
A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1 SECTION 1. The legislature finds that the office of
2 Hawaiian affairs was established under article XII, section 5,
3 of the Hawaii State Constitution to "hold title to all the real
4 and personal property now or hereafter set aside or conveyed to
5 it which shall be held in trust for native Hawaiians and
6 Hawaiians". The office of Hawaiian affairs' board of trustees
7 is authorized by article XII, section 6, of the Hawaii State
8 Constitution "to manage and administer the proceeds from the
9 sale or other disposition of the lands . . . and income derived
10 from whatever sources for native Hawaiians and Hawaiians,
11 including all income and proceeds from that pro rata portion of
12 the trust referred to in section 4 of this article [the public
13 land trust] for native Hawaiians". The board of trustees is
14 also authorized under article XII, section 6, "to exercise
15 control over real and personal property set aside by state,
16 federal or private sources and transferred to the board for
17 native Hawaiians and Hawaiians".



1 In section 1 of Act 15, Session Laws of Hawaii 2012
2 (Act 15), the legislature found that a purpose of the Act was
3 to:

4 [E]ffectively and responsibly fulfill the constitutional
5 obligation to native Hawaiians under article XII, sections
6 4 and 6, of the State Constitution between November 7,
7 1978, up to and including June 30, 2012 . . . and providing
8 additional resources to the office in the form of fee
9 simple title to certain parcels of land

10 In the same section of Act 15, the legislature declared
11 that the "[c]onveyance of the fee simple interest to the
12 lands . . . will allow the State to effectively and responsibly
13 meet said constitutional obligations to native Hawaiians".

14 Further, pursuant to section 2 of Act 15, the fee simple
15 interest to nine parcels of land, identified by tax map key
16 (1) 2-1-58-129 (Lot A), tax map key (1) 2-1-58-6 (Lot E), tax
17 map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot
18 I), and tax map key (1) 2-1-15-51 (Lot L), were conveyed to the
19 office of Hawaiian affairs as grantee, as of July 1, 2012. In
20 the same section of Act 15, however, the legislature
21 specifically directed that the parcels "are and shall remain



1 (even after conveyance to the office) under the jurisdiction and
2 authority of the Hawaii community development authority, with
3 respect to zoning, land use conditions and all other matters
4 over which the authority has jurisdiction and authority to act",
5 and "shall be subject to all laws, except sections 206E-8,
6 206E-10, 206E-34, Hawaii Revised Statutes, and otherwise
7 provided in this Act".

8 Particularly pertinent to the purpose of Act 15, in
9 section 6, the legislature further declared that "[t]he
10 Properties conveyed by this Act shall be deemed income and
11 proceeds from the public land trust, as if the Properties had
12 been paid out of the income and proceeds from the public land
13 trust pursuant to article XII, section 6 of the Hawaii State
14 Constitution".

15 Relying on its board of trustees' authority to "exercise
16 control" over lands that the office of Hawaiian affairs holds in
17 trust for native Hawaiians, and to "manage and administer" the
18 income and proceeds from the public land trust lands it
19 receives, the office of Hawaiian affairs has asked the
20 legislature to enact this Act to allow the office of Hawaiian
21 affairs to maximize the income or proceeds that six of the



1 parcels of land conveyed by Act 15 could generate for the
2 purposes of bettering the conditions of native Hawaiians, by
3 allowing the parcels to be developed for residential use.

4 The legislature finds that the ongoing transformation of
5 Kakaako into a place where the people of Honolulu can live,
6 work, and play should increase the revenue generating potential
7 of the land conveyed to the office of Hawaiian affairs by Act 15
8 of the land and concomitantly increase the number of programs
9 and kinds of services that the office of Hawaiian affairs was
10 created and is able to provide for native Hawaiians. The
11 legislature further finds that even more revenue could be
12 generated to provide programs and services to better the
13 conditions of native Hawaiians, if the office of Hawaiian
14 affairs were permitted to develop some or all of the parcels it
15 received under Act 15 for residential use.

16 The legislature agrees that the residential development
17 restriction to which all of the parcels transferred to the
18 office of Hawaiian affairs by Act 15 were and continue to be
19 subject should be lifted to the extent necessary to allow the
20 office of Hawaiian affairs to realize the maximum income or
21 proceeds that the parcels identified by tax map key



1 (1) 2-1-58-129 (Lot A), tax map key (1) 2-1-58-6 (Lot E), tax
2 map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61
3 (Lot I), and tax map key (1) 2-1-15-51 (Lot L) could generate if
4 they were developed for residential use.

5 Finally, the legislature finds that inasmuch as this Act
6 furthers one of the principle purposes for which the office of
7 Hawaiian affairs was established as a state agency, its
8 provisions should be deemed consistent with and not violative of
9 article XI, section 5, of the Hawaii State Constitution.

10 The purpose of this Act is to enhance the revenue
11 generating capacity of six parcels of land that were transferred
12 to the office of Hawaiian affairs by Act 15. To accomplish this
13 purpose, this Act raises the building height limit for two of
14 the six parcels to four hundred feet and lifts the current
15 restriction against residential development in Kakaako makai to
16 allow residential development by the office of Hawaiian affairs
17 or by third parties to which the office of Hawaiian affairs
18 conveys the parcels.

