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# A BILL FOR AN ACT

RELATING TO LANDS CONTROLLED BY THE STATE.

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

1 SECTION 1. Section 171-99, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§171-99 Continuation of rights under existing homestead**  
4 **leases, certificates of occupation, right of purchase leases,**  
5 **and cash freehold agreements.** (a) Issuance of land patents to  
6 occupier or lessee of homestead lands. A fee simple patent  
7 shall be issued to every existing occupier under a certificate  
8 of occupation issued heretofore, and to every lessee under a  
9 nine hundred and ninety-nine year homestead lease issued  
10 heretofore, of public lands, where the lands have been improved  
11 under the certificate or lease[7] or have been used as a place  
12 of residence by the occupier or lessee for an aggregate  
13 continuous period of not less than ten years, upon payment to  
14 the board [~~of land and natural resources~~] of a fair market  
15 price, disregarding the value of the improvements made by the  
16 occupier or lessee, which price shall be determined by appraisal  
17 as provided for in this chapter; provided that the board may



1 exclude from these patents areas required as roadways to other  
2 lots.

3 (b) Issuance of patent, lessee of right of purchase lease.

4 The lessee of any existing right of purchase lease, at a time  
5 and under conditions that are contained in the lease, shall be  
6 entitled to a land patent from the board conveying to the lessee  
7 a fee simple title to the land described in the lessee's lease  
8 upon the payment of the fair market price of the land as

9 determined by appraisal as provided for in this chapter;  
10 provided that the lessee has reduced to cultivation twenty-five  
11 per cent of the premises and has resided thereon not less than  
12 two years and has substantially performed all other conditions  
13 of the lessee's lease.

14 (c) Cash freeholds, agreement, patent, conditions. At the  
15 end of three years from the date of the payment of the first  
16 installment, the holder of a freehold agreement is entitled to a  
17 land patent for the premises described [~~therein,~~] in the  
18 freehold agreement, if the following conditions, in addition to  
19 those set forth [~~herein,~~] in the freehold agreement, have been  
20 substantially performed:

21 (1) Payment of the balance of the purchase price in equal  
22 installments, in one, two, and three years,

1           respectively, from the date of the freehold agreement  
2           with interest annually at the rate of four per cent;  
3           provided that the freeholder may pay the installment  
4           before it is due and [~~thereby~~] stop the corresponding  
5           interest;

6           (2) Cultivation of not less than twenty-five per cent of  
7           the area of the premises, and the planting and care of  
8           not less than an average of ten timber, shade, or  
9           fruit trees per acre, if agricultural land, at any one  
10          time before the end of the third year, or fencing in  
11          the premises if pastoral land within that time;  
12          provided that if the premises are classed as pastoral-  
13          agricultural land, the foregoing alternative  
14          conditions shall apply respectively to the two kinds  
15          of land;

16          (3) Maintenance by the freeholder of the freeholder's home  
17          on the premises from the end of the first year to the  
18          end of the third year;

19          (4) Conditions for the prevention of waste, the planting  
20          of trees or the protection of trees growing or to be  
21          planted on the premises, or for the destruction of  
22          vegetable pests that may be on the premises or the



1 prevention of the future introduction of pests  
2 thereon;  
3 (5) Payment of all taxes that may be due on account of the  
4 premises.

5 The holder of a freehold agreement shall allow the land  
6 agents to enter and examine the premises at all reasonable times  
7 to see that the conditions are being performed. The holder  
8 shall not assign or sublet, conditionally or otherwise, the  
9 holder's interest or any part thereof, under the freehold  
10 agreement, without the written consent of the board indorsed on  
11 the agreement; and provided further that [~~freeholders~~] a  
12 freeholder having the whole interest in a freehold agreement, at  
13 any time when all the conditions thereof to be performed by the  
14 freeholder up to that time shall have been substantially  
15 performed, may surrender to the government the interest by  
16 delivery of the freehold agreement to the land agent, with the  
17 intention to surrender the interest clearly indorsed thereon and  
18 signed by [~~them~~] the freeholder and duly attested. The  
19 surrender shall release the [~~freeholders~~] freeholder from all  
20 further duty or performance of the conditions of the instrument  
21 surrendered[~~—But~~]; provided that no surrender shall be  
22 permitted if any [~~freeholders are~~] freeholder is under the age



1 of eighteen years, unless the [~~minors are~~] minor is represented  
2 by statutory guardians; and provided further that any freeholder  
3 over the age of eighteen may assign the freeholder's interest to  
4 the freeholder's cotenants.

