

---

---

## 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 sixty per  
5 cent of the number of units shall be constructed and made  
6 available as reserved housing units for low- and moderate-income  
7 families. The number of units countable for establishing the  
8 percentage for reserved housing units is the number of units of  
9 every building of the major development. The developer is  
10 required to divide the reserved housing floor area into the  
11 number, types, and sizes of reserved housing units set by the  
12 Hawaii community development authority. The legislature intends  
13 that the reserved housing requirement apply to every major  
14 development on a lot of at least one acre, except if the major  
15 development is on a lot owned by a public utility and developed  
16 for public utility operations. The legislature emphasizes that  
17 the requirement is to apply even if the developer intends to



1 construct only commercial, industrial, or resort uses on the  
2 lot.

3 This Act also establishes a reserved housing requirement  
4 for a planned development with multi-family dwelling units on a  
5 lot of at least twenty thousand square feet, but less than one  
6 acre. At least fifty per cent of the multi-family dwelling  
7 units to be constructed are required to be set aside for  
8 reserved housing. This requirement is the same for a major  
9 development with multi-family dwelling units on a lot of at  
10 least twenty thousand square feet.

11 This Act requires the Hawaii community development  
12 authority to adopt implementing rules without regard to the  
13 public notice and public hearing requirements of chapter 91,  
14 Hawaii Revised Statutes. The exemption from portions of chapter  
15 91, Hawaii Revised Statutes, 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 the rules are  
19 adopted, this Act prohibits the Hawaii community development  
20 authority from accepting the applications until the rules take  
21 effect. The legislature finds that this action is necessary to



1 ensure that the public receives the maximum benefit from this  
2 Act.

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

9 This Act also repeals the provisions that allowed a  
10 developer to fulfill the developer's reserved housing  
11 requirement by developing affordable housing outside the  
12 applicable community development district.

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 sixty per cent of the number of units of  
18 each major development on a lot of at least one acre in the  
19 Kakaako mauka area shall be developed as and made available for  
20 reserved housing units. The developer of the major development  
21 shall divide units for reserved housing into and construct the  
22 number, types, and sizes of reserved housing units set by the



1 authority. The authority shall establish sale prices or rents  
2 to be charged that are affordable to families intended to be  
3 served by the reserved housing units. The authority also shall  
4 set the number of parking stalls to be assigned to the reserved  
5 housing units according to the same off-street parking  
6 requirements applicable to non-reserved housing units, and the  
7 authority shall not waive or exempt the developer from providing  
8 the required number of parking stalls for the reserved housing  
9 units.

10 The number of units upon which the reserved housing  
11 requirement is calculated shall be based on:

- 12 (1) For a planned development, the number of units in the  
13 plan approved by the authority in the planned  
14 development permit for a planned development; or  
15 (2) For a major development that is not a planned  
16 development, the number of units in the plan submitted  
17 to the authority before any building permit  
18 application is submitted.

19 The reserved housing unit requirement shall not be changed  
20 if, subsequent to the approval or submission of the plan to the  
21 authority, the number of units is decreased. If, however, the  
22 number of units is increased before the issuance of a building



1 permit for a building on the lot, the reserved housing unit  
2 requirement shall be appropriately increased.

3 The reserved housing requirement of this subsection shall  
4 not apply to a major development on a lot owned by a public  
5 utility if the uses and facilities developed are intended for  
6 public utility operations.

7 (b) For a planned development with multi-family dwelling  
8 units on a lot between twenty thousand and 43,559 square feet,  
9 at least fifty per cent of the number of units shall be reserved  
10 housing units. The authority shall set the types and sizes of  
11 the reserved housing units and establish sale prices or rents to  
12 be charged that are affordable to families intended to be served  
13 by the reserved housing units. The authority also shall set the  
14 number of parking stalls to be assigned to the reserved housing  
15 units according to the same off-street parking requirements  
16 applicable to non-reserved housing units, and the authority  
17 shall not waive or exempt the developer from providing the  
18 required number of parking stalls for the reserved housing  
19 units.

20 (c) The authority shall not allow the developer of a major  
21 development to make a cash payment to the authority in lieu of



1 developing and making available the reserved housing floor area  
2 or units required by this section.

3 (d) The developer of a major development shall construct  
4 the number of reserved housing units required by this section  
5 prior to or concurrent with the construction of other uses of  
6 the development. The authority shall allow the issuance of a  
7 certificate of occupancy for any of the other uses as long as  
8 construction begins on the reserve housing units.

