

JAN 23 2008

---

---

# A BILL FOR AN ACT

RELATING TO THE HAWAIIAN HOMES COMMISSION ACT.

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

1           SECTION 1. Section 204.5 of the Hawaiian Homes Commission  
2 Act of 1920, as amended, is amended to read as follows:

3           "**§204.5 Additional powers.** In addition and supplemental  
4 to the powers granted to the department by law, and  
5 notwithstanding any law to the contrary, the department may:

6           (1) With the approval of the governor, undertake and carry  
7 out the development of any Hawaiian home lands  
8 available for lease under and pursuant to section 207  
9 of this Act by assembling these lands in residential  
10 developments and providing for the construction,  
11 reconstruction, improvement, alteration, or repair of  
12 public facilities therein, including, without  
13 limitation, streets, storm drainage systems,  
14 pedestrian ways, water facilities and systems,  
15 sidewalks, street lighting, sanitary sewerage  
16 facilities and systems, utility and service corridors,  
17 and utility lines, where applicable, sufficient to



1           adequately service developable improvements therein,  
2           sites for schools, parks, off-street parking  
3           facilities, and other community facilities;  
4       (2) With the approval of the governor, undertake and carry  
5           out the development of available lands for homestead,  
6           commercial, and multipurpose projects as provided in  
7           section 220.5 of this Act, and in consultation with  
8           the beneficiaries of the trust, as defined in section  
9           220.5, if a project includes any commercial  
10          development, as a developer under this section or in  
11          association with a developer agreement entered into  
12          pursuant to this section by providing for the  
13          construction, reconstruction, improvement, alteration,  
14          or repair of public facilities for development,  
15          including, without limitation, streets, storm drainage  
16          systems, pedestrian ways, water facilities and  
17          systems, sidewalks, street lighting, sanitary sewerage  
18          facilities and systems, utility and service corridors,  
19          and utility lines, where applicable, sufficient to  
20          adequately service developable improvements therein,  
21          sites for schools, parks, off-street parking  
22          facilities, and other community facilities;



1           (3) With the approval of the governor, designate by  
2           resolution of the commission all or any portion of a  
3           development or multiple developments undertaken  
4           pursuant to this section an "undertaking" under part  
5           III of chapter 39, Hawaii Revised Statutes; and

6           (4) Exercise the powers granted under section 39-53,  
7           Hawaii Revised Statutes, including the power to issue  
8           revenue bonds from time to time as authorized by the  
9           legislature.

10           All provisions of part III of chapter 39, Hawaii Revised  
11           Statutes, shall apply to the department and all revenue bonds  
12           issued by the department shall be issued pursuant to the  
13           provisions of that part, except these revenue bonds shall be  
14           issued in the name of the department, and not in the name of the  
15           State.

16           As applied to the department, the term "undertaking" as  
17           used in part III of chapter 39 shall include a residential  
18           development or a development of homestead, commercial, or  
19           multipurpose projects under this Act. The term "revenue" as  
20           used in part III of chapter 39, shall include all or any portion  
21           of the rentals derived from the leasing of Hawaiian home lands



1 or available lands, whether or not the property is a part of the  
2 development being financed."

3 SECTION 2. Section 220.5 of the Hawaiian Homes Commission  
4 Act of 1920, as amended, is amended as follows:

5 1. By amending subsections (a) and (b) to read:

6 "(a) Notwithstanding any law to the contrary, the  
7 department is authorized to enter into and carry out contracts  
8 to develop available lands for homestead[7] projects, and  
9 commercial[7] and multipurpose projects[7] in consultation with  
10 the beneficiaries of the trust; provided that the department  
11 shall not be subject to the requirements of competitive bidding  
12 if no state funds are to be used in the development of the  
13 project.

14 (b) Notwithstanding any law to the contrary, the  
15 department is authorized to enter into project developer  
16 agreements with qualified developers for, or in connection with,  
17 any homestead[7] project, commercial, or multipurpose project[7]  
18 in consultation with the beneficiaries of the trust, or portion  
19 of any project; provided that prior to entering into a project  
20 developer agreement with a developer, the department shall:



- 1           (1) Set by appraisal the minimum rental of the lands to be  
2           disposed of on the basis of the fair market value of  
3           the lands;
- 4           (2) Give notice of the proposed disposition in accordance  
5           with applicable procedures and requirements of section  
6           171-60(a)(3), Hawaii Revised Statutes;
- 7           (3) Establish reasonable criteria for the selection of the  
8           private developer<sup>[+]</sup>, in consultation with the  
9           beneficiaries of the trust if the project includes any  
10           commercial development; and
- 11          (4) Determine within forty-five days of the last day for  
12          filing applications the applicant or applicants who  
13          meet the criteria for selection, and notify all  
14          applicants of its determination within seven days of  
15          such determination. If only one applicant meets the  
16          criteria for selection as the developer, the  
17          department then may negotiate the details of the  
18          project developer agreement with the developer;  
19          provided that the terms of the project developer  
20          agreement shall not be less than those proposed by the  
21          developer in the application. If two or more  
22          applicants meet the criteria for selection, the



1 department shall consider all of the relevant facts of  
2 the disposition or contract, the proposals submitted  
3 by each applicant, and the experience and financial  
4 capability of each applicant and, within forty-five  
5 days from the date of selection of the applicants that  
6 met the criteria, shall select the applicant who  
7 submitted the best proposal. The department then may  
8 negotiate the details of the disposition with the  
9 developer, including providing benefits to promote  
10 native Hawaiian socio-economic advancement; provided  
11 that the terms of the project developer agreement  
12 shall not be less than those proposed by the developer  
13 in the application."

14 2. By amending subsection (g) to read:

15 "(g) As used in this section, the following words and  
16 terms shall have the following meanings unless the context  
17 indicates another or different meaning or intent:

18 "Commercial project" means a project or that portion of a  
19 multipurpose project, including single-family or multiple-family  
20 residential, agricultural, pastoral, aquacultural, industrial,  
21 business, hotel and resort, or other commercial uses designed  
22 and intended to generate revenues as authorized by this Act[+].



1       "Consultation with the beneficiaries of the trust" means a  
2 process of engaging individual beneficiaries, and beneficiary  
3 and beneficiary-serving organizations, that provides for the  
4 timely and meaningful dissemination of information and the  
5 gathering of input, and allows for a reasonable time and  
6 reasonable access to relevant information for evaluation and  
7 consideration.

8       "Developer" means any person, partnership, cooperative,  
9 firm, nonprofit or for-profit corporation, or public agency  
10 possessing the competence, expertise, experience, and resources,  
11 including financial, personal, and tangible resources, required  
12 to carry out a project[+].

13       "Homestead project" means a project or that portion of a  
14 multipurpose project, including residential, agricultural,  
15 pastoral, or aquacultural uses designed and intended for  
16 disposition to native Hawaiians under this Act; provided that  
17 this term shall also include community facilities for homestead  
18 areas[+].

19       "Multipurpose project" means a combination of a commercial  
20 project and a homestead project[+].



# S.B. NO. 3151

1 "Project" means a specific undertaking to develop,  
2 construct, reconstruct, rehabilitate, renovate, or to otherwise  
3 improve or enhance land or real property[+].

4 "Project developer agreement" means any lease, sublease,  
5 conditional leasing agreement, disposition agreement, financing  
6 agreement, or other agreement or combination of agreement,  
7 entered into under this section by the department, for the  
8 purpose of developing one or more projects."

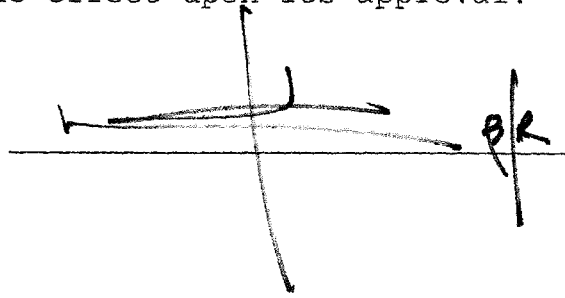
9 SECTION 3. The provisions of the amendments made by this  
10 Act to the Hawaiian Homes Commission Act, 1920, as amended, are  
11 declared to be severable, and if any section, sentence, clause,  
12 or phrase, or the application thereof to any person or  
13 circumstances is held ineffective because there is a requirement  
14 of having the consent of the United States to take effect, then  
15 that portion only shall take effect upon the granting of consent  
16 by the United States and effectiveness of the remainder of these  
17 amendments or the application thereof shall not be affected.

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval.

21

INTRODUCED BY: \_\_\_\_\_

A handwritten signature, possibly "J. L.", is written over a horizontal line. To the right of the line, the initials "B/R" are written vertically.



**Report Title:**

Hawaiian Homes Commission Act; Beneficiary Consultation

**Description:**

Provides for consultation with beneficiaries when a project includes commercial development.