5 (d) Right of purchase lease; termination, forfeiture, or  
6 surrender. Upon the termination of a right of purchase lease by  
7 lapse of time, or upon the forfeiture or surrender of the lease  
8 or a freehold agreement, the board, in its discretion and within  
9 the limit of its authority, may open the premises or any part  
10 thereof for disposition in the manner or for the uses as  
11 provided in this chapter. Before the disposition, the fair  
12 market value thereof shall be established by appraisal. [~~The  
13 value attributable to the improvements in the appraisal shall be  
14 paid to the surrendering lessees or freeholders, upon resale of  
15 the premises, and the director of finance shall pay the amount  
16 of the valuation upon the requisition of the board out of the  
17 funds.] Upon resale of the premises and requisition of the  
18 board, the director of finance shall pay to the surrendering  
19 lessee or freeholder from the proceeds of the sale the appraised  
20 value of the improvements.~~

21 (e) Assignment; certificate of occupation or homestead  
22 lease. No existing certificate of occupation or existing



1 homestead lease, or fractional interest thereof, shall be  
2 transferable or assignable except by conveyance, devise,  
3 bequest, or intestate succession and with the prior approval of  
4 the board [~~of land and natural resources~~]; provided that  
5 transfer or assignment by conveyance, devise, or bequest shall  
6 be limited to a member or members of the occupier's or lessee's  
7 family.

8 For the purposes of this section, "family" means the  
9 spouse, reciprocal beneficiary, children, parents, siblings,  
10 grandparents, grandchildren, nieces, nephews, a parent's  
11 siblings, children of a parent's siblings, and grandchildren of  
12 a parent's siblings, of the occupier or lessee.

13 In the event of intestate succession, the interest of the  
14 decedent shall vest in relations of the decedent in the  
15 following order:

- 16 (1) In the widow or widower;  
17 (2) If there is no widow or widower, then in the children;  
18 (3) If there are no children, then in the widows or  
19 widowers of the children;  
20 (4) If there are no widows or widowers of the children,  
21 then in the grandchildren;



1        (5) If there are no grandchildren, then in the parents or  
2        surviving parent;

3        (6) If there is no surviving parent, then in the sisters  
4        and brothers;

5        (7) If there are no sisters or brothers, then in the  
6        widows or widowers of the sisters and brothers;

7        (8) If there are no widows or widowers of the sisters and  
8        brothers, then in the nieces and nephews;

9        (9) If there are no nieces or nephews, then in the widows  
10       or widowers of the nieces and nephews;

11       (10) If there are no widows or widowers of the nieces and  
12       nephews, then in the grandchildren of the sisters and  
13       brothers; and

14       (11) If there are no grandchildren of any sisters and  
15       brothers, then in the State.

16       All the successors shall be subject to the performance of  
17       the unperformed conditions of the certificate of occupation or  
18       the homestead lease.

