

JAN 24 2018

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**A BILL FOR AN ACT**

RELATING TO PUBLIC LANDS.

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

1           SECTION 1. Section 171-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§171-2 Definition of public lands. "Public lands" means  
4 all lands or interest therein in the State classed as government  
5 or crown lands previous to August 15, 1895, or acquired or  
6 reserved by the government upon or subsequent to that date by  
7 purchase, exchange, escheat, or the exercise of the right of  
8 eminent domain, or in any other manner; including lands accreted  
9 after May 20, 2003, and not otherwise awarded, submerged lands,  
10 and lands beneath tidal waters that are suitable for  
11 reclamation, together with reclaimed lands that have been given  
12 the status of public lands under this chapter, except:

13           (1) Lands designated in section 203 of the Hawaiian Homes  
14 Commission Act, 1920, as amended;

15           (2) Lands set aside pursuant to law for the use of the  
16 United States;

17           (3) Lands being used for roads and streets;

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- 1           (4) Lands to which the United States relinquished the  
2                   absolute fee and ownership under section 91 of the  
3                   Hawaiian Organic Act prior to the admission of Hawaii  
4                   as a state of the United States unless subsequently  
5                   placed under the control of the board of land and  
6                   natural resources and given the status of public lands  
7                   in accordance with the state constitution, the  
8                   Hawaiian Homes Commission Act, 1920, as amended, or  
9                   other laws;
- 10          (5) Lands to which the University of Hawaii holds title;
- 11          (6) Lands to which the Hawaii housing finance and  
12               development corporation in its corporate capacity  
13               holds title;
- 14          (7) Lands to which the Hawaii community development  
15               authority in its corporate capacity holds title;
- 16          (8) Lands to which the Hawaii public housing authority in  
17               its corporate capacity holds title;
- 18          ~~(8)~~ (9) Lands to which the department of agriculture  
19               holds title by way of foreclosure, voluntary  
20               surrender, or otherwise, to recover moneys loaned or  
21               to recover debts otherwise owed the department under  
22               chapter 167;

1           ~~[(9)]~~ (10) Lands that are set aside by the governor to  
2           the Aloha Tower development corporation; lands leased  
3           to the Aloha Tower development corporation by any  
4           department or agency of the State; or lands to which  
5           the Aloha Tower development corporation holds title in  
6           its corporate capacity;

7           ~~[(10)]~~ (11) Lands that are set aside by the governor to  
8           the agribusiness development corporation; lands leased  
9           to the agribusiness development corporation by any  
10          department or agency of the State; or lands to which  
11          the agribusiness development corporation in its  
12          corporate capacity holds title; and

13          ~~[(11)]~~ (12) Lands to which the Hawaii technology  
14          development corporation in its corporate capacity  
15          holds title;

16 provided that, except as otherwise limited under federal law and  
17 except for state land used as an airport as defined in section  
18 262-1, public lands shall include the air rights over any  
19 portion of state land upon which a county mass transit project  
20 is developed after July 11, 2005."

21           SECTION 2. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: *M. W. M.*

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BY REQUEST

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1 **Report Title:**

2 Public Lands; Hawaii Public Housing Authority Lands Exemption

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4 **Description:**

5 Exempts lands to which Hawaii Public Housing Authority holds

6 title from the definition of "public lands" in section 171-2,

7 Hawaii Revised Statutes.

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## JUSTIFICATION SHEET

DEPARTMENT: Human Services, Hawaii Public Housing Authority

TITLE: A BILL FOR AN ACT RELATING TO PUBLIC LANDS.

PURPOSE: To exempt Hawaii Public Housing Authority (HPHA) titled lands from the definition of "public lands".

MEANS: Amend section 171-2, Hawaii Revised Statutes.

JUSTIFICATION: The HPHA is authorized to acquire, own and hold real property, and therefore, its titled lands do not fall under the catchall definition of state "public lands" under the Department of Land and Natural Resources (DLNR) or the DLNR's jurisdiction.

In 2006, the Legislative Reference Bureau published a report, "Clarifying Statutory References in State Housing Agency Laws," stating that an amendment should be made based on the facts and history of both the HPHA and Hawaii Housing Finance and Development Corporation (HHFDC).

"Prior to 1987, §171-2 excluded from the definition of 'public lands' those 'lands to which the Hawaii housing authority in its corporate capacity holds title'. Act 337, SLH 1987, that established the housing finance and development corporation, added a further exclusion in §171-2 for the corporation's properties. After 1997, when the two agencies merged into the housing and community development corporation of Hawaii, this section was further amended to change the reference from the housing and community development corporation of Hawaii to the (present) Hawaii housing finance and development corporation.

It would appear that this section should be amended to include both the Hawaii housing

finance and development corporation and the Hawaii public housing authority, as both agencies are authorized to acquire, own, and hold real property." "Clarifying Statutory References in State Housing Agency Laws," Report No. 5, 2006, Legislative Reference Bureau.

Impact on the public: There should be a positive impact on the public as this measure will clarify the jurisdiction over HPHA titled lands.

Impact on the department and other agencies:  
None.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HMS 220; HMS 229.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.