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# A BILL FOR AN ACT

RELATING TO HOUSING DEVELOPMENT.

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

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PART I

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

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

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Make rules with respect to its projects, operations, properties, and facilities, which rules shall be in conformance with chapter 91;
- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and



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



1 otherwise dispose of or encumber any project, and in  
2 the case of the sale of any project, accept a purchase  
3 money mortgage in connection therewith; and repurchase  
4 or otherwise acquire any project which the authority  
5 has theretofore sold or otherwise conveyed,  
6 transferred, or disposed of;

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

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

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



- 1 (14) Provide advisory, consultative, training, and  
2 educational services, technical assistance, and advice  
3 to any person, partnership, or corporation, either  
4 public or private, to carry out the purposes of this  
5 chapter, and engage the services of consultants on a  
6 contractual basis for rendering professional and  
7 technical assistance and advice;
- 8 (15) Procure insurance against any loss in connection with  
9 its property and other assets and operations in such  
10 amounts and from such insurers as it deems desirable;
- 11 (16) Contract for and accept gifts or grants in any form  
12 from any public agency or from any other source;
- 13 (17) Do any and all things necessary to carry out its  
14 purposes and exercise the powers given and granted in  
15 this chapter; and
- 16 (18) Allow satisfaction of [~~any~~] up to \_\_\_\_\_ per cent of  
17 the affordable housing requirements imposed by the  
18 authority upon any proposed development project  
19 through the construction of substitute reserved  
20 housing, as defined in section 206E-101, [~~by a person~~  
21 or by causing substitute reserved housing to be  
22 constructed:



1           (A) On land located [outside the geographic  
2           ~~boundaries of the authority's jurisdiction,~~]

3           within the jurisdiction of the department of  
4           Hawaiian home lands and within the urban core of  
5           Honolulu; and

6           (B) On a one-unit-for-one-unit basis;

7           provided that the authority shall not permit any  
8           person to make cash payments in lieu of providing  
9           reserved housing, except to account for any fractional  
10          unit that results after calculating the percentage  
11          requirement against residential floor space or total  
12          number of units developed [~~—The substituted housing~~  
13          ~~shall be located on the same island as the development~~  
14          ~~project and shall be substantially equal in value to~~  
15          ~~the required reserved housing units that were to be~~  
16          ~~developed on site. The authority shall establish the~~  
17          ~~following priority in the development of reserved~~  
18          ~~housing:~~

19          ~~(A) Within the community development district;~~

20          ~~(B) Within areas immediately surrounding the~~  
21          ~~community development district;~~

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



1       ~~(D) In outlying areas within the same island as the~~  
2               ~~development project.] ;~~

3       provided further that if the development project is  
4       within the Kalaeloa community development district,  
5       established under section 206E-193, the substitute  
6       reserved housing units shall be located on lands  
7       within the jurisdiction of the department of Hawaiian  
8       home lands on the island of Oahu. The development of  
9       substitute reserved housing shall be undertaken only  
10       in accordance with a request for those substitute  
11       reserved housing units submitted by the department of  
12       Hawaiian home lands or the Hawaiian homestead  
13       community associations. All other reserved housing  
14       units shall be constructed within the community  
15       development district where the proposed development  
16       project is located.

17               As used in this paragraph, "urban core of  
18       Honolulu" shall include the neighborhoods from Salt  
19       Lake and Moanalua to Kahala and Maunalani Heights.

20               The Hawaii community development authority  
21       ~~[shall]~~ may adopt rules relating to the ~~[approval]~~  
22       development of substitute reserved housing units that



1           are [~~developed~~] constructed outside of a community  
2           development district. [~~The rules shall include, but  
3           are not limited to, the establishment of guidelines to  
4           ensure compliance with the above priorities.~~] "

5   PART II

6           SECTION 2. The legislature finds that Honolulu has become  
7           the primary urban core for the State, with the increasing  
8           concentration of density at its downtown and Kakaako center. In  
9           Act 153, Session Laws of Hawaii 1976, the legislature created  
10          the Hawaii community development authority as the authority in  
11          charge of the planning and development of Kakaako, one of the  
12          main centers of urban living in Honolulu. This was due to its  
13          central location and largely unplanned and underused condition  
14          at the time.

