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# A BILL FOR AN ACT

RELATING TO THE ACQUISITION OF REAL PROPERTY.

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

1 SECTION 1. Section 171-30, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) The board of land and natural resources shall have  
4 the exclusive responsibility, except as provided herein, of  
5 acquiring, including by way of dedications:

6 (1) All real property or any interest therein and the  
7 improvements thereon, if any, required by the State  
8 for public purposes, including real property together  
9 with improvements, if any, in excess of that needed  
10 for such public use in cases where small remnants  
11 would otherwise be left or where other justifiable  
12 cause necessitates the acquisition to protect and  
13 preserve the contemplated improvements, or public  
14 policy demands the acquisition in connection with such  
15 improvements.

16 (2) Encumbrances, in the form of leases, licenses, or  
17 otherwise on public lands, needed by any state

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COUNCIL COM. 152

HB2604 CD1 HMS 2016-3489



**Report Title:**

Public Lands; Acquisition of Real Property

**Description:**

Clarifies that acceptance by the Territorial Legislature or the Legislature of a dedication of land in the Kakaako Community Development District by a private owner is sufficient to convey title to the State. (HB2604 CD1)

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



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# A BILL FOR AN ACT

RELATING TO TRANSPORTATION.

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

1 PART I

2 SECTION 1. The legislature finds that while federal,  
3 state, and county agencies maintain jurisdiction over, and are  
4 responsible for, the repair and maintenance of the majority of  
5 highways, streets, and roads throughout Hawaii, there are  
6 numerous roads throughout the State that are privately owned or  
7 whose ownership has been called into question. In many cases,  
8 these private roads or disputed roads were shown on a  
9 subdivision plat or are remnants of a road, or a small portion  
10 of a larger public road, whose ownership is disputed for various  
11 reasons. This has resulted in questions regarding who is  
12 responsible for the repair and maintenance of these roads, many  
13 of which are regularly used for vehicular traffic.

14 The legislature further finds that since these private  
15 roads are not owned by a governmental entity, or their ownership  
16 is being disputed, they often do not receive proper repair and  
17 maintenance. Although these roads are often used by, and are of  
18 benefit to the public, the public does not realize that the road



- 1           determination of ownership of the private road, and  
2           recommend action to the appropriate legislative body,  
3           including the initiation of condemnation proceedings  
4           as appropriate;
- 5           (2) Expanding the State and counties' authority to condemn  
6           public roads;
- 7           (3) Allowing private owners of roadways to petition the  
8           mayor of the county in which the roadway is located to  
9           begin condemnation proceedings if certain conditions  
10          are met;
- 11          (4) Exempting roads meeting county construction standards  
12          at the time of construction and completion from having  
13          to meet county construction standards in place at the  
14          time of transfer to the county;
- 15          (5) Exempting the State or county from requirements to  
16          maintain or improve roads taken by condemnation; and
- 17          (6) Appropriating funds for road repair work, including  
18          resurfacing, flood mitigation, and installation of  
19          drainage infrastructure to certain roads.



- 1           (8) One member of the public, with expertise in civil  
2           engineering, city planning, construction, easements  
3           and acquisitions, condemnation, real property title  
4           research, compliance with the Americans with  
5           Disabilities Act, or environmental regulations,  
6           appointed by the speaker of the house of  
7           representatives;
- 8           (9) One member of the public, with expertise in civil  
9           engineering, city planning, construction, easements  
10          and acquisitions, condemnation, real property title  
11          research, compliance with the Americans with  
12          Disabilities Act, or environmental regulations,  
13          appointed by the president of the senate; and
- 14          (10) Two members of the public, with expertise in civil  
15          engineering, city planning, construction, easements  
16          and acquisitions, condemnation, real property title  
17          research, compliance with the Americans with  
18          Disabilities Act, or environmental regulations,  
19          appointed by a majority of the members on the roads  
20          commission.

1           (3) Advise the appropriate legislative body of its  
2           determination of ownership of the five private roads,  
3           and recommend action to the appropriate legislative  
4           body, including the initiation of condemnation  
5           proceedings as appropriate.

6           In fulfilling its responsibilities, the commission shall  
7           consult and seek advice from any department, agency, or  
8           organization the commission deems appropriate.

9           (g) The commission may:

10          (1) Sue and be sued;

11          (2) Have a seal and alter the same at its pleasure;

12          (3) Adopt rules under chapter 91 necessary to effectuate  
13          this section;

14          (4) Obtain federal or private funding for the upgrading,  
15          repair, and maintenance of private roads and  
16          distribute the funding to the appropriate governmental  
17          body;

18          (5) Make and execute contracts and all other instruments  
19          necessary or convenient for the exercise of its powers  
20          under this section;



1       "§264-1 Public highways and trails. (a) All roads,  
2 highways, alleys, streets, ways, lanes, bikeways, bridges, and  
3 all other real property highway related interests in the State,  
4 opened, laid out, subdivided, consolidated, and acquired and  
5 built by the government are declared to be public highways.

