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## A BILL FOR AN ACT

RELATING TO LAND USE.

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

- 1           SECTION 1. (a) Throughout the State there remain certain  
2 lands that retain special cultural value. These lands are:
- 3           (1) Usually in rural areas and contain culturally valuable  
4 sites and resources, both tangible and intangible;
- 5           (2) Sustain and support native Hawaiian lifestyles and  
6 traditions that are retained and continue to be  
7 practiced on an everyday basis;
- 8           (3) Include lands where native Hawaiian agricultural uses,  
9 such as taro cultivation, are perpetuated; and
- 10          (4) Include native Hawaiian gathering areas and lands  
11 where native Hawaiian activities, such as fishpond  
12 cultivation and limu gathering, are practiced.
- 13          Some of these culturally special lands are found in Hana  
14 and Keanae on the island of Maui, Halawa and Milolii on the  
15 island of Hawaii, the east-end of the island of Molokai,  
16 Waiahole, Waikane, and Kahana on the island of Oahu, and Hanalei  
17 and Hanapepe on the island of Kauai.



1 (b) The purpose of this Act is to recognize and support  
2 the culturally special lands described in subsection (a) by:

3 (1) Establishing culturally valuable districts;

4 (2) Establishing culturally valuable district community  
5 advisory councils;

6 (3) Setting forth the responsibilities and duties of the  
7 culturally valuable district community advisory  
8 councils; and

9 (4) Requiring the review of petitions for land use  
10 reclassification, applications for development or  
11 community plan amendments, applications for changes in  
12 zoning, applications for special management area  
13 permits, and applications for conservation district  
14 use permits by the culturally valuable district  
15 community advisory councils.

16 SECTION 2. Chapter 205, Hawaii Revised Statutes, is  
17 amended by adding a new part to be appropriately designated and  
18 to read as follows:

19 "PART . CULTURALLY VALUABLE DISTRICTS

20 §205-A Culturally valuable districts; definition and

21 objectives. (a) As used in this part, "culturally valuable  
22 districts" means those lands identified pursuant to this part:



1 (1) That contain valuable cultural and historical sites  
2 and resources, tangible and intangible;

3 (2) That include lands where native Hawaiian agricultural  
4 uses, including taro cultivation, are continued;

5 (3) That include native Hawaiian gathering areas for  
6 sustenance and cultural purposes; and

7 (4) Where native Hawaiian lifestyles and traditions are  
8 retained and continue to be practiced on an everyday  
9 basis.

10 (b) The objective for the identification and establishment  
11 of culturally valuable districts is to identify and provide for  
12 the protection, perpetuation, and restoration of these valuable  
13 state resources.

14 **§205-B Establishment of culturally valuable districts.**

15 (a) A culturally valuable district shall be established by  
16 concurrent resolution of the legislature.

17 (b) Any member of the legislature may and, upon the  
18 request of any person, including a county, the president of the  
19 senate and the speaker of the house of representatives shall,  
20 introduce concurrent resolutions to establish a culturally  
21 valuable district.



1           (c) The concurrent resolution shall set forth the  
2 boundaries of the culturally valuable district, following  
3 natural monuments, ahupua'a, moku, or other traditional land  
4 divisions and may extend from the highest reaches of the  
5 mountains to a designated distance beyond the shoreline. A  
6 culturally valuable district may include one or more ahupua'a  
7 and all or a part of any moku on any island. The concurrent  
8 resolution shall also include a description of how the land  
9 identified in the concurrent resolution meets the definition of  
10 a culturally valuable district.

11           **§205-C Culturally valuable district community advisory**  
12 **councils; establishment; duties.** (a) Each culturally valuable  
13 district shall have a culturally valuable district community  
14 advisory council. Each culturally valuable district community  
15 advisory council shall be comprised of eleven members, to be  
16 appointed pursuant to section 26-34, but not subject to senate  
17 confirmation, as follows:

18           (1) Six members shall be appointed by the governor:  
19               (A) Two of who shall be appointed from a list of not  
20                       less than three nominees submitted to the  
21                       president of the senate; and



1 (B) Two of who shall be appointed from a list of not  
2 less than three nominees submitted by the speaker  
3 of the house of representatives.

