
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 shall be:

6 (1) Owned and occupied by the condemnor; and

7 (2) Allowed only upon an independent judicial

8 determination on the evidence that the condemnor has
9 proven that no reasonable alternative exists;

10 provided that private property taken for public utility purposes
11 shall be exempt from the requirements under paragraphs (1) and
12 (2).

13 If any property taken through eminent domain after the
14 effective date of this Act ceases to be used for the stated
15 public use, the former owner of the property or a beneficiary or
16 heir if one has been designated for this purpose, shall have the
17 right to reacquire the property for the fair market value of the
18 property before the property may be sold or transferred.



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



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

1 For the purposes of this section, "stated public use" shall
2 include developments that are determined by the governing
3 authority to be integral and required elements of public purpose
4 projects, including affordable housing, shelters for the
5 homeless, schools, hospitals, disaster preparedness or renewal
6 projects, and mass transit systems."

7 SECTION 2. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

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

SB2986, SD1

Report Title:
Eminent Domain

Description:
Provides regulations for property taken by eminent domain.
(SD1)