15          The State realizes the importance of Kakaako due to its  
16          location and has invested millions of dollars in clean-up and  
17          the building of infrastructure so that this area can become a  
18          high density community. The legislature finds that the State  
19          further needs to partner with the landowners in the area to  
20          fully develop this community.

21          The opportunities presented by the planning framework in  
22          place and the fact that there are but a few large landowners in



1 Kakaako make it imperative that planning incentives continue to  
2 be made available for Kakaako in accordance with the Kakaako  
3 development plan.

4 The legislature finds that approval of a master plan by the  
5 Hawaii community development authority in itself does not confer  
6 any vested right upon the approved master plan holder nor estop  
7 the legislature from increasing the reserved housing requirement  
8 within the approved master plan area. This finding is based on  
9 the legislature's belief that the master plan approval does not  
10 represent the final discretionary approval for any development  
11 in the master plan area. The legislature notes that this Act  
12 applies to every "planned development", including any within an  
13 approved master plan area, and that such a planned development  
14 still requires a "planned development permit" from the  
15 authority. According to section 15-22-110, Hawaii  
16 administrative rules, the planned development permit process is  
17 intended to allow "flexibility" to secure better planning and  
18 "incentives" to achieve more efficient use of scarce land. The  
19 legislature believes that "flexibility" and "incentives"  
20 generally are not words associated with ministerial permits.  
21 Finally and most importantly, the legislature finds that the  
22 plain language of the authority's administrative rules indicates





1 that a planned development permit is a discretionary approval.  
2 Section 15-22-111(a), Hawaii administrative rules, states that  
3 "[t]he authority *may* grant a planned development permit for a  
4 development ... which it finds meets the requirements of this  
5 chapter ... [and] *may* impose conditions and requirements upon a  
6 planned development permit as it finds are reasonable and  
7 necessary to carry out the purposes and requirements of this  
8 subchapter (emphasis added)". Thus, the legislature finds that  
9 the permissive "may" and the authority's power to impose  
10 "conditions and requirements" before permit approval clearly  
11 indicate that a planned development permit is discretionary.

12 The legislature also finds that this part has the  
13 significant and legitimate public purpose of increasing the  
14 affordable housing supply in Kakaako. According to the Kakaako  
15 community development district plan, dated February 1982, the  
16 authority had envisioned the development of nineteen thousand  
17 housing units in Kakaako. Of that total, the authority had  
18 intended the development of the following proportions:

19 (1) Two thousand two hundred eighty units, or twelve per  
20 cent, for very low-income households (less than fifty  
21 per cent of median income);



- 1           (2) Four thousand nine hundred forty units, or twenty-six  
2           per cent, for low- and low-moderate income households  
3           (fifty to eighty per cent of median income);
- 4           (3) One thousand three hundred thirty units, or seven per  
5           cent, for "Hula Mae", now termed "gap group",  
6           households (eighty to one hundred twenty per cent of  
7           median income);
- 8           (4) Five thousand seven hundred units, or thirty per cent,  
9           for "unserviced" households (greater than eighty per  
10          cent of median income, but unable to afford to  
11          purchase a unit); and
- 12          (5) Four thousand seven hundred fifty units, or twenty-  
13          five per cent, for "unassisted" households (those not  
14          needing assistance to purchase a unit).

15 This vision, however, has not been achieved. In fact, progress  
16 has been dismal. The Hawaii community development authority  
17 2008 annual report states:

18            "In 1980, there were some 1,100 residences in  
19            Kaka'ako, none of them were reserved for either  
20            affordable rental or sale. Today, the HCDA has  
21            permitted an additional 2,089 market-priced  
22            residential units and directed that an additional



1           1,388 affordable units are [sic] constructed,  
2           with another 63 reserved units released to the  
3           buyers in 2008, and more are on the way."

4 The disparity between the vision and actual situation is  
5 glaring. Thus, the legislature finds that this part is  
6 necessary to promote the development of more affordable housing  
7 units in Kakaako mauka.

