
A BILL FOR AN ACT

RELATING TO KAKAAKO.

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

1 SECTION 1. The legislature finds that Honolulu has become
2 the primary urban core for the island of Oahu, with the
3 increasing concentration of density at its downtown and Kakaako
4 center. In Act 153, Session Laws of Hawaii 1976, the
5 legislature created the Hawaii community development authority
6 as the authority in charge of the planning and development of
7 Kakaako, one of the main centers of urban living in Honolulu.
8 This was due to its central location and largely unplanned and
9 underutilized condition at the time. The planning and
10 development of Kakaako is all the more important with the
11 proposed rail transit project that is planned to traverse the
12 district and connect it with leeward Oahu and downtown Honolulu
13 on one side and, eventually, Waikiki and the university area on
14 the other side. This central position of Kakaako makes it more
15 imperative that Kakaako continue to play a role in providing
16 adequate housing opportunities for Hawaii's residents,
17 especially for the work force of Honolulu.



1 The opportunities presented by the planning framework in
2 place and the fact that there are but a few large landowners in
3 Kakaako make it imperative that planning incentives continue to
4 be made available for Kakaako to be developed to its fullest
5 potential.

6 The development principles put in place by the authority
7 for large-scale developments in the district allow for better
8 site planning through modifications and flexibility afforded
9 under this program. This also allows for an increase in public
10 amenities including increased open spaces, more recreational
11 opportunities for residents, the nearby availability of
12 community services and amenities, and improved pedestrian
13 circulation. Of equal importance, the authority's development
14 process allows for the provisions of housing for families of
15 varying sizes, income, age, and needs. In keeping with this
16 vision of the future of Kakaako, the goal of this Act is to
17 provide for increased housing opportunities for Honolulu's work
18 force in the urban core of Honolulu in Kakaako by raising the
19 reserved housing requirements for large-scale developments in
20 excess of three acres in size. However, it is not the intent of
21 the legislature to hamper the development of smaller
22 landholdings by increasing reserved housing requirements.



1 Accordingly, the purpose of this Act is to:

- 2 (1) Increase reserved housing requirements for the
3 development of large lots of three acres or greater in
4 area within the Kakaako mauka area from twenty per
5 cent to twenty-five per cent of the countable floor
6 area provided in the development;
- 7 (2) Allow smaller developments of less than three acres to
8 continue meeting the existing requirement that
9 reserved housing units comprise twenty per cent of the
10 dwelling units developed; and
- 11 (3) Provide safeguards to prevent a rush to development by
12 developers trying to avoid these new requirements.

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

16 "§206E- Reserved housing requirement for Kakaako mauka
17 area. (a) At least twenty-five per cent of the countable floor
18 area of a development on a lot within the Kakaako mauka area
19 shall be developed and made available for reserved housing units
20 if the lot is:

- 21 (1) Three acres or greater in area; or



1 (2) Less than three acres in area following a subdivision
2 or consolidation and subdivision after June 30, 2009,
3 of a lot that was three acres or greater in area
4 before July 1, 2009.

5 The developer of the development shall divide the floor
6 area required for reserved housing into, and construct the
7 number, types, and sizes of reserved housing units set by the
8 authority. The authority shall establish sale prices or rents
9 to be charged that are affordable to families intended to be
10 served by the reserved housing units. The authority shall also
11 set the number of parking stalls to be assigned to the reserved
12 housing units.

13 The countable floor area upon which the reserved housing
14 floor area requirement is calculated shall be based on the plan
15 approved by the authority in the development permit or base zone
16 development permit, as applicable, for the development. The
17 reserved housing floor area requirement shall not be changed if,
18 subsequent to the approval or submission of the plan to the
19 authority, the countable floor area is decreased. If, however,
20 the countable floor area is increased before the issuance of a
21 building permit for a building on the lot, the reserved housing
22 floor area requirement shall be appropriately increased.



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

10 (c) The authority shall determine the ratio of reserved
11 housing units that shall be available for sale or for rent;
12 provided that:

13 (1) With regard to the reserved housing units that shall
14 be sold, the authority shall adopt rules pursuant to
15 chapter 91 to ensure that the reserved housing units,
16 for the economic life of the units, shall remain
17 available for resale to persons subject to the same
18 qualifications that were imposed on the original
19 purchasers of the units, including resale to other
20 qualified persons or buyback conditions; and

21 (2) The reserved housing units that are made available for
22 rental shall be transferred to the Hawaii public



1 housing authority for rental by the Hawaii public
2 housing authority pursuant to its rules.

