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# 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 Kakaako community development district's reserved housing  
3 requirement for a planned development with a height of more than  
4 forty-five feet or a floor area that equals or exceeds one and  
5 one-half times the lot area for the development in the mauka  
6 area.

7           For planned developments greater than 80,000 square feet,  
8 this Act requires at least twenty-five per cent of the  
9 residential floor area to be constructed and made available as  
10 reserved housing units. This requirement shall be increased to  
11 thirty-five per cent after December 31, 2017 unless the  
12 legislature determines there is adequate reserved housing in  
13 Kakaako.

14           Under this Act, the floor area applicable to the percentage  
15 for reserved housing units is the residential floor area of the  
16 planned development, except the floor area developed for  
17 community or special facility uses. The developer is required

1 to divide the reserved floor area (the product resulting from  
2 the percentage multiplied by the residential floor area) into  
3 the number, types, and sizes of reserved housing units set by  
4 the Hawaii community development authority.

5 The legislature intends that the reserved housing  
6 requirement apply to every planned development with a height of  
7 more than forty-five feet or a floor area that equals or exceeds  
8 one and one-half times the lot area for the development, for  
9 planned development projects that propose residential uses of  
10 the lot.

11 This Act also establishes a reserved housing requirement  
12 for a planned development with multi-family dwelling units on a  
13 lot of at least 20,000 square feet, but less than 80,000 square  
14 feet. For such a planned development project, at least twenty  
15 per cent of the multi-family dwelling units to be constructed  
16 are required to be set aside for reserved housing. This  
17 requirement is the same as the existing rule for a planned  
18 development with multi-family dwelling units on a lot of at  
19 least twenty thousand square feet.

20 This Act requires the Hawaii community development  
21 authority to adopt and implement rules without regard to the  
22 notice and public hearing requirements of chapter 91, Hawaii

1 Revised Statutes. This waiver provision is intended to  
2 facilitate the adoption of the rules.

3 With respect to the eligibility requirements of a low- or  
4 moderate-income family to purchase or rent a reserved housing  
5 unit, it is not intended that this Act cause any change from the  
6 requirements under existing statutes or rules, but is intended  
7 that the present eligibility requirements remain the same until  
8 amended by statute or rule.

9 The purpose of this Act is to increase the requirement for  
10 reserved housing units within planned developments proposed on  
11 lots of greater than 80,000 square feet in the Kakaako community  
12 development district, mauka area from twenty per cent of units  
13 to twenty-five per cent of residential floor area. The  
14 increased requirement would apply only to planned developments  
15 that occur on lots greater than 80,000 square feet.

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

19 **"§206E- Reserved housing requirement for Kakaako mauka**  
20 **area.** (a) For the purpose of this section:

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

1 of Honolulu as most recently established by the United States  
2 Department of Housing and Urban Development.

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

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

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

18 "Countable floor area" of a planned development means the  
19 residential floor area of a planned development, except the  
20 residential floor area developed for the following:

- 21 (1) Community service use; or  
22 (2) Special facility use.

1       "Planned development" means a development for which the  
2 authority approves a greater density or any other difference  
3 from the base zoning applicable to the lot that is 10,000 square  
4 feet or more on which the development is situated in exchange  
5 for public facilities, amenities, and reserved housing units  
6 provided by the developer.

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

9       (1) Purchase by a family that:

10           (A) Has an income of not more than one hundred forty  
11           per cent of the area median income; and

12           (B) Complies with other eligibility requirements  
13           established by statute or rule; or

14       (2) Rent to a family that:

15           (A) Has an income of not more than one hundred per  
16           cent of the area median income; and

17           (B) Complies with other eligibility requirements  
18           established by statute or rule.

19 A "reserved housing unit" shall be one of the following types of  
20 dwelling units: studio with one bathroom; one bedroom with one  
21 bathroom; two bedrooms with one bathroom; two bedrooms with one  
22 and one-half bathrooms; two bedrooms with two bathrooms; three

1 bedrooms with one and one-half bathrooms; three bedrooms with  
2 two bathrooms; and four bedrooms with two bathrooms.

3 "Residential floor area" means the total floor area of the  
4 several floors of a building within a planned development  
5 containing multi-family dwelling units, including basement but  
6 not unroofed areas, measured from the exterior faces of the  
7 exterior walls or from the center line of party walls separating  
8 portions of a building. The floor area of a building or portion  
9 thereof not provided with surrounding exterior walls shall be  
10 the usable area under the horizontal projection of the roof or  
11 floor above, but does not include the area for elevator shafts,  
12 corridors, and stairways. "Floor area" shall not include the  
13 area for parking facilities and loading spaces, driveways and  
14 access ways, lanais or balconies of dwelling or lodging units  
15 that do not exceed fifteen per cent of the total floor area of  
16 the units to which they are appurtenant, attic areas with head  
17 room less than seven feet, covered rooftop areas, and rooftop  
18 machinery equipment and elevator housings on the top of  
19 buildings.