19       (f) Option of cotenant to compel others to buy or sell.  
20       In case two or more persons become cotenants under any existing  
21       right of purchase lease, certificate of occupation, or homestead  
22       lease by inheritance or otherwise, any one or more of the

1 persons, less than the whole number, may file in the office of  
2 the land agent an offer to the remainder of the persons to buy  
3 their interest in the premises or to sell them their own  
4 interest therein at a stated price, according to the proportion  
5 of the respective interest in question, and may deposit with the  
6 land agent the amount of the offered price in money, with a fee  
7 of \$10. The land agent shall thereupon notify the persons to  
8 whom the offer is made of the nature of the offer and order them  
9 to file with the land agent their answer within sixty days  
10 whether they will buy or sell according to the offer. If the  
11 persons to whom the offer is made file with the land agent,  
12 within sixty days of the time of their receiving the  
13 notification, their answer stating that they will sell their  
14 interest according to the terms of the offer, the land agent  
15 shall indorse the fact of the sale with the amount of the  
16 consideration on the lease and pay to the persons the amount of  
17 the consideration deposited with the land agent according to  
18 their individual interest; and the interest of the persons shall  
19 thereupon vest in the persons making the offer. The fact of the  
20 transfer shall be properly recorded in the official records of  
21 the land agent and indorsed upon the lease held by the lessee.





1           If, however, the persons to whom the offer is made fail to  
2 answer within sixty days from the time of their being notified  
3 of the offer or within sixty days from the time the notice of  
4 the offer [~~+~~]is[~~+~~] mailed to their last known place or places of  
5 abode, or [~~shall~~] answer within sixty days that they will buy  
6 the interest of the persons making the offer on the terms  
7 offered, but fail within sixty days after the notification to  
8 deposit the amount representing the value of the interest  
9 according to the terms offered, their interest shall vest in the  
10 persons making the offer, and the amount of the consideration  
11 shall be paid by the land agent [~~of~~] to them individually or  
12 their respective representatives upon application. In such  
13 case, the fact of the transfer shall be recorded and indorsed as  
14 above provided.

15           In the event that any funds held by the land agent  
16 hereunder are not paid to the persons to whom the funds are  
17 properly payable[~~7~~] because of the inability of the land agent  
18 to locate those persons, the funds, after the expiration of one  
19 year, shall be deposited in the department of budget and finance  
20 [~~of the State~~] and there abide the claim of any person thereto  
21 lawfully entitled; provided that no claim to the funds shall be  
22 allowed unless the claim is made within five years after the



1 deposit. Payment of any claim duly filed may be made if the  
2 department of budget and finance and the board concur in finding  
3 the claim valid and proper, but if the claimant fails to obtain  
4 concurrency of the department of budget and finance and the  
5 board within sixty days of the filing of the claimant's claim,  
6 the claimant may present a petition to the circuit court of the  
7 first judicial circuit in that behalf, notice [~~whereof~~] of which  
8 shall be given to the attorney general, who may appear and  
9 defend on behalf of the State, and if the court renders a  
10 judgment in favor of the claimant, the department of budget and  
11 finance shall pay the amount due without interest.

12 But if the persons to whom the offer is made, within sixty  
13 days from the time of the notification, [~~shall~~] make answer to  
14 the land agent that they will buy the interest of the offering  
15 parties and [~~shall~~] deposit within sixty days with the land  
16 agent the amount required for the purpose according to the terms  
17 of the offer, the land agent shall indorse and record the fact  
18 of the sale, as above provided, and pay to the offering parties  
19 the amount according to their individual interest; and the  
20 interest of the offering parties shall thereupon vest in the  
21 answering parties. In such case, the consideration money  
22 deposited by the offering parties shall be returned to them.



1 (g) Forfeiture; existing certificate of occupation or  
2 homestead lease. The violation of any of the conditions of any  
3 existing certificate of occupation or homestead lease shall be  
4 sufficient cause for the board, upon failure of the occupier or  
5 lessee within a reasonable period of time to remedy the default,  
6 after notice thereof in the manner provided in section 171-20,  
7 to take possession of the demised premises without demand or  
8 previous entry, with or without legal process, and thereby,  
9 subject to section 171-21, terminate the estate created.

10 (h) Forfeiture; cash freeholds. In the case of default in  
11 the payment of any of the installments due on any cash freehold  
12 agreement for thirty days after the installments are due[7] or  
13 failure of performance of any other conditions, the board may  
14 take possession of the premises, upon failure of the freeholder  
15 within a reasonable period of time to remedy the default, after  
16 notice thereof in the manner provided in section 171-20, without  
17 demand or previous entry, with or without legal process, and  
18 thereby, subject to section 171-21, terminate the estate  
19 created.