8           Because the need for additional reserved housing in Kakaako  
9 mauka is so substantial, and approximately thirty per cent of  
10 the designated redevelopment area is already developed, the  
11 legislature intends that this part apply to the entire mauka  
12 area of the Kakaako community development district, including  
13 portions covered under any master plan approved before the  
14 effective date of this Act. The legislature finds that  
15 excluding the portions covered under an approved master plan  
16 would, in essence, shield a relatively large area from this Act,  
17 an area comprised of relatively large parcels conducive to the  
18 development of reserved housing with other uses. The  
19 legislature finds that those portions must be subject to this  
20 Act to meet the vision of the 1982 Plan.

21           It is imperative that an acceptable quantity of affordable  
22 housing units be provided in Kakaako for Hawaii residents



1 because Hawaii's taxpayers have made a substantial investment in  
2 infrastructural improvements in the Kakaako community  
3 development district dedicating it as the urban core of the city  
4 of Honolulu as an alternative to further urban sprawl in  
5 suburban and rural areas of the island of Oahu.

6 Accordingly, the purpose of this part is to encourage the  
7 development of affordable residential housing units by  
8 statutorily imposing a reserved housing requirement for the  
9 Kakaako mauka area of the Kakaako community development district  
10 for planned developments on land areas of twenty thousand square  
11 feet or more, and to make the reserved housing requirement apply  
12 to areas that are already covered by an approved master plan.

13 SECTION 3. 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 the Kakaako  
17 mauka area. (a) The reserved housing requirement imposed by  
18 this section shall apply only to applications for a planned  
19 development permit project. The countable floor area of a  
20 development on a lot within the Kakaako mauka area shall be  
21 developed and made available for reserved housing units for the  
22 following land areas:



1       (1) Less than twenty thousand square feet, there shall be  
2       no reserved housing requirements;

3       (2) Twenty thousand square feet or more, but less than  
4       eighty thousand square feet, the reserved housing  
5       requirements for any:

6       (A) Residential building square footage shall be  
7       twenty per cent; and

8       (B) Commercial building square footage shall be ten  
9       per cent; and

10       (3) Eighty thousand square feet or more, the reserved  
11       housing requirement for any:

12       (A) Residential building square footage shall be  
13       thirty per cent; and

14       (B) Commercial building square footage shall be  
15       twenty per cent.

16       If a developer is issued a temporary or permanent  
17       certificate of occupancy pursuant to a planned development  
18       permit project containing a reserved housing requirement within  
19       five years from the effective date of this Act, the authority  
20       shall grant a five per cent density bonus for the planned  
21       development permit project for every additional twenty thousand  
22       square feet of floor area designated by the authority as



1 reserved housing beyond the minimum reserved housing square  
2 footage required by this part; provided that the extra density  
3 is used solely for reserved housing units.

4 After five years from the effective date of this Act, each  
5 residential and commercial development percentage requirement  
6 stated above shall be increased by an additional five per cent  
7 of the countable floor area of a development unless the  
8 legislature determines there is adequate reserved housing in  
9 Kakaako at that time.

10 To achieve a proper balance of commercial and residential  
11 uses in the urban core, when a five thousand reserved housing  
12 unit inventory in the Kakaako mauka area has been achieved, all  
13 reserved housing unit requirements for commercial floor area  
14 developments shall terminate.

15 A project that has a building permit and obtains its  
16 certificate of occupancy prior to seven years after the  
17 effective date of this Act shall use the percentage as of the  
18 effective date of this Act.

19 The developer of the development shall divide the floor  
20 area required for reserved housing units into, and construct the  
21 number, types, and sizes of reserved housing units set by the  
22 authority; provided that in lieu of constructing the reserved



1 housing units, the developer may be allowed offsetting credits  
2 pursuant to subsection (b). The authority shall establish sale  
3 prices or rents to be charged that are affordable to families  
4 intended to be served by the reserved housing units. The  
5 authority shall also set the number of parking stalls to be  
6 assigned to the reserved housing units.

