
A BILL FOR AN ACT

RELATING TO KAKAAKO.

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

1 SECTION 1. The purpose of this Act is to increase the
2 reserved housing requirement for a major development on a lot of
3 at least one acre in the Kakaako community development district,
4 mauka area. For such a major development, at least twenty-five
5 per cent of the floor area is required to be constructed and
6 made available as reserved housing units for low- and moderate-
7 income families. The floor area countable for establishing the
8 percentage for reserved housing units is the total floor area of
9 every building of the major development, except the floor area
10 developed for community or special facility uses. The developer
11 is required to divide the reserved housing floor area into the
12 number, types, and sizes of reserved housing units set by the
13 Hawaii community development authority. The legislature intends
14 that the reserved housing requirement apply to every major
15 development on a lot of at least one acre, even if the developer
16 intends to construct only commercial, industrial, or resort uses
17 on the lot.



1 This Act also establishes a reserved housing requirement
2 for a planned development with multi-family dwelling units on a
3 lot of at least twenty thousand square feet, but less than one
4 acre. For such a planned development, at least twenty per cent
5 of the multi-family dwelling units to be constructed are
6 required to be set aside for reserved housing. This requirement
7 is the same as that presently existing under rule for a planned
8 development with multi-family dwelling units on a lot of at
9 least twenty thousand square feet. This requirement is intended
10 to apply only to a planned development and not any other type of
11 major development.

12 This Act requires the Hawaii community development
13 authority to adopt implementing rules without regard to the
14 notice and public hearing requirements of chapter 91, Hawaii
15 Revised Statutes. The provision is intended to facilitate the
16 adoption of the rules.

17 To prevent a flurry of permit applications for major
18 developments on lots of at least one acre before adoption of the
19 rules, this Act prohibits the authority from accepting such
20 applications until the rules take effect. The legislature finds
21 that this action is necessary to ensure that the public receives
22 the maximum benefit from this Act.



1 With respect to the eligibility requirements of a low- or
2 moderate-income family to purchase or rent a reserved housing
3 unit, the legislature does not intend that this Act cause any
4 change from the requirements under existing statute or rule.

5 The legislature intends that the present eligibility
6 requirements remain the same until amended by statute or rule.

7 Finally, this Act provides for the automatic increase
8 beginning on January 1, 2018, of the percentage of required
9 floor area for reserved housing to thirty-five per cent.
10 Provisions are included, however, for the legislature to repeal
11 the percentage increase before January 1, 2018, after
12 considering a study on the sufficiency of affordable housing in
13 the Kakaako community development district.

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

17 **"§206E- Reserved housing requirement for Kakaako mauka**
18 **area.** (a) At least twenty-five per cent of the countable floor
19 area of each major development on a lot of at least one acre
20 shall be developed as and made available for reserved housing
21 units. The developer of the major development shall divide the
22 floor area required for reserved housing into and construct the



1 number, types, and sizes of reserved housing units set by the
2 authority. The authority shall establish sale prices or rents
3 to be charged that are affordable to families intended to be
4 served by the reserved housing units. The authority also shall
5 set the number of parking stalls to be assigned to the reserved
6 housing units.

7 The countable floor area upon which the reserved housing
8 floor area requirement is calculated shall be based on:

- 9 (1) For a planned development, the countable floor area in
10 the plan approved by the authority in the planned
11 development permit for a planned development; or
12 (2) For a major development that conforms with the base
13 zoning, the countable floor area in the plan submitted
14 to the authority before any building permit
15 application is submitted.

16 The reserved housing floor area requirement shall not be
17 changed if, subsequent to the approval or submission of the plan
18 to the authority, the countable floor area is decreased. If,
19 however, the countable floor area is increased before the
20 issuance of a building permit for a building on the lot, the
21 reserved housing floor area requirement shall be appropriately
22 increased.



1 (b) For a planned development with multi-family dwelling
2 units on a lot of between twenty thousand and 43,559 square
3 feet, at least twenty per cent of the units shall be reserved
4 housing units. The authority shall set the types and sizes of
5 the reserved housing units and establish sale prices or rents to
6 be charged that are affordable to families intended to be served
7 by the reserved housing units. The authority also shall set the
8 number of parking stalls to be assigned to the reserved housing
9 units.