9 (e) A developer of a major development who develops and  
10 makes available more reserved housing units than required by  
11 this section shall be entitled to a credit for the excess and  
12 may transfer the credit to another of the developer's major  
13 development in the same community development district. The  
14 credit shall equal the amount of reserved housing units  
15 developed and made available in excess of the requirement of  
16 this section. Any transferred credit shall be deducted from the  
17 reserved housing units required of the developer's other major  
18 development.

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

21 (g) For the purpose of this section:



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

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

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

16       "Kakaako mauka area" means the area of the Kakaako  
17 community development district mauka of Ala Moana Boulevard.

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



1       "Median income" means the median annual income, adjusted  
2 for family size, for households in the city and county of  
3 Honolulu.

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       "Public utility" means the same as defined under section  
10 269-1.

11       "Reserved housing unit" for this development means a multi-  
12 family dwelling unit that is developed for the following:

13       (1) Purchase by a family in which:

14           (A) Twenty per cent of the units shall be for those  
15           with an income from one hundred twenty to one  
16           hundred forty per cent of the median income;

17           (B) Twenty per cent of the units shall be for those  
18           with an income from one hundred to one hundred  
19           twenty per cent of the median income;

20           (C) Fifty per cent of the units shall be for those  
21           with an income from eighty to one hundred per  
22           cent of the median income;





1           (D) Ten per cent of the units shall be for those with  
2           an income from seventy to eighty per cent of the  
3           median income; and

4           all purchasers comply with other eligibility  
5           requirements established by statute or rule; or

6           (2) Rent to a family that:

7           (A) Has an income of not more than eighty per cent of  
8           the median income; and

9           (B) Complies with other eligibility requirements  
10           established by statute or rule.

11   A "reserved housing unit" shall be one of the following types of  
12   dwelling units: studio with one bathroom; one bedroom with one  
13   bathroom; and two bedrooms with one bathroom.

14           "Special facility use" means a use in a "special facility"  
15   as defined in section 206E-181."

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

18           "**§206E-4 Powers; generally.** Except as otherwise limited  
19   by this chapter, the authority may:

20           (1) Sue and be sued;

21           (2) Have a seal and alter the same at pleasure;



- 1           (3) Make and execute contracts and all other instruments  
2                    necessary or convenient for the exercise of its powers  
3                    and functions under this chapter;
- 4           (4) Make and alter bylaws for its organization and  
5                    internal management;
- 6           (5) Make rules with respect to its projects, operations,  
7                    properties, and facilities, which rules shall be in  
8                    conformance with chapter 91;
- 9           (6) Through its executive director appoint officers,  
10                   agents, and employees, prescribe their duties and  
11                   qualifications, and fix their salaries, without regard  
12                   to chapter 76;
- 13          (7) Prepare or cause to be prepared a community  
14                   development plan for all designated community  
15                   development districts;
- 16          (8) Acquire, reacquire, or contract to acquire or  
17                   reacquire by grant or purchase real, personal, or  
18                   mixed property or any interest therein; to own, hold,  
19                   clear, improve, and rehabilitate, and to sell, assign,  
20                   exchange, transfer, convey, lease, or otherwise  
21                   dispose of or encumber the same;



1           (9) Acquire or reacquire by condemnation real, personal,  
2           or mixed property or any interest therein for public  
3           facilities, including but not limited to streets,  
4           sidewalks, parks, schools, and other public  
5           improvements;

6           (10) By itself, or in partnership with qualified persons,  
7           acquire, reacquire, construct, reconstruct,  
8           rehabilitate, improve, alter, or repair or provide for  
9           the construction, reconstruction, improvement,  
10          alteration, or repair of any project; own, hold, sell,  
11          assign, transfer, convey, exchange, lease, or  
12          otherwise dispose of or encumber any project, and in  
13          the case of the sale of any project, accept a purchase  
14          money mortgage in connection therewith; and repurchase  
15          or otherwise acquire any project [~~which~~] that the  
16          authority has [~~theretofore~~] sold or otherwise  
17          conveyed, transferred, or disposed of;

18          (11) Arrange or contract for the planning, replanning,  
19          opening, grading, or closing of streets, roads,  
20          roadways, alleys, or other places, or for the  
21          furnishing of facilities or for the acquisition of



1 property or property rights or for the furnishing of  
2 property or services in connection with a project;

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

7 (13) Prepare or cause to be prepared plans, specifications,  
8 designs, and estimates of costs for the construction,  
9 reconstruction, rehabilitation, improvement,  
10 alteration, or repair of any project, and from time to  
11 time to modify such plans, specifications, designs, or  
12 estimates;

13 (14) Provide advisory, consultative, training, and  
14 educational services, technical assistance, and advice  
15 to any person, partnership, or corporation, either  
16 public or private, in order to carry out the purposes  
17 of this chapter, and engage the services of  
18 consultants on a contractual basis for rendering  
19 professional and technical assistance and advice;

