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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 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 twenty-five  
5 per cent of the floor area shall be constructed and made  
6 available as reserved housing units for low- and moderate-income  
7 families. The floor area countable for establishing the  
8 percentage for reserved housing units is the total floor area of  
9 every building of the major development, except the floor area  
10 developed for community or special facility uses. The developer  
11 is required to divide the reserved housing floor area into the  
12 number, types, and sizes of reserved housing units set by the  
13 Hawaii community development authority.

14           This Act also establishes a reserved housing requirement  
15 for a planned development with multi-family dwelling units on a  
16 lot of at least twenty thousand square feet, but less than one  
17 acre. At least twenty per cent of the multi-family dwelling  
18 units to be constructed are required to be set aside for



1 reserved housing. This requirement is the same for a planned  
2 development with multi-family dwelling units on a lot of at  
3 least twenty thousand square feet. This requirement is intended  
4 to apply only to a planned development and not any other type of  
5 major development.

6 This Act requires the Hawaii community development  
7 authority to adopt implementing rules without regard to the  
8 notice and public hearing requirements of chapter 91, Hawaii  
9 Revised Statutes. This provision is intended to facilitate  
10 adoption of the rules.

11 To prevent a flurry of permit applications for major  
12 developments on lots of at least one acre before adoption of the  
13 rules, this Act prohibits the authority from accepting  
14 applications until the rules take effect. The legislature finds  
15 that this action is necessary to ensure that the public receives  
16 the maximum benefit from this Act.

17 With respect to the eligibility requirements for a low- or  
18 moderate-income family to purchase or rent a reserved housing  
19 unit, the legislature does not intend that this Act cause any  
20 change from the requirements under existing statute or rule.  
21 The legislature intends that the present eligibility  
22 requirements remain the same until amended by statute or rule.



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

4 "§206E- Reserved housing requirement for Kakaako mauka  
5 area. (a) At least twenty-five per cent of the countable floor  
6 area of each major development on a lot of at least one acre in  
7 the Kakaako mauka area shall be developed as and made available  
8 for reserved housing units. The developer of the major  
9 development shall divide the floor area required for reserved  
10 housing into and construct the number, types, and sizes of  
11 reserved housing units established by the authority. The  
12 authority shall establish sale prices or rents to be charged  
13 that are affordable to families intended to be served by the  
14 reserved housing units. The authority also shall establish the  
15 number of parking stalls to be assigned to the reserved housing  
16 units.

17 The countable floor area upon which the reserved housing  
18 floor area requirement is calculated shall be based on:

19 (1) For a planned development, the countable floor area in  
20 the plan approved by the authority in the planned  
21 development permit for a planned development; or



1       (2) For other major developments, the countable floor area  
2       in the plan submitted to the authority before any  
3       building permit application is submitted.

4       The reserved housing floor area requirement shall not be  
5       changed if, subsequent to the submission or approval of the plan  
6       by the authority, the countable floor area is decreased. If,  
7       however, the countable floor area is increased before the  
8       issuance of a building permit for a building on the lot, the  
9       reserved housing floor area requirement shall be appropriately  
10      increased.

11      (b) For a planned development with multi-family dwelling  
12      units on a lot of between twenty thousand and 43,559 square  
13      feet, at least twenty per cent of the units shall be reserved  
14      housing units. The authority shall establish the types and  
15      sizes of the reserved housing units and establish sale prices or  
16      rents to be charged that are affordable to families intended to  
17      be served by the reserved housing units. The authority also  
18      shall establish the number of parking stalls to be assigned to  
19      the reserved housing units.

20      (c) The reserved housing floor area or units required for  
21      a major development under this section need not be developed on



1 the same lot as the major development, but shall be developed  
2 primarily within the Kakaako mauka area.

3 (d) The authority shall not allow the developer of a major  
4 development to make a cash payment to the authority in lieu of  
5 developing and making available the reserved housing floor area  
6 or units required by this section.