10 (c) The reserved housing floor area or units required for
11 a major development under this section need not be developed on
12 the same lot as the major development, provided that section
13 206E-4(18) shall apply.

14 (d) The authority shall not allow the developer of a major
15 development to make a cash payment to the authority in lieu of
16 developing and making available the reserved housing floor area
17 or units required by this section.

18 (e) The developer of a major development shall construct
19 the reserved housing floor area or units required by this
20 section prior to or concurrent with the construction of other
21 uses of the development. The authority shall prohibit the
22 issuance of any certificate of occupancy for any of the other



1 uses before the issuance of the certificate of occupancy for all
2 the required reserved housing floor area or units.

3 (f) A developer of a major development who develops and
4 makes available more reserved housing floor area or units than
5 required by this section shall be entitled to a credit for the
6 excess and may transfer the credit to another of the developer's
7 major development. The credit shall equal the amount of
8 reserved housing floor area or units developed and made
9 available in excess of the requirement of this section. Any
10 transferred credit shall be deducted from the reserved housing
11 floor area or units required of the developer's other major
12 development.

13 Alternatively, a developer of a major development may sell
14 a credit to another developer of a major development at a price
15 mutually agreed upon. The developer who purchases the credit
16 may deduct the credit from the reserved housing square footage
17 or units required for the developer's major development.

18 (g) The authority shall adopt rules in accordance with
19 chapter 91 and section 6 of this Act to implement this section.

20 (h) For the purpose of this section:

21 "Base zoning" means the use, lot area, building area,
22 height, density, bulk, yard, setback, open space, on-site



1 parking and loading, and other zoning standards or other such
2 restrictions imposed upon a development on a particular lot.

3 "Community service use" means any of the following uses:

4 (1) Nursing or convalescent home, nursing facility,
5 assisted living administration, or ancillary assisted
6 living amenities for the elderly or persons with
7 disabilities;

8 (2) Child care, day care, or senior citizen center;

9 (3) Nursery school or kindergarten;

10 (4) Church;

11 (5) Charitable institution or nonprofit organization;

12 (6) Public use; or

13 (7) Consulate.

14 "Countable floor area" of a major development means the
15 total floor area of every building on the lot of a major
16 development, except the floor area developed for the following:

17 (1) Community service use; or

18 (2) Special facility use.

19 "Floor area" means the area of the several floors of a
20 building, including basement but not unroofed areas, measured
21 from the exterior faces of the exterior walls or from the center
22 line of party walls separating portions of a building. The



1 floor area of a building or portion thereof not provided with
2 surrounding exterior walls shall be the usable area under the
3 horizontal projection of the roof or floor above, including but
4 not limited to elevator shafts, corridors, and stairways.
5 "Floor area" shall not include the area for parking facilities
6 and loading spaces, driveways and access ways, lanais or
7 balconies of dwelling or lodging units that do not exceed
8 fifteen per cent of the total floor area of the units to which
9 they are appurtenant, attic areas with head room less than seven
10 feet, covered rooftop areas, and rooftop machinery equipment and
11 elevator housings on the top of buildings.

12 "Floor area ratio" means the ratio of floor area to land of
13 a development as expressed as a percentage or decimal. The
14 ratio shall be calculated by dividing the total floor area on a
15 development lot by the area of the development lot.

16 "Major development" means:

17 (1) A planned development; or

18 (2) A development that conforms with the base zoning, but
19 has a floor area ratio exceeding 1.5, or a structure
20 height exceeding forty-five feet, or both.

21 "Median income" means the median annual income, adjusted
22 for family size, for households in the city and county of



1 Honolulu as most recently established by the United States
2 Department of Housing and Urban Development for the section 8
3 housing assistance payments program.

4 "Planned development" means a development for which the
5 authority approves a greater density or any other difference
6 from the base zoning applicable to the lot on which the
7 development is situated in exchange for public facilities,
8 amenities, and reserved housing units provided by the developer.