7 (b) For lots of eighty thousand square feet or more, the  
8 following flexibility options shall be applicable to allow a  
9 developer to offset the reserved housing unit requirements under  
10 subsection (a):

11 (1) An additional reserved housing unit requirement credit  
12 offset of one-half of one reserved housing unit  
13 requirement credit shall apply if a unit remains an  
14 affordable rental for twenty years; and

15 (2) If a developer transfers land to the authority or  
16 another entity identified by and on terms approved by  
17 the authority, the developer shall receive one-half of  
18 one reserved housing unit requirement credit for each  
19 reserved housing unit developed by the authority or  
20 another entity.

21 (c) Notwithstanding any law to the contrary, the for-sale  
22 reserved housing units shall remain a reserved housing unit for



1 not less than ten years after the sale; provided that if a  
2 purchaser of a reserved housing unit wishes to transfer the  
3 title of the reserved housing unit before the ten-year period  
4 expires, the authority shall have the right of first refusal to  
5 purchase the reserved housing unit at a price that shall not  
6 exceed the sum of:

- 7       (1) The original purchase price of the reserved housing  
8       unit, as defined in rules adopted pursuant to chapter  
9       91 by the authority;
- 10       (2) The cost of any improvement made by the purchaser to  
11       the reserved housing unit, as defined by rules adopted  
12       pursuant to chapter 91 by the authority; and
- 13       (3) Simple interest on the original purchase price of the  
14       reserved housing unit and any capital improvement  
15       costs paid by the purchaser at the rate of one per  
16       cent per year;

17 provided that this subsection shall not apply to any reserved  
18 housing unit that is developed on private land that has not  
19 received any governmental monetary subsidy.

20       (d) All reserved housing units developed shall be exempt  
21 from all infrastructure assessments and public facilities fees  
22 imposed by the authority.





1       (e) The authority shall set the types and sizes of  
2 amenities, in accordance with any limited amenities requirements  
3 as stated in the definition of "reserved housing units", to be  
4 included in the reserved housing units and establish sale prices  
5 or rents to be charged that are affordable to families intended  
6 to be served by the reserved housing units to promote the  
7 provision of the reserved housing units. The authority also  
8 shall set the number of parking stalls to be assigned to the  
9 reserved housing units. The authority may adopt rules providing  
10 for a contribution, in lieu of the provision of reserved housing  
11 units, of a fee simple assignment of real property within the  
12 Kakaako mauka area.

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

21       (g) Any project that provides more reserved housing units  
22 or floor area than is required under this section may transfer



1 excess reserved housing unit credits to another project in the  
2 Kakaako community development district toward satisfaction of  
3 the reserved housing units requirement of that project as  
4 follows:

- 5 (1) \$70,000 for a studio with one bathroom not exceeding  
6 five hundred square feet;
- 7 (2) \$90,000 for a one-bedroom with one bathroom not  
8 exceeding six hundred square feet;
- 9 (3) \$110,000 for a two-bedroom with one bathroom not  
10 exceeding eight hundred fifty square feet;
- 11 (4) \$120,000 for a two-bedroom with one and one-half  
12 bathrooms not exceeding nine hundred square feet;
- 13 (5) \$130,000 for a two-bedroom with two bathrooms not  
14 exceeding one thousand square feet;
- 15 (6) \$135,000 for a three-bedroom with one and one-half  
16 bathrooms not exceeding one thousand one hundred  
17 square feet;
- 18 (7) \$140,000 for a three-bedroom with two bathrooms not  
19 exceeding one thousand two hundred square feet; and
- 20 (8) \$145,000 for a four-bedroom with two bathrooms not  
21 exceeding one thousand three hundred square feet.



1        The authority shall annually review the amount and price  
2 for the transfer of the excess credits and is authorized to  
3 increase the amount as deemed necessary; provided that the  
4 authority shall consider adjustments in construction costs and  
5 changes based on government subsidies received. The terms of  
6 the reserved housing unit credits transfer shall be approved by  
7 the authority.