6 Public highways are of two types:

7       (1) State highways, which are those lands, interests, or  
8 other real property rights, as defined above, having  
9 an alignment or possession of a real property highway  
10 related interest as established by law, subdivided and  
11 acquired in accordance with policies and procedures of  
12 the department of transportation, separate and exempt  
13 from any county subdivision ordinances, and all those  
14 under the jurisdiction of the department of  
15 transportation; and

16       (2) County highways, which are all other public highways.

17       (b) All trails, and other nonvehicular rights-of-way in  
18 the State declared to be public rights-of-ways by the Highways  
19 Act of 1892, or opened, laid out, or built by the government or  
20 otherwise created or vested as nonvehicular public rights-of-way  
21 at any time thereafter, or in the future, are declared to be

1 of a county highway, road, alley, street, way, lane,  
2 bikeway, bridge, or county trail, the deed shall be  
3 delivered to and accepted by the legislative body of a  
4 county[-]; provided that in every case where the  
5 highway, road, alley, street, way, lane, bikeway,  
6 bridge, or county trail is constructed and completed  
7 as required by any ordinance of the county or any  
8 rule, regulation, or resolution thereof having the  
9 effect of law, the legislative body of the county  
10 shall accept the dedication of the same without  
11 exercise of discretion; and

- 12 (2) [~~Surrender~~] Condemnation of public highways, roads,  
13 alleys, streets, ways, lanes, bikeways, bridges, or  
14 trails [~~shall be deemed to have taken place if no act~~  
15 ~~of ownership by the owner of the road, alley, street,~~  
16 ~~bikeway, way, lane, trail, or bridge has been~~  
17 ~~exercised for five years and when, in the case of a~~  
18 ~~county highway, in addition thereto, the legislative~~  
19 ~~body of the county has, thereafter, by a resolution,~~  
20 ~~adopted the same as a county highway or trail.]  
21 initiated by the State or county pursuant to chapter~~



1 time of construction and completion, the highway,  
2 road, alley, street, way, lane, bikeway, bridge, or  
3 trail shall be exempt from meeting the construction  
4 standards in place at the time of condemnation by the  
5 State or county.

6 ~~[In every case where the road, alley, street, bikeway, way,~~  
7 ~~lane, trail, bridge, or highway is constructed and completed as~~  
8 ~~required by any ordinance of the county or any rule, regulation,~~  
9 ~~or resolution thereof having the effect of law[, the legislative~~  
10 ~~body of the county shall accept the dedication or surrender of~~  
11 ~~the same without exercise of discretion.]~~

12 (d) If a privately owned highway, road, alley, street,  
13 way, lane, bikeway, bridge, or trail is deemed to have been  
14 dedicated to or condemned by the State or county pursuant to  
15 subsection (c), the State or county shall be exempt for a period  
16 of three years from any state laws or rules adopted pursuant  
17 thereto that would require the State or county to perform  
18 construction, reconstruction, preservation, resurfacing,  
19 restoration, or rehabilitation upon it.

20 ~~[(d)]~~ (e) All county public highways and trails once  
21 established shall continue until vacated, closed, abandoned, or



1 county of Honolulu; provided further that the city and county of  
2 Honolulu shall have the discretion to accept or decline funds  
3 appropriated for each of the roads or parcels listed in  
4 paragraphs (1) through (3) of this section; provided further  
5 that the city and county of Honolulu shall not be required to  
6 take ownership of any road or parcel listed in paragraphs (1)  
7 through (3) of this section if the city and county of Honolulu  
8 declines funds for that particular road or parcel from the  
9 State.

10 The sum appropriated shall be expended by the department of  
11 transportation for the purposes of this Act.

12 PART V

13 SECTION 6. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 7. If any provision of this Act, or the  
16 application thereof to any person or circumstance, is held  
17 invalid, the invalidity does not affect other provisions or  
18 applications of the Act that can be given effect without the  
19 invalid provision or application, and to this end the provisions  
20 of this Act are severable.



**Report Title:**

Private Roads; Repair and Maintenance; Appropriation

**Description:**

Establishes the roads commission to make recommendations on the ownership of private roads. Adds roads, alleys, streets, ways, lanes, bikeways, and bridges to the list of public highways or public trails that can be dedicated or condemned. Exempts the State and counties from maintaining or improving condemned roads. Appropriates funds for the repair and maintenance of specific roads. Appropriates funds for the roads commission.  
(HB2049 CD1)

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