4 Each list of nominees shall include not less than one  
5 person knowledgeable in cultural and historic issues  
6 and one person knowledgeable in environmental issues;  
7 and

8 (2) Five members shall be appointed by the mayor of the  
9 county in which the culturally valuable district is  
10 situated.

11 The appointed members shall serve without compensation but shall  
12 be reimbursed for expenses, including travel expenses, necessary  
13 for the performance of their duties.

14 (b) All members of a culturally valuable district  
15 community advisory council shall be residents of the culturally  
16 valuable district, and:

17 (1) Of the members appointed by the governor, not less  
18 than two members shall be knowledgeable in cultural  
19 and historic issues and not less than two members  
20 shall be knowledgeable in environmental issues; and

21 (2) Of the members appointed by the mayor, not less than  
22 two members shall be knowledgeable in cultural and



1 historic issues and not less than two members shall be  
2 knowledgeable in environmental issues.

3 (c) The duties of the culturally valuable district  
4 community advisory council shall include but not be limited to:

5 (1) The preparation of a list of all culturally and  
6 historically valuable sites or features within the  
7 culturally valuable district;

8 (2) The preparation of a list of all culturally valuable  
9 resources, tangible, such as gathering areas, and  
10 intangible, such as legends and sacred places, in the  
11 culturally valuable district;

12 (3) The establishment of objectives and criteria, within  
13 the context of the county development or community  
14 plan, for the protection, preservation, and  
15 restoration of all valuable sites and resources in the  
16 culturally valuable district;

17 (4) Holding public hearings and reviewing all land use  
18 reclassification petitions, all applications for  
19 development or community plan amendments, all  
20 applications for changes in zoning, and all  
21 applications for a special management area permit for  
22 any lands within the culturally valuable district;



- 1           (5) Providing the commission or the county land use  
2           decision-making authority of the county where the  
3           culturally valuable district is located with  
4           recommendations for the approval, denial, or approval  
5           with conditions of all petitions for land use  
6           reclassification;
- 7           (6) Providing the planning commission or council of the  
8           county where the culturally valuable district is  
9           located with recommendations for the approval, denial,  
10          or approval with conditions for all applications for a  
11          development or community plan amendment, all  
12          applications for a change in zoning, and all  
13          applications for a special management area permit;
- 14          (7) Participating as a party in any contested case  
15          proceeding relating to lands within the culturally  
16          valuable district; and
- 17          (8) Proposing legislation for the legislature or county  
18          council for the protection, preservation, and  
19          restoration of valuable cultural and historic sites  
20          and resources."



1 SECTION 3. Chapter 46, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4 "§46- Culturally valuable districts. (a) Prior to any  
5 hearing by a county planning commission or county council in a  
6 county where the planning commission is advisory only, on any  
7 application for an amendment to a development or community plan,  
8 any application for any change in zoning, or any application for  
9 a special management area permit for any lands within a  
10 culturally valuable district, the planning commission or council  
11 shall allow the culturally valuable district community advisory  
12 council for the culturally valuable district to conduct a public  
13 hearing on the application and submit to the planning commission  
14 or council a recommendation for the approval, denial, or  
15 approval with conditions of the application. In the case of an  
16 application for a development or community plan amendment, or  
17 application for change in zoning, the planning commission shall  
18 submit the recommendation of the culturally valuable district  
19 community advisory council along with its own recommendation on  
20 the application for a development or community plan amendment,  
21 or change in zoning to the county council for its consideration.  
22 The planning commission shall provide the culturally valuable



1 district community advisory council with staffing and other  
2 support facilities required for its deliberations.

3 (b) The planning commission or council may adopt rules  
4 pursuant to chapter 91 for the purposes of this section."

5 SECTION 4. Chapter 205, Hawaii Revised Statutes, is  
6 amended by adding a new section to part I to be appropriately  
7 designated and to read as follows:

8 "§205- Amendment to district boundaries in culturally  
9 valuable districts. (a) Prior to a hearing by the commission  
10 or any county land use decision-making authority of a petition  
11 for an amendment to a district boundary of any lands within a  
12 designated culturally valuable district, the commission or  
13 county land use decision-making authority shall allow the  
14 culturally valuable district community advisory council for the  
15 culturally valuable district to conduct a public hearing on the  
16 petition and submit to the commission or county land use  
17 decision-making authority a recommendation for the approval,  
18 denial, or approval with conditions of the petition. The  
19 commission and the county land use decision-making authority  
20 shall provide the culturally valuable district community  
21 advisory council with staffing and other support facilities  
22 required for its deliberations.