19 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
20 amended by adding a new section to part II to be appropriately
21 designated and to read as follows:



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1 "§206E- Limited residential development in Kakaako;
2 public hearing prerequisite; height limit; association fee;
3 required disclosures and nuisance mitigation efforts. (a) The
4 authority may approve any plan or proposal for any residential
5 development in Kakaako on any parcels identified as tax map key
6 (1) 2-1-58-129, tax map key (1) 2-1-58-6, tax map key
7 (1) 2-1-60-26, tax map key (1) 2-1-15-61, and tax map key
8 (1) 2-1-15-51; provided that the authorization for residential
9 development pursuant to this section shall apply to each of
10 these parcels regardless of whether a parcel's tax map key
11 number is amended; provided further that approval may be granted
12 only after the applicant seeking approval conducts a public
13 hearing held in accordance with subsection (b).

14 (b) Prior to submission to the authority of any plan or
15 proposal for any residential development pursuant to this
16 section, the applicant seeking approval shall hold a public
17 hearing that shall be exempt from chapter 91. Notice shall be
18 published in accordance with section 1-28.5, at least thirty
19 days prior to the hearing. The notice shall include:

- 20 (1) The date, time, and place of the hearing;
21 (2) A statement of the topic of the hearing; and



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1 (3) A description of where, when, and how the residential
2 development proposal may be viewed by the public.

3 All interested persons may submit data or opinions, orally or in
4 writing, in conjunction with the hearing.

5 (c) Prior to submitting to the authority for approval any
6 plan or proposal for residential development pursuant to this
7 section, the applicant seeking approval shall fully address all
8 written and oral submissions permitted pursuant to subsection
9 (b) regarding the proposed residential development.

10 (d) Prior to the approval of any plan or proposal for
11 residential development pursuant to this section, the authority
12 shall:

13 (1) Hold a public hearing in accordance with subsection
14 (b); and

15 (2) Fully consider all written and oral submissions
16 received at the public hearings held by the applicant
17 and the authority.

18 (e) Any other law to the contrary notwithstanding, the
19 building height limit shall be four hundred feet for residential
20 development pursuant to this section on the parcels identified
21 by tax map key (1) 2-1-58-6 and tax map key (1) 2-1-15-61;



1 provided that the building height limit for residential
2 development pursuant to this section shall apply to each of
3 these land areas even if a parcel's tax map key number is
4 amended.

5 (f) The office of Hawaiian affairs and any developer shall
6 provide advance written notice to potential lessees and
7 residents of the possibility of noise, odor, and other
8 aircraft-related nuisances before entering into any lease
9 agreement. The office of Hawaiian affairs and any developer
10 shall assess and propose mitigation efforts to address possible
11 noise, odor, and other aircraft-related nuisances in any
12 development plan or proposal."

13 SECTION 3. Section 206E-12, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§206E-12 Dedication for public facilities as condition to**
16 **development.** (a) The authority shall establish rules requiring
17 dedication for public facilities of land or facilities, or cash
18 payments in lieu thereof, by developers as a condition of
19 developing real property pursuant to the community development
20 plan. Where state and county public facilities dedication laws,



1 ordinances, or rules differ, the provision for greater
2 dedication shall prevail.

3 (b) This section shall not apply to lands identified in
4 section 206E- (a)."

5 SECTION 4. Section 206E-31.5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§206E-31.5 Prohibitions.** Anything contained in this
8 chapter to the contrary notwithstanding, except as provided in
9 section 206E- (a), the authority is prohibited from:

10 (1) Selling or otherwise assigning the fee simple interest
11 in any lands in the Kakaako community development
12 district to which the authority in its corporate
13 capacity holds title, except with respect to:

- 14 (A) Utility easements;
- 15 (B) Remnants as defined in section 171-52;
- 16 (C) Grants to any state or county department or
17 agency;
- 18 (D) Private entities for purposes of any easement,
19 roadway, or infrastructure improvements; or
- 20 (E) Reserved housing as defined in section 206E-101;
- 21 or



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1 (2) Approving any plan or proposal for any residential
2 development in that portion of the Kakaako community
3 development district makai of Ala Moana boulevard and
4 between Kewalo Basin and the foreign trade zone."

5 SECTION 5. New statutory material is underscored.

6 SECTION 6. This Act shall take effect on July 1, 2023.

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INTRODUCED BY: *Kanani Seely*

JAN 24 2023



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Report Title:

Hawaii Community Development Authority; OHA; Residential Development; Kakaako Makai

Description:

Authorizes raising the building height limit to 400 feet for 2 of the 6 parcels owned by the Office of Hawaiian Affairs in the Kakaako Makai area. Lifts the current restriction against residential development in Kakaako Makai to authorize residential development by the Office of Hawaiian Affairs or by third parties to which the Office of Hawaiian Affairs conveys the parcels. Requires the Office of Hawaiian Affairs and any developer to provide written notice to any tenant or resident of potential aircraft-related nuisances before entering into a lease, and to assess and propose mitigation efforts to address aircraft-related nuisances in development plans and proposals.

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

