
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.** (a) Private property may be taken for a
5 stated 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 (b) 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.



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

1 with the applicable zoning regulations and has proper access to
2 a street, then the State or the county, as the case may be, may
3 sell such property at public auction. If there is more than one
4 abutting owner who is interested in purchasing any such excess
5 property which is less than the minimum lot size requirements of
6 the applicable zoning regulations, is of a configuration or
7 topography which in the judgment of the appropriate county
8 zoning authority cannot be put to a reasonable use in accordance
9 with applicable zoning regulations, or lacks proper access to a
10 street, it shall be sold by the condemning authority by sealed
11 bid to the abutting owner submitting the highest offer above the
12 appraised value; provided further that if [~~any such~~] the excess
13 property abuts more than one parcel, the condemning authority
14 may make application for subdividing [~~such~~] the property so that
15 a 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 (d) For the purposes of this section, "stated public use"
2 shall 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.

Report Title:
Eminent Domain

PROPOSED

Description:

Provides regulations for property taken by eminent domain.
(SD2)