8        (h) For the purposes of this section:

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) Industrial use;
- 5       (2) Community service use; or
- 6       (3) Special facility use;

7 provided that the term "industrial use" shall be defined by  
8 rules adopted by the authority applicable to the Kakaako  
9 community development district as of the effective date of this  
10 Act.

11       "Development" means the construction of a new building or  
12 other structure on a lot, the relocation of an existing building  
13 on another lot, the use of a tract of land for a new use, or the  
14 enlargement of an existing building or use.

15       "Floor area":

- 16       (1) Means the total area of the several floors of a  
17 building, including basement but not unroofed areas,  
18 measured from the exterior faces of the exterior walls  
19 or from the center line of party walls separating  
20 portions of a building. The floor area of a building  
21 or portion thereof not provided with surrounding  
22 exterior walls shall be the usable area under the



1           horizontal projection of the roof or floor above,  
2           excluding elevator shafts, corridors, and stairways;  
3           and  
4           (2) Shall not include the area for parking facilities and  
5           loading spaces, driveways, access ways, lanai or  
6           balconies of dwelling or lodging units that do not  
7           exceed fifteen per cent of the total floor area of the  
8           units to which they are appurtenant, attic areas with  
9           head room less than seven feet, covered rooftop areas,  
10           and rooftop machinery, equipment, and elevator  
11           hosings on the top of buildings.

12           "Kakaako mauka area" means that portion of the Kakaako  
13           community development district established by section 206E-32,  
14           that is bound by King street, Piikoi street from its  
15           intersection with King street to Ala Moana boulevard, Ala Moana  
16           boulevard, exclusive, from Piikoi street to its intersection  
17           with Punchbowl street, and Punchbowl street to its intersection  
18           with King street.

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

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 payment program.

4 "Planned development permit" means the permit issued by the  
5 authority for new construction developments that are over forty-  
6 five feet in height or have a floor area ratio greater than one  
7 and one-half.

8 "Reserved housing unit":

9 (1) Means a multi-family dwelling unit that is developed  
10 for:

11 (A) Purchase by a family that:

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

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

16 (B) Rent to a family that:

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

19 (ii) Complies with other eligibility requirements  
20 established by statute or rule;



- 1        (2) Shall be one of the following types of dwelling units:
- 2            (A) Studio with one bathroom, not exceeding five
- 3            hundred square feet in size;
- 4            (B) One bedroom with one bathroom, not exceeding six
- 5            hundred square feet in size;
- 6            (C) Two bedrooms with one bathroom, not exceeding
- 7            eight hundred square feet in size;
- 8            (D) Two bedrooms with one and one-half bathrooms, not
- 9            exceeding nine hundred square feet in size;
- 10           (E) Two bedrooms with two bathrooms not exceeding one
- 11           thousand square feet in size;
- 12           (F) Three bedrooms with one and one-half bathrooms,
- 13           not exceeding one thousand one hundred square
- 14           feet in size;
- 15           (G) Three bedrooms with two bathrooms, not exceeding
- 16           one thousand two hundred square feet in size; and
- 17           (H) Four bedrooms with two bathrooms, not exceeding
- 18           one thousand three hundred square feet in size;
- 19           and
- 20        (3) Shall be a multi-family unit that contains limited
- 21        amenities and is not included in a central air
- 22        conditioned building;



1 provided that the reserved housing unit is developed in the  
2 Kakaako mauka area.

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

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

7 "**§206E-4 Powers; generally.** Except as otherwise limited  
8 by this chapter, the authority may:

- 9 (1) Sue and be sued;
- 10 (2) Have a seal and alter the same at pleasure;
- 11 (3) Make and execute contracts and all other instruments  
12 necessary or convenient for the exercise of its powers  
13 and functions under this chapter;
- 14 (4) Make and alter bylaws for its organization and  
15 internal management;
- 16 (5) Make rules with respect to its projects, operations,  
17 properties, and facilities, which rules shall be in  
18 conformance with chapter 91;
- 19 (6) Through its executive director appoint officers,  
20 agents, and employees, prescribe their duties and  
21 qualifications, and fix their salaries, without regard  
22 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  
18          for 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 [~~theretefore~~] 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, to carry out the purposes of this  
3 chapter, and engage the services of consultants on a  
4 contractual basis for rendering professional and  
5 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-101,]~~ 206E-\_\_\_\_, by a person on land located  
20 outside the ~~[geographic boundaries of the authority's~~  
21 ~~jurisdiction; provided that the authority shall not~~  
22 ~~permit any person to make cash payments in lieu of~~