20 (15) Procure insurance against any loss in connection with  
21 its property and other assets and operations in [such]



1 amounts and from [such] insurers as it deems  
2 desirable;

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

5 (17) Do any and all things necessary to carry out its  
6 purposes and exercise the powers given and granted in  
7 this chapter [~~and~~

8 ~~(18) Allow satisfaction of any affordable housing~~  
9 ~~requirements imposed by the authority upon any~~  
10 ~~proposed development project through the construction~~  
11 ~~of reserved housing, as defined in section 206E-101,~~  
12 ~~by a person on land located outside the geographic~~  
13 ~~boundaries of the authority's jurisdiction. Such~~  
14 ~~substituted housing shall be located on the same~~  
15 ~~island as the development project and shall be~~  
16 ~~substantially equal in value to the required reserved~~  
17 ~~housing units that were to be developed on site. The~~  
18 ~~authority shall establish the following priority in~~  
19 ~~the development of reserved housing:~~

20 ~~(A) Within the community development district,~~  
21 ~~(B) Within areas immediately surrounding the~~  
22 ~~community development district,~~

1           ~~(C) Areas within the central urban core;~~  
2           ~~(D) In outlying areas within the same island as the~~  
3           ~~development project.~~

4           ~~The Hawaii community development authority shall~~  
5           ~~adopt rules relating to the approval of reserved~~  
6           ~~housing that are developed outside of a community~~  
7           ~~development district. The rules shall include, but~~  
8           ~~are not limited to, the establishment of guidelines to~~  
9           ~~ensure compliance with the above priorities]."~~

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

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

17           (1) Development shall result in a community [~~which~~] that  
18           permits an appropriate land mixture of residential,  
19           commercial, industrial, and other uses. In view of  
20           the innovative nature of the mixed use approach, urban  
21           design policies should be established to provide  
22           guidelines for the public and private sectors in the



1 proper development of this district; while the  
2 authority's development responsibilities apply only to  
3 the area within the district, the authority may engage  
4 in any studies or coordinative activities permitted in  
5 this chapter [~~which~~] that affect areas lying outside  
6 the district, where the authority in its discretion  
7 decides that those activities are necessary to  
8 implement the intent of this chapter. The studies or  
9 coordinative activities shall be limited to facility  
10 systems, resident and industrial relocation, and other  
11 activities with the counties and appropriate state  
12 agencies. The authority may engage in construction  
13 activities outside of the district; provided that  
14 [~~such~~] the construction relates to infrastructure  
15 development or residential or business relocation  
16 activities; provided further, notwithstanding section  
17 206E-7, that [~~such~~] the construction shall comply with  
18 the general plan, development plan, ordinances, and  
19 rules of the county in which the district is located;  
20 (2) Existing and future industrial uses shall be permitted  
21 and encouraged in appropriate locations within the  
22 district. No plan or implementation strategy shall



1 prevent continued activity or redevelopment of  
2 industrial and commercial uses [~~which~~] that meet  
3 reasonable performance standards;

4 (3) Activities shall be located [~~so as~~] to provide primary  
5 reliance on public transportation and pedestrian  
6 facilities for internal circulation within the  
7 district or designated subareas;

8 (4) Major view planes, view corridors, and other  
9 environmental elements such as natural light and  
10 prevailing winds, shall be preserved through necessary  
11 regulation and design review;

12 (5) Redevelopment of the district shall be compatible with  
13 plans and special districts established for the Hawaii  
14 Capital District, and other areas surrounding the  
15 Kakaako district;

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

18 (7) Land use activities within the district, where  
19 compatible, shall to the greatest possible extent be  
20 mixed horizontally, that is, within blocks or other  
21 land areas, and vertically, as integral units of  
22 multi-purpose structures;





- 1           (8) Residential development may require a mixture of  
2           densities, building types, and configurations in  
3           accordance with appropriate urban design guidelines [7]  
4           and the integration both vertically and horizontally  
5           of residents of varying incomes, ages, and family  
6           groups; [~~and an increased supply of housing for~~  
7           ~~residents of low or moderate income may be required~~  
8           ~~as a condition of redevelopment in residential use.~~]  
9           provided that the reserved housing requirements of  
10          section 206E-           shall be imposed upon a major  
11          development when applicable. Residential development  
12          shall provide necessary community facilities, such as  
13          open space, parks, community meeting places, child  
14          care centers, and other services, within and adjacent  
15          to residential development; and
- 16          (9) Public facilities within the district shall be  
17          planned, located, and developed [~~se~~as] to support the  
18          redevelopment policies for the district established by  
19          this chapter and plans and rules adopted pursuant to  
20          it."



