

Honolulu, Hawaii

FEB 14 2025

RE: S.B. No. 534
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Sir:

Your Committees on Water and Land, Hawaiian Affairs, and Housing, to which was referred S.B. No. 534 entitled:

"A BILL FOR AN ACT RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY,"

beg leave to report as follows:

The purpose and intent of this measure is to enhance the revenue generating capacity of certain parcels of land in the Kakaako Makai area, including parcels that were conveyed to the Office of Hawaiian Affairs pursuant to Act 15, Session Laws of Hawaii 2012, while authorizing the development of residential housing for the essential workforce in the area by:

- (1) Allowing the Hawaii Community Development Authority to approve residential development on certain parcels;
- (2) Raising the building height limit on certain parcels;
- (3) Requiring fifty percent plus one of the residential units developed on certain parcels to be allocated to households with income at or below one hundred forty percent of the area median income, with priority given to individuals who are essential workers working within a five-mile radius of Kakaako Makai;



- (4) Limiting the sale of residential units developed in certain residential developments to prospective owner-occupants; and
- (5) Establishing a Kakaako Makai Special Fund and association fee to fund various services and projects in the Kakaako Makai area.

Your Committees received testimony in support of this measure from the Office of Hawaiian Affairs, Department of Hawaiian Home Lands; Hawai'i State Teachers Association; Hui Malama Pono Hawaii; Association of Hawaiian Civic Clubs; Iron Workers Stabilization Fund; Queen Emma Hawaiian Civic Club; Kamehameha Schools; United Public Workers AFSCME Local 646, AFL-CIO; Lahaina Hawaiian Civic Club; State of Hawaii Organization of Police Officers; Naalehu Theatre; Native Hawaiian Chamber of Commerce; ILWU International, IBEW 1186; Hawaii State AFL-CIO; Hawai'i Lodging & Tourism Association; Nation of Hawai'i; Hawaii Government Employees Association; AFSCME Local 152, AFL-CIO; University of Hawaii Professional Assembly; and one hundred eighteen individuals.

Your Committees received testimony in opposition to this measure from Life of the Land, Friends of Kewalos, Malama Moana, Kaka'ako Makai Community Planning Advisory Council, Free Access Coalition, AlohaHawaiiionipaa, Hawaii's Thousand Friends, and seventy-seven individuals.

Your Committees received comments on this measure from the Hawai'i Community Development Authority, Department of the Attorney General, Department of Transportation, Department of Budget and Finance, and four individuals.

Findings

Your Committees find that the Legislature conveyed certain parcels of land in Kakaako Makai to the Office of Hawaiian Affairs (OHA) pursuant to Act 15, Session Laws of Hawaii 2012 (Act 15) for OHA to effectively and responsibly fulfill its constitutional obligations to Native Hawaiians. However, Act 15 also required that the Hawaii Community Development Authority (HCDA) retain its jurisdiction and authority over the zoning and land use conditions of the lands conveyed to OHA, which contradicts OHA's constitutional obligation to exercise control over lands that OHA



holds in trust for Native Hawaiians, and to manage and administer the income and proceeds from the public land trust lands it receives. Your Committees also find that residential development in Kakaako Makai is prohibited due to health hazards posed by the landfill and industrial facilities once located in the area. These obstacles not only prevent OHA from developing these parcels of land to their fullest potential, they also prevent OHA from effectively funding programs and services to better the conditions of Native Hawaiians.

Your Committees further find that lifting the ban on residential development for certain parcels in Kakaako Makai conveyed to OHA would allow OHA to fully realize the revenue-generating potential of these parcels. Furthermore, authorizing OHA to develop residential housing projects would also address the shortage of affordable housing that the State currently experiences. Your Committees note that the shortage of affordable housing disproportionately affects Native Hawaiians, who have the highest rate of poverty and the lowest median household income of the major ethnic groups in the State, causing many to become homeless or to leave the State. It is essential that, if OHA is authorized to develop residential housing projects on certain parcels, a certain percentage of the residential units be allocated to households within a certain income range to benefit the essential workforce and Native Hawaiians.

Accordingly, this measure would make housing available to the essential workforce and Native Hawaiians by authorizing the HCDA to approve residential development on certain parcels; provided that fifty percent plus one of the residential units developed on certain parcels be allocated to households of a certain income range in perpetuity and that the sale of residential units on certain parcels be limited to prospective owner-occupants.