1 ~~providing reserved housing, except to account for any~~  
2 ~~fractional unit that results after calculating the~~  
3 ~~percentage requirement against residential floor space~~  
4 ~~or total number of units developed. The substituted~~  
5 ~~housing shall be located on the same island as the~~  
6 ~~development project and shall be substantially equal~~  
7 ~~in value to the required reserved housing units that~~  
8 ~~were to be developed on site. The authority shall~~  
9 ~~establish the following priority in the development of~~  
10 ~~reserved housing:~~

11 ~~(A) Within the] lot of the proposed development~~  
12 ~~project, but within the same community~~  
13 ~~development district;~~

14 ~~[(B) Within areas immediately surrounding the~~  
15 ~~community development district;~~

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

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

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

20 The Hawaii community development authority shall  
21 adopt rules relating to the approval of reserved  
22 housing [~~that are~~] units to be developed outside [of a



1 ~~community development district. The rules shall~~  
2 ~~include, but are not limited to, the establishment of~~  
3 ~~guidelines to ensure compliance with the above~~  
4 ~~priorities.] the lot of a proposed development~~  
5 ~~project, but within the same community development~~  
6 ~~district, in accordance with this paragraph."~~

7 SECTION 5. Section 206E-15, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§206E-15 Residential projects; cooperative agreements.

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

20 ~~[(b) The authority may transfer the housing fees collected~~  
21 ~~from private residential developments for the provision of~~  
22 ~~housing for residents of low or moderate income to the Hawaii~~



1 ~~housing finance and development corporation for the financing,~~  
2 ~~development, construction, sale, lease, or rental of such~~  
3 ~~housing within or without the community development districts.~~  
4 ~~The fees shall be used only for projects owned by the State or~~  
5 ~~owned or developed by a qualified nonprofit organization. For~~  
6 ~~the purposes of this section, "nonprofit organization" means a~~  
7 ~~corporation, association, or other duly chartered organization~~  
8 ~~registered with the State, which organization has received~~  
9 ~~charitable status under the Internal Revenue Code of 1986, as~~  
10 ~~amended.] "~~

11 SECTION 6. Section 206E-33, Hawaii Revised Statutes, is  
12 amended to read as follows:

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

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



1 guidelines for the public and private sectors in the  
2 proper development of this district; while the  
3 authority's development responsibilities apply only to  
4 the area within the district, the authority may engage  
5 in any studies or coordinative activities permitted in  
6 this chapter [~~which~~] that affect areas lying outside  
7 the district, where the authority in its discretion  
8 decides that those activities are necessary to  
9 implement the intent of this chapter. The studies or  
10 coordinative activities shall be limited to facility  
11 systems, resident and industrial relocation, and other  
12 activities with the counties and appropriate state  
13 agencies. The authority may engage in construction  
14 activities outside of the district; provided that  
15 [~~such~~] the construction relates to infrastructure  
16 development or residential or business relocation  
17 activities; provided further, notwithstanding section  
18 206E-7, that [~~such~~] the construction shall comply with  
19 the general plan, development plan, ordinances, and  
20 rules of the county in which the district is located;

- 21 (2) Existing and future industrial uses shall be permitted  
22 and encouraged in appropriate locations within the



1 district. No plan or implementation strategy shall  
2 prevent continued activity or redevelopment of  
3 industrial and commercial uses [~~which~~] that meet  
4 reasonable performance standards;

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

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

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

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

19 (7) Land use activities within the district, where  
20 compatible, shall to the greatest possible extent be  
21 mixed horizontally, that is, within blocks or other





1 land areas, and vertically, as integral units of  
2 multi-purpose structures;

