
A BILL FOR AN ACT

RELATING TO CONDEMNATION.

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

1 SECTION 1. 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- No eminent domain for economic development
5 purposes. Section 46-1.5(6) notwithstanding, and except as
6 provided for in section 101-2(b), no county or any of its
7 departments, agencies, commissions, authorities, or any private
8 entity may take any interest in or damage any private property
9 through the use of eminent domain if the taking is for the
10 purpose of urban or economic development that would result in
11 the creation of any nongovernmental retail, office, commercial,
12 residential, or industrial use, structure, or facility."

13 SECTION 2. Section 101-2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§101-2 Taking private property for public use; disposal
16 of excess property[-]; public use. (a) Private property may be
17 taken for public use. Private property may also be taken by the
18 State or any county in excess of that needed for such public use



1 in cases where small remnants would otherwise be left or where
2 other justifiable cause necessitates such taking to protect and
3 preserve the contemplated improvement, or public policy demands
4 such taking in connection with the improvement, in which case
5 the condemning authority may sell or lease such excess property,
6 with such restrictions as may be dictated by considerations of
7 public policy in order to protect and preserve such
8 improvements; provided that in the disposal of any such excess
9 property, if such property is less than the minimum lot size
10 requirements of the applicable zoning regulations, is of a
11 configuration or topography which in the judgment of the
12 appropriate county zoning authority cannot be put to a
13 reasonable use in accordance with the applicable zoning
14 regulations, or lacks proper access to a street, it shall be
15 offered to the owner or owners of the abutting land for a
16 reasonable price based on an appraisal; provided further that if
17 such excess property conforms to said minimum lot size
18 requirements, is of a configuration and topography which in the
19 judgment of the appropriate county zoning authority can be put
20 to a reasonable use in accordance with the applicable zoning
21 regulations and has proper access to a street, then the State or
22 the county, as the case may be, may sell such property at public



1 auction. If there is more than one abutting owner who is
2 interested in purchasing any such excess property which is less
3 than the minimum lot size requirements of the applicable zoning
4 regulations, is of a configuration or topography which in the
5 judgment of the appropriate county zoning authority cannot be
6 put to a reasonable use in accordance with applicable zoning
7 regulations, or lacks proper access to a street, it shall be
8 sold by the condemning authority by sealed bid to the abutting
9 owner submitting the highest offer above the appraised value;
10 provided further that if any such excess property abuts more
11 than one parcel, the condemning authority may make application
12 for subdividing such property so that a portion thereof may be
13 sold to each abutting owner at the appraised value if the public
14 interest is best served by such subdivision and disposal. All
15 moneys received from the sale or lease of such excess property
16 shall be paid into the fund or appropriation from which money
17 was taken for the original condemnation and shall be available
18 for the purposes of such fund or appropriation.

19 (b) For purposes of this chapter, "public use" shall not
20 include any use of property for urban or economic development
21 that would result in the creation of any nongovernmental retail,
22 office, commercial, residential, or industrial use, structure,



1 or facility; provided that the housing and community development
2 corporation of Hawaii, Hawaii community development authority,
3 Aloha Tower development corporation, their successor entities,
4 and any other public corporate entity duly established by the
5 State, including any authority or administration, or established
6 by the counties pursuant to legislative enablement by the State,
7 shall be exempt from the restriction specified by this
8 subsection."

9 SECTION 3. This Act does not affect rights and duties that
10 matured, penalties that were incurred, and proceedings that were
11 begun, before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed
13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.



HB 2233 HD 1

Report Title:

Eminent Domain; Economic Development

Description:

Prohibits the exercise of the powers of eminent domain by the State and counties for economic development resulting in the development of nongovernmental improvements. (HB2233 HD1)