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

4 "Reserved housing" means [~~housing designated for residents~~  
5 ~~in the low or moderate income ranges who meet such eligibility~~  
6 ~~requirements as the authority may adopt by rule.~~] a reserved  
7 housing unit as defined under section 206E- ."

8 SECTION 6. The Hawaii community development authority  
9 shall adopt rules to implement this Act without regard to the  
10 public notice and public hearing requirements of section 91-3,  
11 Hawaii Revised Statutes, or the small business impact review  
12 requirements of chapter 201M, Hawaii Revised Statutes. The  
13 authority shall adopt the rules before January 1, 2010. Any  
14 subsequent amendment of the rules adopted pursuant to this  
15 section shall be subject to all applicable provisions of chapter  
16 91 and chapter 201M, Hawaii Revised Statutes.

17 SECTION 7. (a) From the effective date of this Act until  
18 the effective date of the rules adopted pursuant to section 6,  
19 the Hawaii community development authority shall not accept any  
20 planned development permit application for a planned development  
21 on a lot of at least one acre.



1 (b) From the effective date of the rules adopted pursuant  
2 to section 6, the Hawaii community development authority may  
3 accept any planned development permit application for a planned  
4 development on a lot of at least one acre.

5 (c) From the effective date of this Act, the Hawaii  
6 community development authority may accept any planned  
7 development permit application for a planned development with  
8 multi-family dwelling units on a lot of between twenty thousand  
9 and 43,559 square feet. The reserved housing unit requirement  
10 for such a planned development shall be subject to the statutes  
11 and rules in effect on the date of the permit application.

12 (d) Any planned development permit application pending on  
13 the effective date of this Act shall not be subject to this Act  
14 or rules adopted pursuant to section 6. The planned development  
15 shall be subject to the statutes and rules in effect on the date  
16 of the planned development permit application.

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

20 (b) From the effective date of this Act until the  
21 effective date of the rules adopted pursuant to section 6, the  
22 Hawaii community development authority shall prohibit the



1 developer of a major development subject to subsection (a) from  
2 submitting a building permit application to the city and county  
3 of Honolulu.

4 (c) From the effective date of the rules adopted pursuant  
5 to section 6, the Hawaii community development authority shall  
6 allow the developer of a major development subject to subsection  
7 (a) to submit a building permit application for the major  
8 development to the city and county of Honolulu.

9 (d) Any major development subject to this section, the  
10 building permit application for which is pending on the  
11 effective date of this Act, shall not be subject to this Act or  
12 rules adopted pursuant to section 6, but shall be subject to the  
13 statutes and rules in effect on the date of the building permit  
14 application.

15 SECTION 9. (a) For purposes of this Act:

16 "Major development" means the same as defined under section  
17 206E- , Hawaii Revised Statutes.

18 "Master plan" means a long-range development plan for an  
19 area within the Kakaako mauka area which:

20 (1) Describes the overall character of development  
21 envisioned within the area and the manner in which  
22 development projects will be implemented; and



1           (2) Is subject to title 15, subtitle 4, chapter 22,  
2                   subchapter 8, Hawaii Administrative Rules.

3           (b) From the effective date of this Act until the  
4 effective date of the rules adopted pursuant to section 6, the  
5 Hawaii community development authority shall not:

- 6           (1) Accept any master plan application;
- 7           (2) Amend any master plan previously approved; or
- 8           (3) Extend the period of validity of any master plan
- 9                   previously approved.

10           From the effective date of the rules adopted pursuant to  
11 section 6, the Hawaii community development authority may take  
12 any of the actions prohibited under paragraphs (1), (2), and  
13 (3).

14           (c) This subsection shall apply to a major development  
15 within the area of an approved master plan, the application for  
16 which was pending on the effective date of this Act if:

- 17           (1) The major development is a planned development, the  
18                   major development shall be subject to this Act, as may  
19                   be amended, and any implementing rules existing on the  
20                   date of application for the planned development  
21                   permit; and



1 (2) The major development is not a planned development,  
 2 the major development shall be subject to this Act, as  
 3 may be amended, and any implementing rules existing on  
 4 the date of application for the first building permit  
 5 for the major development.

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

8 SECTION 11. This Act shall take effect upon its approval.  
 9

INTRODUCED BY: Richard J. Cutmler

Tom Clary

Marking. May

Mark

Denny Coffey

S.C. Kich. Ag

Karl Mrode

John M. Moore

Tom Brown

Henri Drouot

Maif B. Lee

\_\_\_\_\_

\_\_\_\_\_



**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 1 acre in the Kakaako community development district, mauka area.