3 (8) Residential development may require a mixture of  
4 densities, building types, and configurations in  
5 accordance with appropriate urban design guidelines [7]  
6 and the integration, both vertically and horizontally,  
7 of residents of varying incomes, ages, and family  
8 groups; [~~and an increased supply of housing for~~  
9 ~~residents of low or moderate income may be required as~~  
10 ~~a condition of redevelopment in residential use.]~~  
11 provided that the reserved housing requirements of  
12 section 206E- shall be imposed upon a development  
13 when applicable. Residential development shall  
14 provide necessary community facilities, such as open  
15 space, parks, community meeting places, child care  
16 centers, parking stalls consistent with county  
17 requirements, and other services, within and adjacent  
18 to residential development; and

19 (9) Public facilities within the district shall be  
20 planned, located, and developed [~~so as~~] to support the  
21 redevelopment policies for the district established by



1           this chapter and plans and rules adopted pursuant to  
2           it."

3           SECTION 7. Section 206E-101, Hawaii Revised Statutes, is  
4 amended by amending the definition of "reserved housing" to read  
5 as follows:

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

13           SECTION 8. The Hawaii community development authority  
14 shall adopt new or amend existing rules to implement this part  
15 without regard to the public notice and public hearing  
16 requirements of section 91-3, Hawaii Revised Statutes, or the  
17 small business impact review requirements of chapter 201M,  
18 Hawaii Revised Statutes. The authority shall adopt the rules no  
19 later than . Any subsequent amendment of the rules  
20 adopted pursuant to this section shall be subject to all  
21 applicable provisions of chapters 91 and 201M, Hawaii Revised  
22 Statutes.



1 SECTION 9. Any building that has been issued a foundation  
2 or building permit or is under construction prior to the  
3 effective date of this Act shall not be subject to this part or  
4 rules adopted pursuant to section 8 of this Act; provided that  
5 any existing building or building under construction shall not  
6 qualify for any excess housing credit provided for in section 3  
7 of this Act. The development shall be subject to the laws and  
8 rules in effect on the date of the permit application.

9 SECTION 10. (a) Twenty days prior to the convening of the  
10 regular session of 2014, the Hawaii community development  
11 authority shall submit a report to the legislature, including  
12 any proposed legislation, on the status of its reserved housing  
13 program in the Kakaako community development district.

14 (b) The report shall set forth:

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

18 (A) Size and type of unit;

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

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



- 1           (2) The number of reserved housing units that were  
2           provided or are under construction at the time of the  
3           report as a result of the requirements of this part;
- 4           (3) A recommendation whether the reserved housing  
5           requirements contained in this part should be reduced,  
6           remain unchanged, or increased; and
- 7           (4) Any other information that it deems relevant to its  
8           reserved housing program in the Kakaako community  
9           development district.

10           SECTION 11. This part shall apply to the unbuilt portion  
11 of a major development within the area of approval of an  
12 approved master plan; provided that the developer shall have  
13 four years from the effective date of this Act to obtain all  
14 necessary building or planned development permits to start  
15 construction of a specific building, complete any required  
16 grading and infrastructure improvements for the major  
17 development, and commence construction of the unbuilt portion of  
18 the major development before this part shall apply; provided  
19 further that any portion of the required affordable housing  
20 requirement that is completed within the four year period shall  
21 be the only portion that shall not be applicable to the new  
22 requirements imposed by this part.



1 PART III

2 SECTION 12. Statutory material to be repealed is bracketed  
3 and stricken. New statutory material is underscored.

4 SECTION 13. This Act shall take effect on July 1, 2050.



**Report Title:**

Hawaii Community Development Authority; Reserved Housing

**Description:**

Authorizes HCDA to substitute reserved housing projects on DHHL lands. Imposes a retroactive reserved housing requirement for residential and commercial planned development permit projects greater than 45 feet in height or containing a floor area ratio greater than 1 1/2 on a lot 20,000 square feet or greater in size in the Kakaako community development district, mauka area. Repeals the use of in-lieu cash payments and substituted housing not located within the Kakaako district. Effective July 1, 2050. (SB2408 HD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