9 "Reserved housing unit" means a multi-family dwelling unit
10 that is developed for the following:

11 (1) Purchase by a family that:

12 (A) Has an income of not more than one hundred forty
13 per cent of the median income; and

14 (B) Complies with other eligibility requirements
15 established by statute or rule;

16 or

17 (2) Rent to a family that:

18 (A) Has an income of not more than one hundred per
19 cent of the median income; and

20 (B) Complies with other eligibility requirements
21 established by statute or rule.



1 A "reserved housing unit" shall be one of the following types of
2 dwelling units: studio with one bathroom; one bedroom with one
3 bathroom; two bedrooms with one bathroom; two bedrooms with one
4 and one-half bathrooms; two bedrooms with two bathrooms; three
5 bedrooms with one and one-half bathrooms; three bedrooms with
6 two bathrooms; and four bedrooms with two bathrooms.

7 "Special facility use" means a use in a "special facility"
8 as defined under section 206E-181."

9 SECTION 3. Section 206E-4, Hawaii Revised Statutes, is
10 amended to read as follows:

11 **"§206E-4 Powers; generally.** Except as otherwise limited
12 by this chapter, the authority may:

- 13 (1) Sue and be sued;
- 14 (2) Have a seal and alter the same at pleasure;
- 15 (3) Make and execute contracts and all other instruments
16 necessary or convenient for the exercise of its powers
17 and functions under this chapter;
- 18 (4) Make and alter bylaws for its organization and
19 internal management;
- 20 (5) Make rules with respect to its projects, operations,
21 properties, and facilities, which rules shall be in
22 conformance with chapter 91;



- 1 (6) Through its executive director appoint officers,
2 agents, and employees, prescribe their duties and
3 qualifications, and fix their salaries, without regard
4 to chapter 76;
- 5 (7) Prepare or cause to be prepared a community
6 development plan for all designated community
7 development districts;
- 8 (8) Acquire, reacquire, or contract to acquire or
9 reacquire by grant or purchase real, personal, or
10 mixed property or any interest therein; to own, hold,
11 clear, improve, and rehabilitate, and to sell, assign,
12 exchange, transfer, convey, lease, or otherwise
13 dispose of or encumber the same;
- 14 (9) Acquire or reacquire by condemnation real, personal,
15 or mixed property or any interest therein for public
16 facilities, including but not limited to streets,
17 sidewalks, parks, schools, and other public
18 improvements;
- 19 (10) By itself, or in partnership with qualified persons,
20 acquire, reacquire, construct, reconstruct,
21 rehabilitate, improve, alter, or repair or provide for
22 the construction, reconstruction, improvement,



1 alteration, or repair of any project; own, hold, sell,
 2 assign, transfer, convey, exchange, lease, or
 3 otherwise dispose of or encumber any project, and in
 4 the case of the sale of any project, accept a purchase
 5 money mortgage in connection therewith; and repurchase
 6 or otherwise acquire any project [~~which~~] that the
 7 authority has [~~theretofore~~] sold or otherwise
 8 conveyed, transferred, or disposed of;

9 (11) Arrange or contract for the planning, replanning,
 10 opening, grading, or closing of streets, roads,
 11 roadways, alleys, or other places, or for the
 12 furnishing of facilities or for the acquisition of
 13 property or property rights or for the furnishing of
 14 property or services in connection with a project;

15 (12) Grant options to purchase any project or to renew any
 16 lease entered into by it in connection with any of its
 17 projects, on such terms and conditions as it deems
 18 advisable;

19 (13) Prepare or cause to be prepared plans, specifications,
 20 designs, and estimates of costs for the construction,
 21 reconstruction, rehabilitation, improvement,
 22 alteration, or repair of any project, and from time to



1 time to modify such plans, specifications, designs, or
2 estimates;

3 (14) Provide advisory, consultative, training, and
4 educational services, technical assistance, and advice
5 to any person, partnership, or corporation, either
6 public or private, in order to carry out the purposes
7 of this chapter, and engage the services of
8 consultants on a contractual basis for rendering
9 professional and technical assistance and advice;

10 (15) Procure insurance against any loss in connection with
11 its property and other assets and operations in [~~such~~]
12 amounts and from [~~such~~] insurers as it deems
13 desirable;

14 (16) Contract for and accept gifts or grants in any form
15 from any public agency or from any other source;