Committee Discussion

Your Committees note that the residential developments this measure enables will be complicated, years-long projects. These projects will likely require that OHA request the State for funding multiple times during development. Additionally, while these projects will provide units for affordable housing, these residential projects alone are not enough to address the State's shortage of affordable housing.



Your Committees further note that requiring a certain number of parcels to be allocated to households with an income at or below one hundred sixty percent of the area median income may be more appropriate than an area media income of one hundred forty percent.

Your Committees also note the concern that while this measure contains a provision to ensure that residential units are sold only to prospective owner-occupants, there is ambiguity as to whether an owner-occupant would use their unit as a primary residence. Your Committees find that homeowner loans and mortgages require that the homeowner live in the property for which the loan or mortgage was made as their primary residence. Failure to do so on the part of the homeowner would put the homeowner's loan or mortgage at risk, incentivizing them to honor the agreement.

Your Committees additionally note that during the process of completing an environmental impact statement, the applicant for residential development will be required to address climate adaptation and mitigation, including sea level rise; a mitigation plan for noise, odor, and other nuisances that may affect the surrounding area; and the effects of development on water resources, including the aquifer.

Comments and Concerns

Your Committees note the concerns raised by the Attorney General regarding the possibility that the Kakaako Makai Association Fee may be construed as a tax. Your Committees find that this issue raises concerns that merit further consideration and respectfully request that subsequent Committees to which this measure is referred examine this matter.

Your Committees also note that existing statute does not provide for an Office of Hawaiian Affairs Special Fund. Your Committees respectfully request that subsequent Committees consider whether an Office of Hawaiian Affairs Special Fund to receive funds collected from the proposed Kakaako Makai Association Fee should be established in statute.



Your Committees have amended this measure by:

- (1) Clarifying the process by which the Hawaii Community Development Authority may approve the development of residential projects on certain parcels of Kakaako Makai to ensure that an applicant's proposals undergo public hearings and are subject to community feedback;
- (2) Inserting language that requires applicants to complete an environmental impact statement before submitting a residential project to the Hawaii Community Development Authority for approval;
- (3) Requiring that the applicant obtain documentation from the Department of Health verifying that the applicant has adequately removed or capped any hazardous substances, pollutants, and contaminants detected on a parcel to be developed before submitting a residential project to the Hawaii Community Development Authority for approval;
- (4) Specifying that the maximum floor area ratio for any residential development on certain parcels of Kakaako Makai shall not exceed 10.0;
- (5) Specifying that only the parcels owned by the Office of Hawaiian Affairs in Kakaako Makai are subject to the increased height limit and maximum floor area ratio allowances;
- (6) Inserting language to ensure that fifty percent plus one unit of the residential units developed be allocated to households with an income at or below one hundred forty percent remain affordable in perpetuity;
- (7) Clarifying that the Office of Hawaiian Affairs shall determine the Kakaako Makai Association Fee to be collected from residents, tenants, and lessees of parcels in Kakaako Makai, to be deposited into a special account of the Office of Hawaiian Affairs Special Fund; and

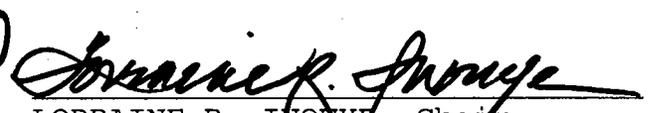


- (8) Amending section 1 to reflect its amended purpose; and
- (9) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water and Land, Hawaiian Affairs, and Housing that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 534, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 534, S.D. 1, and be referred to your Committees on Judiciary and Ways and Means.

Respectfully submitted on behalf of the members of the Committees on Water and Land, Hawaiian Affairs, and Housing,


 HERBERT RICHARDS, Chair

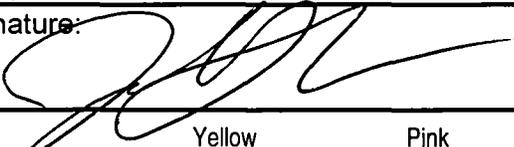

 LORRAINE R. INOUE, Chair


 STANLEY CHANG, Chair



The Senate
Thirty-Third Legislature
State of Hawai'i

Record of Votes
Committee on Hawaiian Affairs
HWN

Bill / Resolution No.:* SB 534	Committee Referral: NTL/HWN/HAW, JDC/WAM	Date: 2/3/25		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RICHARDS, III, Herbert M. "Tim" (C)	/			
SAN BUENAVENTURA, Joy A. (VC)				/
IHARA, Jr., Les		/		
KEOHOKALOLE, Jarrett	/			
DECORTE, Samantha			/	
TOTAL	2	1	1	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

