A BILL FOR AN ACT

RELATING TO REAL PROPERTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. Chapter 101, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designated and to read as follows:

"$101- Right of eminent domain by adjacent landowners.

(a) Upon request by the owner of land adjacent to a privately owned highway, waterway, or watercourse, the State shall initiate condemnation proceedings for a public purpose pursuant to section 101-2, unless the State makes a written determination that a county is the more appropriate jurisdiction to initiate condemnation proceedings on the private property. For the purposes of this section "private property" means a privately owned highway, waterway, or water course.

(b) If the State declines to exercise its power of eminent domain to condemn the private property pursuant to subsection (a), then the county in which the private property is located shall initiate condemnation proceedings pursuant to section 101-14.
(c) In fixing the compensation to be paid for condemnation of the property, the amount shall be calculated using the methods for valuation under section 101-23; provided that if no real property taxes were paid in the ten years preceding initiation of the condemnation action and the private property owner can be located, the condemnation price shall be $10.

(d) Following an exercise of condemnation under this section, the State or the county that initiated the proceeding shall be required to repair obvious defects on the condemned property not less than two years after condemnation. Beginning two years after condemnation, the State or county that initiated the proceeding shall be legally responsible for any damage to an adjacent landowner's property and any injury caused by negligent maintenance; provided that failure by the State or county to bring the condemned property into compliance with state laws or county ordinances regulating the maintenance of property shall not constitute evidence of negligence in any subsequent civil action."

SECTION 2. Section 46-62, Hawaii Revised Statutes, is amended to read as follows:

"§46-62 Eminent domain; proceedings according to chapter 101. (a) The proceedings to be taken on behalf of the county
for the condemnation of property as provided in section 46-61, shall be taken and had in accordance with chapter 101, as the same may be applicable.

(b) If the State declines to exercise its eminent domain power under section 101— , the county in which the property is located shall initiate condemnation proceedings as required by section 101— ."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 4. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: [Signature]

JAN 24 2011
Report Title:
Eminent Domain; Condemnation by Adjacent Property Owners

Description:
Requires the State or, alternatively, the counties, to initiate eminent domain proceedings against private property owners upon request of an adjacent property owner.

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