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

1        (b) At least twenty-five per cent (or thirty-five per cent  
2 after December 31, 2017 unless the legislature determines there  
3 is adequate reserved housing in Kakaako) of the countable floor  
4 area of each planned development that proposes residential uses  
5 with a height of more than forty-five feet or a floor area that  
6 equals or exceeds one and one-half times the lot area for the  
7 development and are proposed on development lots greater than  
8 80,000 square feet shall be developed and made available for  
9 reserved housing units. The developer of the planned  
10 development shall divide the floor area required for reserved  
11 housing into, and construct the number, types, and sizes of  
12 reserved housing units set by the authority. The authority  
13 shall set the number, types, and sizes of reserved housing units  
14 to establish sale prices or rents to be charged that are  
15 affordable to families intended to be served by the reserved  
16 housing units. The authority also shall set the number of  
17 parking stalls to be assigned to the reserved housing units.

18        The countable floor area upon which the reserved housing  
19 floor area requirement is calculated shall be the countable  
20 floor area in the plan submitted to the authority before any  
21 building permit application is submitted. The reserved housing  
22 floor area requirement shall not be changed if, subsequent to

1 the approval or submission of the plan to the authority, the  
2 countable floor area is decreased. If, however, the countable  
3 floor area is increased before the issuance of a building permit  
4 for a building on the lot, the reserved housing floor area  
5 requirement shall be appropriately increased.

6 (c) For a planned development on a lot of between 20,000  
7 and 80,000 square feet, at least twenty per cent of the units  
8 shall be reserved housing units. The types and sizes of the  
9 reserved housing units shall be set by the authority to  
10 establish sale prices or rents to be charged that are affordable  
11 to families intended to be served by the reserved housing units.  
12 The authority also shall set the number of parking stalls to be  
13 assigned to the reserved housing units.

14 The reserved housing floor area or units required for a  
15 planned development under this section need not be developed on  
16 the same lot as the planned development, provided that section  
17 206E-4(18) shall apply.

18 (d) The authority shall not allow the developer of the  
19 planned development to make a cash payment to the authority in  
20 lieu of developing and making available the reserved housing  
21 floor area or units required under this section; provided that



1 this subsection shall not apply if fractional units are  
2 created."

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 [~~therefore~~] 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 purposes  
3 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 the authority upon any  
17 proposed development project through the construction  
18 of reserved housing, as defined in section 206E-101,  
19 by a person on land located outside the geographic  
20 boundaries of the authority's jurisdiction. [~~Such~~  
21 ~~substituted~~] Substitute housing shall be located on  
22 the same island as the development project and shall

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

5 (A) Within the community development district~~[7]~~ but  
6 not the area prohibited under section  
7 206E-31.5(2);

8 (B) Within areas immediately surrounding the  
9 community development district;

10 (C) Areas within the central urban core;

11 (D) In outlying areas within the same island as the  
12 development project.

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

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

21 **"§206E-33 Kakaako community development district;**  
22 **development guidance policies.** The following shall be the

1 development guidance policies generally governing the  
2 authority's action in the Kakaako community development  
3 district:

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

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

- 1 Capital District, and other areas surrounding the  
2 Kakaako district;
- 3 (6) Historic sites and culturally significant facilities,  
4 settings, or locations shall be preserved;
- 5 (7) Land use activities within the district, where  
6 compatible, shall to the greatest possible extent be  
7 mixed horizontally, that is, within blocks or other  
8 land areas, and vertically, as integral units of  
9 multi-purpose structures;
- 10 (8) Residential development may require a mixture of  
11 densities, building types, and configurations in  
12 accordance with appropriate urban design guidelines[+]  
13 and the integration both vertically and horizontally  
14 of residents of varying incomes, ages, and family  
15 groups; [~~and an increased supply of housing for~~  
16 ~~residents of low or moderate income may be required~~  
17 ~~as a condition of redevelopment in residential use.~~]  
18 provided that the reserved housing requirements of  
19 section 206E- shall be imposed upon a planned  
20 development when residential units are proposed.  
21 Residential development shall provide necessary  
22 community facilities, such as open space, parks,



1 community meeting places, child care centers, and  
2 other services, within and adjacent to residential  
3 development; and

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

9 SECTION 5. The Hawaii community development authority  
10 shall adopt new rules or amend existing rules to implement this  
11 Act without regard to the public notice and public hearing  
12 requirements of section 91-3, Hawaii Revised Statutes, or the  
13 small business impact review requirements of chapter 201M,  
14 Hawaii Revised Statutes. The authority shall adopt the rules  
15 before January 1, 2010. Any subsequent amendment of the rules  
16 adopted pursuant to this section shall be subject to all  
17 applicable provisions of chapter 91 and chapter 201M, Hawaii  
18 Revised Statutes.

19 SECTION 6. A planned development permit application for  
20 any planned development, which is pending on the effective date  
21 of this Act, shall not be subject to this Act or rules adopted  
22 pursuant to section 5 of this Act. The planned development

1 application which is pending on the effective date of this Act  
2 shall be subject to the laws and rules in effect on the date of  
3 the permit application.

4 SECTION 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 8. 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 planned development to twenty-five per cent of floor space in the Kakaako community development district, mauka area for lots 80,000 square feet or more in size. (SD1)