

JAN 25 2006

S.B. NO. 2986

A BILL FOR AN ACT

RELATING TO EMINENT DOMAIN.

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

1 SECTION 1. Section 101-2, Hawaii Revised Statutes, is
2 amended to read as follows:
3 "**§101-2 Taking private property for public use; disposal**
4 **of excess property.** Private property may be taken for a stated
5 public use[-], and only upon an independent judicial
6 determination on the evidence that the condemnor has proven that
7 no reasonable alternative exists. Property taken by eminent
8 domain shall be owned and occupied by the condemnor or may be
9 leased only to entities that are regulated by the public
10 utilities commission. All property that is taken by eminent
11 domain shall be used only for the stated public use. If any
12 property taken through eminent domain after the effective date
13 of this section ceases to be used for the stated public use, the
14 former owner of the property, or a beneficiary or heir if one
15 has been designated for this purpose, shall have the right to
16 reacquire the property for the original compensated amount or
17 the fair market value of the property, whichever is less, before
18 the property may be sold or transferred. Private property may



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



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

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



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

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INTRODUCED BY: Renees Kohr

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Report Title:
Eminent Domain

SB. NO. 2986

Description:

Provides regulations for property taken by eminent domain.

SB HMS 2006-1256

