

JAN 18 2013

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# A BILL FOR AN ACT

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RELATING TO PUBLIC LAND DEVELOPMENT CORPORATION.

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

1       SECTION 1. The legislature finds that the predecessor of  
2 the department of land and natural resources was created in 1959  
3 to develop state lands and stimulate the newly created State's  
4 economy. As a result, decades of unchecked development led to  
5 public outcry. In the decades that followed statehood, the  
6 State adopted laws that clearly redefined a new, modern, and  
7 relevant mission for the department: to conserve, protect, and  
8 enhance the State's natural and cultural resources. The new  
9 mission of the department is greatly strengthened by the many  
10 opportunities for public input and oversight of department  
11 decision making. The resulting transparency due to public  
12 oversight results in public support and faith in the mission of  
13 the department. When dealing with public lands, such trust is  
14 of paramount importance.

15       Act 55, Session Laws of Hawaii 2011, codified as chapter  
16 171C, Hawaii Revised Statutes, established the public land  
17 development corporation to be the development arm of the  
18 department of land and natural resources, with the intent that



1 it administer an appropriate and culturally-sensitive public  
2 land development program to help develop recreational and  
3 leisure centers for residents and visitors, and create revenue-  
4 generating opportunities to fund environmental and resource  
5 preservation functions of the department of land and natural  
6 resources.

7       However, some of the most controversial aspects of Act 55  
8 were not adequately vetted by the public. When introduced, Act  
9 55 did not provide exemptions from any permitting or zoning  
10 laws. The exemptions were first introduced by the Senate Water  
11 Land and Housing Committee on March 18, 2011. The only  
12 opportunity for stakeholders to testify publicly on the new  
13 exemptions thereafter was during the Senate Finance Committee  
14 hearing on April 7, 2011, at 2:30 p.m. However, notice of that  
15 hearing was not posted until 12:35 p.m. on April 7, 2011, a mere  
16 two hours before the hearing was to begin. Only two testifiers  
17 submitted testimony for the hearing and both were marked as  
18 being submitted late.

19       Act 55 was ultimately amended, without opportunity for  
20 public testimony, to exempt the public land development  
21 corporation from all statutes, ordinances, charter provisions,  
22 and rules of government agencies relating to special improvement



1 district assessments or requirements; land use, zoning, and  
2 construction standards for subdivisions, development, and  
3 improvement of land; and the construction, improvement, and sale  
4 of homes thereon for development of public lands to generate  
5 revenues. Based upon concerns relating to the expansive powers  
6 granted to the public and development corporation and the  
7 exemptions to important environmental and land use and other  
8 laws, many individuals and organizations on all islands have  
9 expressed opposition to the corporation and urged its repeal.  
10 The county councils for Hawaii and Kauai recently passed  
11 resolutions urging the abolishment of the public land  
12 development corporation. The Maui county council is considering  
13 similar opposition. Some neighborhood boards on Oahu have also  
14 passed resolutions urging the repeal of Act 55.

15 With the establishment of the public land development  
16 corporation, there are now two disconnected agencies that  
17 oversee public lands. The public land development corporation,  
18 which is tasked with developing public land to maximize revenue  
19 with no obligation to balance the interest of resource  
20 conservation, and the board of land and natural resources, which  
21 is tasked with protecting public lands but has no authority to  
22 prevent or modify development of state lands by the public land



1 development corporation. This two board system obliterates any  
2 semblance of checks and balances relating to the appropriate  
3 development of public lands.

4 The legislature further finds that the powers and  
5 exemptions granted to the public land development corporation  
6 pose a significant and untenable threat to the environmental  
7 health of the State. Specifically, section 171C-19, Hawaii  
8 Revised Statutes, makes public land development corporation  
9 projects exempt from numerous statutes, ordinances, charter  
10 provisions, and rules intended to ensure appropriate and  
11 sustainable development and protect environmental quality,  
12 including:

- 13 (1) Chapter 205, Hawaii Revised Statutes, relating to land  
14 use;
- 15 (2) Chapter 205A, Hawaii Revised Statutes, relating to  
16 coastal zone management;
- 17 (3) Chapter 183C, Hawaii Revised Statutes, relating to  
18 conservation districts;
- 19 (4) County zoning requirements; and
- 20 (5) County subdivision ordinances and rules.

21 The Hawaii supreme court has clearly defined chapter 205,  
22 Hawaii Revised Statutes, as a law relating to environmental



1 quality. This chapter has been instrumental in protecting Pohue  
2 Bay, O'oma, Kealakekua, and Waianae from inappropriate  
3 development.

4 The court has described chapter 205A, Hawaii Revised  
5 Statutes, the State's coastal zone management act, as a  
6 comprehensive state regulatory scheme to protect the environment  
7 and resources of our shoreline areas. This chapter has been  
8 instrumental in preserving Pauoa Bay, Na'alehu, and many other  
9 special places from inappropriate development.

10 Conservation laws under chapter 183C, Hawaii Revised  
11 Statutes, county zoning requirements, and subdivision ordinances  
12 are clearly intended to prevent the deterioration of our  
13 communities by preserving, enhancing, and improving the  
14 environment. These regulations have been instrumental in  
15 conserving sensitive environmental areas including, Wa'ahila  
16 Ridge, Pao'o, Honoli'i, and Ewa Beach.

17 Exempting the development of state lands by the public land  
18 development corporation from land use and zoning laws may put at  
19 great risk the public's interest in preserving the State's lands  
20 and natural resources.

21 The purpose of this Act is to repeal chapter 171C, Hawaii  
22 Revised Statutes.



1 SECTION 2. Chapter 171C, Hawaii Revised Statutes, is  
2 repealed.

3 SECTION 3. This Act shall take effect upon its approval.  
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INTRODUCED BY:

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# S.B. NO. 245

**Report Title:**

Public Land Development Corporation; Repeal

**Description:**

Repeals chapter 171C, HRS, relating to the public land development corporation.

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