16 (17) Do any and all things necessary to carry out its
17 purposes and exercise the powers given and granted in
18 this chapter; and

19 (18) Allow satisfaction of any affordable housing
20 requirements imposed by the authority upon any
21 proposed development project through the construction
22 of reserved housing, as defined in section 206E-101,



1 by a person on land located outside the geographic
2 boundaries of the authority's jurisdiction. Such
3 substituted housing shall be located on the same
4 island as the development project and shall be
5 substantially equal in value to the required reserved
6 housing units that were to be developed on site. The
7 authority shall establish the following priority in
8 the development of reserved housing:

- 9 (A) Within the community development district[+] but
10 not the area prohibited under section
11 206E-31.5(2);
- 12 (B) Within areas immediately surrounding the
13 community development district;
- 14 (C) Areas within the central urban core;
- 15 (D) In outlying areas within the same island as the
16 development project.

17 The Hawaii community development authority shall
18 adopt rules relating to the approval of reserved
19 housing that are developed outside of a community
20 development district. The rules shall include, but
21 are not limited to, the establishment of guidelines to
22 ensure compliance with the above priorities."



1 SECTION 4. Section 206E-33, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§206E-33 Kakaako community development district;**
4 **development guidance policies.** The following shall be the
5 development guidance policies generally governing the
6 authority's action in the Kakaako community development
7 district:

8 (1) Development shall result in a community [~~which~~] that
9 permits an appropriate land mixture of residential,
10 commercial, industrial, and other uses. In view of
11 the innovative nature of the mixed use approach, urban
12 design policies should be established to provide
13 guidelines for the public and private sectors in the
14 proper development of this district; while the
15 authority's development responsibilities apply only to
16 the area within the district, the authority may engage
17 in any studies or coordinative activities permitted in
18 this chapter [~~which~~] that affect areas lying outside
19 the district, where the authority in its discretion
20 decides that those activities are necessary to
21 implement the intent of this chapter. The studies or
22 coordinative activities shall be limited to facility



- 1 systems, resident and industrial relocation, and other
2 activities with the counties and appropriate state
3 agencies. The authority may engage in construction
4 activities outside of the district; provided that
5 [~~such~~] the construction relates to infrastructure
6 development or residential or business relocation
7 activities; provided further, notwithstanding section
8 206E-7, that such construction shall comply with the
9 general plan, development plan, ordinances, and rules
10 of the county in which the district is located;
- 11 (2) Existing and future industrial uses shall be permitted
12 and encouraged in appropriate locations within the
13 district. No plan or implementation strategy shall
14 prevent continued activity or redevelopment of
15 industrial and commercial uses [~~which~~] that meet
16 reasonable performance standards;
- 17 (3) Activities shall be located [~~so as~~] to provide primary
18 reliance on public transportation and pedestrian
19 facilities for internal circulation within the
20 district or designated subareas;
- 21 (4) Major view planes, view corridors, and other
22 environmental elements such as natural light and



1 prevailing winds, shall be preserved through necessary
2 regulation and design review;

3 (5) Redevelopment of the district shall be compatible with
4 plans and special districts established for the Hawaii
5 Capital District, and other areas surrounding the
6 Kakaako district;

7 (6) Historic sites and culturally significant facilities,
8 settings, or locations shall be preserved;

9 (7) Land use activities within the district, where
10 compatible, shall to the greatest possible extent be
11 mixed horizontally, that is, within blocks or other
12 land areas, and vertically, as integral units of
13 multi-purpose structures;

14 (8) Residential development may require a mixture of
15 densities, building types, and configurations in
16 accordance with appropriate urban design guidelines[+]
17 and the integration both vertically and horizontally
18 of residents of varying incomes, ages, and family
19 groups[; and an increased supply of housing for
20 residents of low or moderate income may be required as
21 a condition of redevelopment in residential use.];
22 provided that the reserved housing requirements of



1 section 206E- shall be imposed upon a major
2 development when applicable. Residential development
3 shall provide necessary community facilities, such as
4 open space, parks, community meeting places, child
5 care centers, and other services, within and adjacent
6 to residential development; and

7 (9) Public facilities within the district shall be
8 planned, located, and developed [~~se as~~] to support the
9 redevelopment policies for the district established by
10 this chapter and plans and rules adopted pursuant to
11 it."