1        (b) The commission and the county land use decision-making  
2 authority may adopt rules pursuant to chapter 91 for the  
3 purposes of this section."

4            SECTION 5. Section 183C-6, Hawaii Revised Statutes, is  
5 amended to read as follows:

6            "**§183C-6 Permits and site plan approvals.** (a) The  
7 department shall regulate land use in the conservation district  
8 by the issuance of permits.

9            (b) The department shall render a decision on a completed  
10 application for a permit within one-hundred-eighty days of its  
11 acceptance by the department. If within one-hundred-eighty days  
12 after acceptance of a completed application for a permit, the  
13 department shall fail to give notice, hold a hearing, and render  
14 a decision, the owner may automatically put the owner's land to  
15 the use or uses requested in the owner's application. When an  
16 environmental impact statement is required pursuant to chapter  
17 343, the land that is the subject of the application is in a  
18 designated culturally valuable district, or when a contested  
19 case hearing is requested pursuant to chapter 91, the one-  
20 hundred-eighty days [~~may~~] shall be extended an additional ninety  
21 days [~~at the request of the applicant~~]. Any request for



1 additional extensions shall be subject to the approval of the  
2 board.

3 (c) Prior to any hearing by the department on an  
4 application for a permit for the use of land within a designated  
5 culturally valuable district, the department shall allow the  
6 culturally valuable district community council for the  
7 culturally valuable district to conduct a public hearing on the  
8 application and submit to the department a recommendation for  
9 approval, denial, or approval with conditions for the  
10 application. The department shall provide the culturally  
11 valuable district advisory council with staffing and other  
12 support facilities required for its deliberations.

13 [~~e~~] (d) The department shall hold a public hearing in  
14 every case involving the proposed use of land for commercial  
15 purposes, at which hearing interested persons shall be afforded  
16 a reasonable opportunity to be heard. Public notice of the time  
17 and place of the hearing shall be given at least once statewide  
18 and in the county in which the property is located. The notice  
19 shall be given not less than twenty days prior to the date set  
20 for the hearing. The hearing shall be held in the county in  
21 which the land is located and may be delegated to an agent or  
22 representative of the board as may otherwise be provided by law



1 and in accordance with rules adopted by the board. For the  
 2 purposes of its public hearing or hearings, the department shall  
 3 have the power to summon witnesses, administer oaths, and  
 4 require the giving of testimony. As used in this subsection,  
 5 the term "commercial purposes" shall not include the use of land  
 6 for utility purposes.

7 ~~[(d)]~~ (e) The department shall regulate the construction,  
 8 reconstruction, demolition, or alteration of any structure,  
 9 building, or facility by the issuance of site plan approvals.

10 ~~[(e)]~~ (f) Any permit for the reconstruction, restoration,  
 11 repair, or use of any Hawaiian fishpond exempted from the  
 12 requirements of chapter 343 under section 183B-2 shall provide  
 13 for compliance with the conditions of section 183B-2."

14 SECTION 6. In codifying the new sections added by section  
 15 4 of this Act, the revisor of statutes shall substitute  
 16 appropriate section numbers for the letters used in designating  
 17 the new sections in this Act.

18 SECTION 7. Statutory material to be repealed is bracketed  
 19 and stricken. New statutory material is underscored.

20 SECTION 8. This Act shall take effect upon its approval.

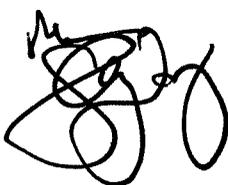
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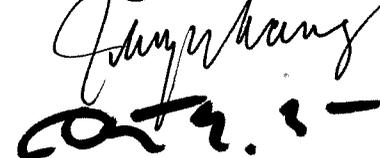
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INTRODUCED BY:



Mel Carsee




Tom Brown  
Nunan Moore  
A.T. De

Paulby

Tony Vate

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K. Lto  
Richard H. Boy  
B. A. Am

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**Report Title:**

Land Use; Culturally Valuable Lands

**Description:**

Establishes culturally valuable districts and community advisory councils to review land use and zoning petitions and applications for a conservation district use permit for lands within the districts; sets forth duties of the community advisory councils.