3 (d) The authority shall not allow a developer to make a
4 cash payment to the authority in lieu of developing and making
5 available the reserved housing floor area or units required
6 under this section; provided that the authority may adopt rules
7 providing for a contribution, in lieu of the provision of
8 reserved housing units, of a fee simple assignment of real
9 property within the Kakaako mauka area.

10 (e) Subject to the rules of the authority, reserved
11 housing units shall be built and made available for occupancy
12 prior to or concurrently with the development of the lot that
13 required the provision of the reserved housings units. The
14 authority shall prohibit the issuance of any certificate of
15 occupancy for any of the other uses before the issuance of the
16 certificate of occupancy for all the required reserved housing
17 floor area or units.

18 (f) Any project that provides more reserved housing units
19 than required under this section may transfer excess housing
20 credits to another project in the Kakaako community development
21 district toward satisfaction of the reserved housing units
22 requirement of that project as follows:



- 1 (1) \$60,000 for a studio with one bathroom of at least
- 2 four hundred square feet;
- 3 (2) \$75,000 for a one bedroom with one bathroom of at
- 4 least five hundred square feet;
- 5 (3) \$105,000 for a two bedroom with one bathroom of at
- 6 least seven hundred square feet;
- 7 (4) \$112,500 for a two bedroom with one and a half
- 8 bathroom of at least seven hundred fifty square feet;
- 9 (5) \$120,000 for a two bedroom with two bathrooms of at
- 10 least eight hundred square feet;
- 11 (6) \$135,000 for a three bedroom with two bathrooms of at
- 12 least nine hundred square feet; and
- 13 (7) \$150,000 for a four bedroom with two bathrooms of at
- 14 least one thousand square feet.

15 Alternatively, the developer of a development may sell a
16 credit to another developer of a development in the Kakaako
17 mauka area at a price mutually agreed upon. The developer who
18 purchases the credit may deduct the credit from the reserved
19 housing square footage or units required for the developer's
20 development.

21 The authority shall annually review the amount and price
22 for the transfer of the excess credits and is authorized to



1 increase the amount as deemed necessary. The terms of the
2 reserved housing credits transfer shall be approved by the
3 authority.

4 (g) For the purposes of this section:

5 "Base zone" means the use, lot area, building area, height,
6 density, bulk, yard, setback, open space, on-site parking and
7 loading, and other zoning standards or other restrictions
8 imposed upon a development on a particular lot.

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

- 10 (1) Nursing or convalescent home, nursing facility,
11 assisted living administration, or ancillary assisted
12 living amenities for the elderly or persons with
13 disabilities;
- 14 (2) Child care, day care, or senior citizen center;
- 15 (3) Nursery school or kindergarten;
- 16 (4) Church;
- 17 (5) Charitable institution or nonprofit organization;
- 18 (6) Public use;
- 19 (7) Public utility; or
- 20 (8) Consulate.



1 "Countable floor area" of a development means the total
2 floor area of every building on the lot of a development, except
3 the floor area developed for the following:

- 4 (1) Community service use; or
- 5 (2) Special facility use.

6 "Development" means the construction of a new building or
7 other structure on a lot, the relocation of an existing building
8 on another lot, the use of a tract of land for a new use, or the
9 enlargement of an existing building or use.

10 "Floor area":

- 11 (1) Means the total area of the several floors of a
12 building, including basement but not unroofed areas,
13 measured from the exterior faces of the exterior walls
14 or from the center line of party walls separating
15 portions of a building. The floor area of a building
16 or portion thereof not provided with surrounding
17 exterior walls shall be the usable area under the
18 horizontal projection of the roof or floor above,
19 including elevator shafts, corridors, and stairways;
20 and

- 21 (2) Shall not include the area for parking facilities and
22 loading spaces, driveways, access ways, lanai or



1 balconies of dwelling or lodging units that do not
2 exceed fifteen per cent of the total floor area of the
3 units to which they are appurtenant, attic areas with
4 head room less than seven feet, covered rooftop areas,
5 and rooftop machinery equipment and elevator housings
6 on the top of buildings.

7 "Kakaako mauka area" means that portion of the Kakaako
8 community development district, established by section 206E-32,
9 that is bound by King street, Piikoi street from its
10 intersection with King street to Ala Moana boulevard, Ala Moana
11 boulevard, exclusive, from Piikoi street to its intersection
12 with Punchbowl street, and Punchbowl street to its intersection
13 with King street.

14 "Lot" means a duly recorded parcel of land that can be
15 used, developed, or built upon as a unit.

16 "Median income" means the median annual income, adjusted
17 for family size, for households in the city and county of
18 Honolulu as most recently established by the United States
19 Department of Housing and Urban Development for the section 8
20 housing assistance payment program.