12 SECTION 5. Section 206E-101, Hawaii Revised Statutes, is
13 amended by amending the definition of "reserved housing" to read
14 as follows:

15 "Reserved housing" means [~~housing designated for residents~~
16 ~~in the low or moderate income ranges who meet such~~] a reserved
17 housing unit, as defined under section 206E- , developed and
18 made available for purchase by a family that has a household
19 income of not more than one hundred forty per cent of the area
20 median income and that meets other eligibility requirements as
21 the authority may adopt by rule."



1 SECTION 6. (a) On January 1, 2018, the revisor of
2 statutes shall substitute "thirty-five per cent" for the
3 percentage in the first sentence of section 206E- (b), Hawaii
4 Revised Statutes, without necessity of further action by the
5 legislature unless:

6 (1) The percentage in that sentence is greater than
7 "thirty-five per cent"; or

8 (2) This section is repealed before that date.

9 (b) The legislature shall commission a study on whether
10 the Kakaako community development district includes sufficient
11 housing affordable to low- and moderate-income households. The
12 legislature shall require the study to be submitted at least
13 twenty days prior to the convening of the regular session of
14 2017. The legislature shall use the study to determine if this
15 section should be repealed.

16 SECTION 7. The Hawaii community development authority
17 shall adopt new or amendatory rules to implement this Act
18 without regard to the public notice and public hearing
19 requirements of section 91-3, Hawaii Revised Statutes, or the
20 small business impact review requirements of chapter 201M,
21 Hawaii Revised Statutes. The authority shall adopt the rules
22 before January 1, 2009. Any subsequent amendment of the rules



1 adopted pursuant to this section shall be subject to all
2 applicable provisions of chapter 91 and chapter 201M, Hawaii
3 Revised Statutes.

4 SECTION 8. (a) From the effective date of this Act until
5 the effective date of the new or amendatory rules adopted
6 pursuant to section 7, the Hawaii community development
7 authority shall not accept any planned development permit
8 application for a planned development on a lot of at least one
9 acre.

10 (b) From the effective date of the new or amendatory rules
11 adopted pursuant to section 7, the Hawaii community development
12 authority may accept any planned development permit application
13 for a planned development on a lot of at least one acre.

14 (c) From the effective date of this Act until the
15 effective date of the new or amendatory rules adopted pursuant
16 to section 7, the Hawaii community development authority may
17 accept any planned development permit application for a planned
18 development with multi-family dwelling units on a lot of between
19 twenty thousand and 43,559 square feet. The reserved housing
20 unit requirement for such a planned development shall be subject
21 to the statutes and rules in effect on the date of the permit
22 application.



1 (d) Any planned development, the planned development
2 permit application for which is pending on the effective date of
3 this Act, shall not be subject to this Act or rules adopted
4 pursuant to section 7. Such a planned development shall be
5 subject to the statutes and rules in effect on the date of the
6 planned development permit application.

7 SECTION 9. (a) This section shall apply only to a major
8 development on a lot of at least one acre that is not a planned
9 development.

10 (b) From the effective date of this Act until the
11 effective date of the new or amendatory rules adopted pursuant
12 to section 7, the Hawaii community development authority shall
13 prohibit the developer of a major development subject to
14 subsection (a) from submitting a building permit application to
15 the city and county of Honolulu.

16 (c) From the effective date of the new or amendatory rules
17 adopted pursuant to section 7, the Hawaii community development
18 authority shall allow the developer of a major development
19 subject to subsection (a) to submit a building permit
20 application for the major development to the city and county of
21 Honolulu.



1 (d) Any major development subject to this section, the
2 building permit application for which is pending on the
3 effective date of this Act, shall not be subject to this Act or
4 rules adopted pursuant to section 7. Such a major development
5 shall be subject to the statutes and rules in effect on the date
6 of the building permit application.

7 SECTION 10. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 11. This Act shall take effect on July 1, 2020.



Report Title:

Kakaako Community Development District, Mauka Area; Reserved Housing

Description:

Increases the reserved housing requirement for a major development on a lot of at least one acre in the Kakaako community development district, mauka area. (HB2732 HD1)

