 in the orphan street or no heirs can be located with
14 reasonable diligence and a court order authorizing
15 notice by publication is obtained in the action
16 described in subsection (b).



1 (b) The following shall apply to an action for transfer of
2 title brought pursuant to subsection (a):

3 (1) The action may be commenced in the circuit court for
4 the county where the property is located by any
5 adjacent owner;

6 (2) The action shall include a sufficient survey or map to
7 illustrate the property to be transferred and which
8 portions will become part of any other property;

9 (3) The party filing the action shall serve notice on all
10 other adjacent owners. Any adjacent owner shall be
11 entitled to appear and raise any objection to how the
12 petitioner proposes to transfer title to the orphan
13 street;

14 (4) Notice of a hearing before the court shall be given to
15 the parties identified in paragraph (3); and

16 (5) The court:

17 (A) May require proof of payment of unpaid property
18 taxes assessed against the orphan street, if
19 applicable;



1 (B) May, if necessary, determine any issues of
2 responsibility for existing or future maintenance
3 obligations; and
4 (C) If the petitioner has established the criteria
5 required under this section and has provided a
6 survey or map that the court determines is a
7 proper division of the title to the orphan
8 street, shall issue an order confirming the
9 transfer of title which will be effective when
10 the order is recorded in the bureau of
11 conveyances; provided that if the property or any
12 portion thereof is registered with the land
13 court, the order shall be recorded with the
14 office of the assistant registrar of the land
15 court, and the assistant registrar shall issue a
16 certificate of title to the prevailing adjacent
17 owner covering the affected portion of the orphan
18 street as described in the court order.
19 (c) Any transfer of title pursuant to this section shall
20 not operate to terminate, diminish, or restrict any easements,
21 covenants, utilities, or rights of access, including implied



1 rights of access, in favor of an adjacent owner, over, under, or
2 across the orphan street that existed before the transfer of
3 title.

4 (d) For the purposes of this section:

5 "Adjacent owner" means a person, firm, corporation,
6 partnership, association, trust, or other legal entity or
7 combination thereof, including a community association, that
8 owns property that is contiguous to the orphan street in
9 question.

10 "Community association" means a nonprofit homeowners or
11 community association existing pursuant to covenants running
12 with the land.

13 "Orphan street" means a highway, road, alley, street, way,
14 lane, bikeway, bridge, or trail, title to which is vested in a
15 subdivider that no longer holds an interest in title to any of
16 the other lots or portions of the lots on the plat of
17 consolidation or subdivision that created the orphan street and
18 that has never been dedicated by deed of conveyance naming the
19 State or county as grantee.

20 "Subdivider" means a person, firm, corporation,
21 partnership, association, trust, or other legal entity or



1 combination thereof that caused the consolidation or subdivision
2 creating the orphan street, or the duly authorized agent or
3 lessee thereof."

4 SECTION 2. New statutory material is underscored.

5 SECTION 3. This Act shall take effect on July 1, 3000.



Report Title:

Orphan Streets; Subdividers; Title; Fee Simple; Ownership

Description:

Establishes a process for transferring fee simple absolute title of orphan streets to adjacent property owners under certain conditions, such as when the subdivider has dissolved, has ceased to exist, or is deceased, and includes legal procedures for filing the action for transfer. Effective 7/1/3000. (HD2)

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