

JAN 25 2006

S.B. NO. 2735

A BILL FOR AN ACT

RELATING TO EMINENT DOMAIN.

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

1 SECTION 1. Section 101-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§101-2 Taking private property for public use; disposal
4 of excess property. [Private] (a) Except as provided in
5 subsection (b), private property may be taken for public use.
6 Private property may also be taken by the State or any county in
7 excess of that needed for such public use in cases where small
8 remnants would otherwise be left or where other justifiable
9 cause necessitates such taking to protect and preserve the
10 contemplated improvement, or public policy demands such taking
11 in connection with the improvement, in which case the condemning
12 authority may sell or lease such excess property, with such
13 restrictions as may be dictated by considerations of public
14 policy in order to protect and preserve such improvements;
15 provided that in the disposal of any such excess property, if
16 such property is less than the minimum lot size requirements of
17 the applicable zoning regulations, is of a configuration or
18 topography which in the judgment of the appropriate county



1 zoning authority cannot be put to a reasonable use in accordance
2 with the applicable zoning regulations, or lacks proper access
3 to a street, it shall be offered to the owner or owners of the
4 abutting land for a reasonable price based on an appraisal;
5 provided further that if such excess property conforms to said
6 minimum lot size requirements, is of a configuration and
7 topography which in the judgment of the appropriate county
8 zoning authority can be put to a reasonable use in accordance
9 with the applicable zoning regulations and has proper access to
10 a street, then the State or the county, as the case may be, may
11 sell such property at public auction. If there is more than one
12 abutting owner who is interested in purchasing any such excess
13 property which is less than the minimum lot size requirements of
14 the applicable zoning regulations, is of a configuration or
15 topography which in the judgment of the appropriate county
16 zoning authority cannot be put to a reasonable use in accordance
17 with applicable zoning regulations, or lacks proper access to a
18 street, it shall be sold by the condemning authority by sealed
19 bid to the abutting owner submitting the highest offer above the
20 appraised value; provided further that if any such excess
21 property abuts more than one parcel, the condemning authority
22 may make application for subdividing such property so that a



1 portion thereof may be sold to each abutting owner at the
2 appraised value if the public interest is best served by such
3 subdivision and disposal. All moneys received from the sale or
4 lease of such excess property shall be paid into the fund or
5 appropriation from which money was taken for the original
6 condemnation and shall be available for the purposes of such
7 fund or appropriation.

8 (b) Except as provided in subsection (c) or section 101-4,
9 neither the State nor any political subdivision thereof may
10 condemn private property:

11 (1) for private retail, office, commercial, industrial, or
12 residential development;

13 (2) primarily for enhancement of tax revenue; or

14 (3) for transfer to a person, nongovernmental entity,
15 public-private partnership, corporation, or other
16 business entity.

17 (c) Subsection (b) shall not apply to the use of eminent
18 domain by the State or any political subdivision thereof:

19 (1) based upon a finding of blight in an area covered by
20 any redevelopment plan or urban renewal plan; or



1 (2) for the purpose of constructing, maintaining, or
2 operating streets and roadways, government buildings, or
3 park and recreation facilities."

4 SECTION 2. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: 

Report Title:
Eminent domain

Description:
Limits power of eminent domain of the State and its political subdivisions.