20 (i) Mortgage of homestead leases. Whenever an existing  
21 homestead lease is mortgaged pursuant to section 171-22, the  
22 consent to mortgage from the board of land and natural resources



1 may contain a condition exempting the lease from subsection (e)  
2 for the duration of the mortgage.

3 (j) Reinstatement. A tenant-at-will who has continually  
4 occupied land formerly held under a certificate of occupation,  
5 nine hundred and ninety-nine year homestead lease, right of  
6 purchase lease, or cash freehold agreement that was canceled,  
7 terminated, or forfeited due to the nonpayment of an outstanding  
8 arrearage may submit an application to the board for  
9 reinstatement of the certificate of occupation, nine hundred and  
10 ninety-nine year homestead lease, right of purchase lease, or  
11 cash freehold agreement. The board in its discretion may  
12 reinstate the certificate of occupancy, nine hundred ninety-nine  
13 year homestead lease, right of purchase lease, or cash freehold  
14 agreement:

15 (1) Provided that the outstanding arrearage is cured to  
16 the satisfaction of the board; and

17 (2) Under terms and conditions that the board may  
18 prescribe, including but not limited to any repayment  
19 period, term, encumbrance, designated tenant, tenancy,  
20 rent, or other consideration; and

21 provided further that this right of reinstatement shall not  
22 apply after December 31, 2007."



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

4 "§206E- Disposition of lands; legislative approval  
5 required. (a) Any sale, exchange, lease, or other similar  
6 disposition of land that the authority holds title to in that  
7 portion of the Kakaako community development district that is  
8 makai of Ala Moana boulevard shall be subject to legislative  
9 approval expressed in a concurrent resolution adopted by  
10 majority vote of both the senate and the house of  
11 representatives; provided that legislative approval shall not be  
12 required for dispositions relating to:

- 13 (1) Dispositions of land to any government agency;
- 14 (2) Road improvements;
- 15 (3) Remnant parcels as defined in section 171-52(a);
- 16 (4) The reserved housing program;
- 17 (5) Grants of easement; and
- 18 (6) Temporary month-to-month permits.

19 The concurrent resolution shall contain, at a minimum:

- 20 (1) The location, area, zoning, current use, and most  
21 recent valuation of the land subject to disposition;
- 22 (2) A summary of the disposition terms;



1        (3) Information on whether the land has been identified as  
2        part of the public land trust, pursuant to section  
3        5(f) of the Admission Act;

4        (4) Information on the development plans for the land; and

5        (5) Any other information pertinent to the legislature's  
6        decision.

7        (b) Notwithstanding any provisions to the contrary,  
8        residential projects shall not be permitted on state lands in  
9        the Kakaako community development district that is makai of Ala  
10       Moana boulevard."

11       SECTION 3. Section 206E-14, Hawaii Revised Statutes, is  
12       amended by amending subsection (a) to read as follows:

13       "(a) The authority [~~may~~], without recourse to public  
14       auction[~~7~~] and subject to section 206E- , may sell, or lease  
15       for a term not exceeding sixty-five years, all or any portion of  
16       the real or personal property constituting a redevelopment  
17       project to any person, upon such terms and conditions as may be  
18       approved by the authority, if the authority finds that the sale  
19       or lease is in conformity with the community development plan."

20       SECTION 4. This Act does not affect rights and duties that  
21       matured, penalties that were incurred, and proceedings that were  
22       begun, before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.



**Report Title:**

State-Controlled Lands; Legislative Approval Prior to  
Disposition

**Description:**

Requires the Hawaii Community Development Authority (HCDA) to obtain legislative approval before disposing of certain state lands under their respective jurisdictions in Kakaako Makai. Prohibits residential projects on state lands in Kakaako Makai.  
(HD1)