21 "Reserved housing unit":



- 1 (1) Means a multi-family dwelling unit that is developed
- 2 for:
- 3 (A) Purchase by a family that:
- 4 (i) Has an income of not more than one hundred
- 5 forty per cent of the median income; and
- 6 (ii) Complies with other eligibility requirements
- 7 established by statute or rule; or
- 8 (B) Rent to a family that:
- 9 (i) Has an income of not more than one hundred
- 10 per cent of the median income; and
- 11 (ii) Complies with other eligibility requirements
- 12 established by statute or rule;
- 13 and
- 14 (2) Shall be one of the following types of dwelling units:
- 15 (A) Studio with one bathroom;
- 16 (B) One bedroom with one bathroom;
- 17 (C) Two bedrooms with one bathroom;
- 18 (D) Two bedrooms with one and one-half bathrooms;
- 19 (E) Two bedrooms with two bathrooms;
- 20 (F) Three bedrooms with one and one-half bathrooms;
- 21 (G) Three bedrooms with two bathrooms; and
- 22 (H) Four bedrooms with two bathrooms.



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

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

5 **"§206E-4 Powers; generally.** Except as otherwise limited
6 by this chapter, the authority may:

- 7 (1) Sue and be sued;
- 8 (2) Have a seal and alter the same at pleasure;
- 9 (3) Make and execute contracts and all other instruments
10 necessary or convenient for the exercise of its powers
11 and functions under this chapter;
- 12 (4) Make and alter bylaws for its organization and
13 internal management;
- 14 (5) Make rules with respect to its projects, operations,
15 properties, and facilities, which rules shall be in
16 conformance with chapter 91;
- 17 (6) Through its executive director appoint officers,
18 agents, and employees, prescribe their duties and
19 qualifications, and fix their salaries, without regard
20 to chapter 76;



- 1 (7) Prepare or cause to be prepared a community
2 development plan for all designated community
3 development districts;
- 4 (8) Acquire, reacquire, or contract to acquire or
5 reacquire by grant or purchase real, personal, or
6 mixed property or any interest therein; to own, hold,
7 clear, improve, and rehabilitate, and to sell, assign,
8 exchange, transfer, convey, lease, or otherwise
9 dispose of or encumber the same;
- 10 (9) Acquire or reacquire by condemnation real, personal,
11 or mixed property or any interest therein for public
12 facilities, including [~~but not limited to~~] streets,
13 sidewalks, parks, schools, and other public
14 improvements;
- 15 (10) By itself, or in partnership with qualified persons,
16 acquire, reacquire, construct, reconstruct,
17 rehabilitate, improve, alter, or repair or provide for
18 the construction, reconstruction, improvement,
19 alteration, or repair of any project; own, hold, sell,
20 assign, transfer, convey, exchange, lease, or
21 otherwise dispose of or encumber any project, and in
22 the case of the sale of any project, accept a purchase



1 money mortgage in connection therewith; and repurchase
2 or otherwise acquire any project [~~which~~] that the
3 authority has [~~theretofore~~] sold or otherwise
4 conveyed, transferred, or disposed of;

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

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

15 (13) Prepare or cause to be prepared plans, specifications,
16 designs, and estimates of costs for the construction,
17 reconstruction, rehabilitation, improvement,
18 alteration, or repair of any project, and from time to
19 time to modify [~~such~~] the plans, specifications,
20 designs, or estimates;

21 (14) Provide advisory, consultative, training, and
22 educational services, technical assistance, and advice



1 to any person, partnership, or corporation, either
 2 public or private, [~~in order~~] to carry out the
 3 purposes of this chapter, and engage the services of
 4 consultants on a contractual basis for rendering
 5 professional and technical assistance and advice;

6 (15) Procure insurance against any loss in connection with
 7 its property and other assets and operations in [~~such~~]
 8 amounts and from [~~such~~] insurers as it deems
 9 desirable;

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

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

15 (18) Allow satisfaction of any affordable housing
 16 requirements imposed by law or the authority upon any
 17 proposed development project through the construction
 18 of reserved housing[~~7~~] units, as defined in section
 19 [~~206E-1017~~] 206E-_____, by a person on land located
 20 outside the [~~geographic boundaries of the authority's~~
 21 ~~jurisdiction. Such substituted housing shall be~~
 22 ~~located on the same island as the development project~~



1 ~~and shall be substantially equal in value to the~~
2 ~~required reserved housing units that were to be~~
3 ~~developed on site. The authority shall establish the~~
4 ~~following priority in the development of reserved~~
5 ~~housing:~~

