

ACT 208

H.B. NO. 115

A Bill for an Act Relating to Highways.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that while federal, state, and county agencies maintain jurisdiction over, and are responsible for, the repair and main-

tenance of the majority of highways, streets, and roads throughout Hawaii, there are numerous roads throughout the State whose ownership has been disputed or called into question. Because the ownership of these roads is in dispute, these roads often do not receive proper care and maintenance. These disputes create difficulties for members of the public and government agencies when individuals report repair or maintenance issues. The legislature also finds that although counties have policies and procedures to assist owners with the repair and maintenance of private roads, these policies and procedures are only applicable when the county can determine or locate the actual owner of the road.

The legislature further finds that Act 221, Session Laws of Hawaii 1965, provided that all public highways not under the jurisdiction of the state department of transportation were declared to be owned by the respective county governments. However, notwithstanding that ownership of these highways was transferred to the counties by law under Act 221, the counties of the State have not acknowledged their ownership and jurisdiction over these public highways, in part because title for many of these roads was not transferred by deed of conveyance or other tangible evidence of ownership.

The purpose of this Act is to require each county with a population of five hundred thousand or greater to take ownership and jurisdiction over all roads for which there is a dispute over ownership and jurisdiction between the State or any of its political subdivisions and a county or a private party, or between a county and a private party.

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

“§264- County highways; ownership. (a) As used in this section:

“Disputed road” means any highway, road, alley, street, way, lane, bike-way, bridge, or trail that is open to the public and is located in any county with a population of five hundred thousand or more, for which there is a dispute over ownership and jurisdiction, as determined by the department of transportation, between the State or any of its political subdivisions and a county or a private party, or between a county and a private party.

(b) If no party has exercised ownership over the disputed road in the five years prior to the effective date of this section, the disputed road shall be deemed to have been surrendered to the county in which the road is situated, pursuant to an administrative order issued by the state director of transportation. The county shall accept without exercise of discretion all surrendered roads and shall record its ownership immediately with the bureau of conveyances.

For purposes of this subsection, driving on a disputed road shall not, on its own, constitute an act of ownership.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect on July 1, 2017.

(Became law on July 11, 2017, without the governor’s signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.