6 ~~(A) Within the] lot of the proposed development~~
7 ~~project, but within the same community~~
8 ~~development district;~~

9 ~~[(B) Within areas immediately surrounding the~~
10 ~~community development district;~~

11 ~~(C) Areas within the central urban core;~~

12 ~~(D) In outlying areas within the same island as the~~
13 ~~development project.] provided that the~~

14 ~~prohibitions of section 206E-31.5(2) shall apply.~~

15 The Hawaii community development authority shall
16 adopt rules relating to the approval of reserved
17 housing ~~[that are]~~ units to be developed outside ~~[of a~~
18 ~~community development district. The rules shall~~
19 ~~include, but are not limited to, the establishment of~~
20 ~~guidelines to ensure compliance with the above~~
21 ~~priorities.] the lot of a proposed development~~



1 project, but within the same community development
2 district, in accordance with this paragraph."

3 SECTION 4. Section 206E-15, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§206E-15 Residential projects; cooperative agreements.**

6 ~~[(a)]~~ If the authority deems it desirable to develop a
7 residential project, it may enter into an agreement with
8 qualified persons to construct, maintain, operate, or otherwise
9 dispose of the residential project. Sale, lease, or rental of
10 dwelling units in the project shall be as provided by the rules
11 established by the authority. The authority may enter into
12 cooperative agreements with the Hawaii housing finance and
13 development corporation for the financing, development,
14 construction, sale, lease, or rental of dwelling units and
15 projects.

16 ~~[(b) The authority may transfer the housing fees collected~~
17 ~~from private residential developments for the provision of~~
18 ~~housing for residents of low or moderate income to the Hawaii~~
19 ~~housing finance and development corporation for the financing,~~
20 ~~development, construction, sale, lease, or rental of such~~
21 ~~housing within or without the community development districts.~~
22 ~~The fees shall be used only for projects owned by the State or~~



1 ~~owned or developed by a qualified nonprofit organization. For~~
2 ~~the purposes of this section, "nonprofit organization" means a~~
3 ~~corporation, association, or other duly chartered organization~~
4 ~~registered with the State, which organization has received~~
5 ~~charitable status under the Internal Revenue Code of 1986, as~~
6 ~~amended.] "~~

7 SECTION 5. Section 206E-33, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§206E-33 Kakaako community development district;**
10 **development guidance policies.** The following shall be the
11 development guidance policies generally governing the
12 authority's action in the Kakaako community development
13 district:

14 (1) Development shall result in a community ~~[which]~~ that
15 permits an appropriate land mixture of residential,
16 commercial, industrial, and other uses. In view of
17 the innovative nature of the mixed use approach, urban
18 design policies should be established to provide
19 guidelines for the public and private sectors in the
20 proper development of this district; while the
21 authority's development responsibilities apply only to
22 the area within the district, the authority may engage



1 in any studies or coordinative activities permitted in
2 this chapter [~~which~~] that affect areas lying outside
3 the district, where the authority in its discretion
4 decides that those activities are necessary to
5 implement the intent of this chapter. The studies or
6 coordinative activities shall be limited to facility
7 systems, resident and industrial relocation, and other
8 activities with the counties and appropriate state
9 agencies. The authority may engage in construction
10 activities outside of the district; provided that
11 [~~such~~] the construction relates to infrastructure
12 development or residential or business relocation
13 activities; provided further, notwithstanding section
14 206E-7, that [~~such~~] the construction shall comply with
15 the general plan, development plan, ordinances, and
16 rules of the county in which the district is located;

- 17 (2) Existing and future industrial uses shall be permitted
18 and encouraged in appropriate locations within the
19 district. No plan or implementation strategy shall
20 prevent continued activity or redevelopment of
21 industrial and commercial uses [~~which~~] that meet
22 reasonable performance standards;



- 1 (3) Activities shall be located [~~se~~as] to provide primary
2 reliance on public transportation and pedestrian
3 facilities for internal circulation within the
4 district or designated subareas;
- 5 (4) Major view planes, view corridors, and other
6 environmental elements, such as natural light and
7 prevailing winds, shall be preserved through necessary
8 regulation and design review;
- 9 (5) Redevelopment of the district shall be compatible with
10 plans and special districts established for the Hawaii
11 Capital District, and other areas surrounding the
12 Kakaako district;
- 13 (6) Historic sites and culturally significant facilities,
14 settings, or locations shall be preserved;
- 15 (7) Land use activities within the district, where
16 compatible, shall to the greatest possible extent be
17 mixed horizontally, that is, within blocks or other
18 land areas, and vertically, as integral units of
19 multi-purpose structures;
- 20 (8) Residential development may require a mixture of
21 densities, building types, and configurations in
22 accordance with appropriate urban design guidelines[+]



1 and the integration, both vertically and horizontally,
2 of residents of varying incomes, ages, and family
3 groups; [~~and an increased supply of housing for~~
4 ~~residents of low or moderate income may be required as~~
5 ~~a condition of redevelopment in residential use.]~~
6 provided that the reserved housing requirements of
7 section 206E- shall be imposed upon a development
8 when applicable. Residential development shall
9 provide necessary community facilities, such as open
10 space, parks, community meeting places, child care
11 centers, and other services, within and adjacent to
12 residential development; and

- 13 (9) Public facilities within the district shall be
14 planned, located, and developed [~~so as~~] to support the
15 redevelopment policies for the district established by
16 this chapter and plans and rules adopted pursuant to
17 it."

18 SECTION 6. Section 206E-101, Hawaii Revised Statutes, is
19 amended by amending the definition of "reserved housing" to read
20 as follows:

21 "'Reserved housing" means [~~housing designated for residents~~
22 ~~in the low or moderate income ranges who meet such]~~ a reserved



1 housing unit, as defined under section 206E- , developed and
2 made available for purchase by a family that has a household
3 income of not more than one hundred forty per cent of the area
4 median income and that meets other eligibility requirements as
5 the authority may adopt by rule."

6 SECTION 7. The Hawaii community development authority
7 shall adopt new or amend existing rules to implement this Act
8 without regard to the public notice and public hearing
9 requirements of section 91-3, Hawaii Revised Statutes, or the
10 small business impact review requirements of chapter 201M,
11 Hawaii Revised Statutes. The authority shall adopt the rules
12 before January 1, 2010. Any subsequent amendment of the rules
13 adopted pursuant to this section shall be subject to all
14 applicable provisions of chapters 91 and 201M, Hawaii Revised
15 Statutes.

16 SECTION 8. (a) From the effective date of this Act until
17 the effective date of the new or amended rules adopted pursuant
18 to section 6 of this Act, the Hawaii community development
19 authority shall not accept any planned development permit or
20 base zone development permit application for a development on a
21 lot that is three acres or greater in area.



1 (b) From the effective date of this Act, the Hawaii
2 community development authority may accept any planned
3 development permit or base zone development permit application
4 for a development on a lot that is less than three acres in
5 area. The application for the development shall be subject to
6 the law and rules in effect on the date of the permit
7 application.

8 SECTION 9. Any planned development permit or base zone
9 permit application for any development that is pending on the
10 effective date of this Act shall not be subject to this Act or
11 rules adopted pursuant to section 7 of this Act. The
12 development shall be subject to the laws and rules in effect on
13 the date of the permit application.

14 SECTION 10. From the effective date of this Act until the
15 effective date of the new or amended rules adopted pursuant to
16 section 7, the Hawaii community development authority shall
17 prohibit the developer of a lot three acres or greater in area
18 in the Kakaako mauka area from submitting:

19 (1) A building permit application for the development to
20 the city and county of Honolulu; or



1 (2) A subdivision application to subdivide or consolidate
2 and subdivide any lot or lots that are three acres or
3 greater in area.

4 SECTION 11. (a) Twenty days prior to the convening of the
5 regular session of 2017, the Hawaii community development
6 authority shall submit a report to the legislature, including
7 any proposed legislation, on the status of its reserved housing
8 program in the Kakaako community development district.

9 (b) The report shall set forth:

10 (1) The total number of reserved housing units contained
11 in the Kakaako community development district at the
12 time of the report, broken down with regard to:

13 (A) Size and type of unit;

14 (B) Age group of occupants of the units; and

15 (C) Whether the units were sold or rented;

16 (2) The number of reserved housing units that were
17 provided or are under construction at the time of the
18 report as a result of the requirements of this Act;

19 (3) A recommendation whether the reserved housing
20 requirements contained in this Act should be reduced,
21 remain unchanged, or increased; and



1 (4) Any other information that it deems relevant to its
2 reserved housing program in the Kakaako community
3 development district.

4 SECTION 12. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 13. This Act shall take effect on July 1, 2009.



Report Title:

Kakaako Community Development District, Mauka Area; Reserved Housing

Description:

Increases the reserved housing requirement for a development in the Kakaako community development district, mauka area, for lots 3 acres or more to 25% of the countable floor area of the development. Directs HCDA to submit a report prior to the convening of the 2017 regular session on its reserved housing program in the Kakaako community development district. (SB1350 HD1)