7 (e) The developer of a major development shall construct  
8 the reserved housing floor area or units required by this  
9 section prior to or concurrent with the construction of other  
10 uses of the development. The authority shall prohibit the  
11 issuance of any certificate of occupancy for any of the other  
12 uses before the issuance of the certificate of occupancy for all  
13 the required reserved housing floor area or units.

14 (f) A developer of a major development who develops and  
15 makes available more reserved housing floor area or units than  
16 required by this section shall be entitled to a credit for the  
17 excess and may transfer the credit to another of the developer's  
18 major development in the Kakaako mauka area. The credit shall  
19 equal the amount of reserved housing floor area or units  
20 developed and made available in excess of the requirement of  
21 this section. Any transferred credit shall be deducted from the



1 reserved housing floor area or units required of the developer's  
2 other major development.

3 In the alternative, a developer of a major development with  
4 a development permit approved by Hawaii community development  
5 authority may sell a credit to another developer of a major  
6 development in the Kakaako mauka area at a price mutually agreed  
7 upon. The developer who purchases the credit may deduct the  
8 credit from the reserved housing square footage or units  
9 required for the developer's major development, subject to  
10 Hawaii community development authority's approval.

11 In addition, credit for excess reserved housing may also be  
12 created when a developer converts existing non-reserved housing  
13 units, not in use by those intended to benefit by reserved  
14 housing, into reserved housing within the Kakaako community  
15 development district.

16 Reserved housing credits may also be created if a landowner  
17 or developer transfer or cause to be transferred Kakaako  
18 community development district land to the authority, or another  
19 entity identified by and at a rate approved by the authority,  
20 and which shall be used to construct reserved housing.  
21 Reserved housing credits shall be applied on a one-for-one  
22 basis.



1        (g) The authority shall adopt rules pursuant to chapter 91  
2 and section 6 of this Act to implement this section.

3        (h) For the purpose of this section:

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

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

9        (1) Nursing or convalescent home, nursing facility,  
10 assisted living administration, or ancillary assisted  
11 living amenities for the elderly or persons with  
12 disabilities;

13        (2) Child care, day care, or senior citizen center;

14        (3) Nursery school or kindergarten;

15        (4) Church;

16        (5) Charitable institution or nonprofit organization;

17        (6) Public use; or

18        (7) Consulate.

19        "Countable floor area" of a major development means the  
20 total floor area of every building on the lot of a major  
21 development, except the floor area developed for the following:

22        (1) Community service use; or



1       (2) Special facility use.

2       "Floor area" means the area of the several floors of a  
3 building, including basement but not unroofed areas, measured  
4 from the exterior faces of the exterior walls or from the center  
5 line of party walls separating portions of a building. The  
6 floor area of a building or portion thereof not provided with  
7 surrounding exterior walls shall be the usable area under the  
8 horizontal projection of the roof or floor above, including but  
9 not limited to elevator shafts, corridors, and stairways.

10 "Floor area" shall not include the area for parking facilities  
11 and loading spaces, driveways and access ways, lanais or  
12 balconies of dwelling or lodging units that do not exceed  
13 fifteen per cent of the total floor area of the units to which  
14 they are appurtenant, attic areas with head room less than seven  
15 feet, covered rooftop areas, and rooftop machinery equipment and  
16 elevator housings on the top of buildings.

17       "Floor area ratio" means the ratio of floor area to land of  
18 a development as expressed as a percentage or decimal. The  
19 ratio shall be calculated by dividing the total floor area on a  
20 development lot by the area of the development lot.

21       "Kakaako mauka area" means the area of the Kakaako  
22 community development district mauka of Ala Moana Boulevard.





1 "Major development" means:

2 (1) A planned development; or

3 (2) A development that conforms with the base zoning, but  
4 has a floor area ratio exceeding 1.5, or a structure  
5 height exceeding forty five feet, or both.

6 "Median income" means the median annual income, adjusted  
7 for family size, for households in the city and county of  
8 Honolulu as most recently established by the United States  
9 Department of Housing and Urban Development for the section 8  
10 housing assistance payments program.

11 "Planned development" means a development for which the  
12 authority approves a greater density or any other difference  
13 from the base zoning applicable to the lot on which the  
14 development is situated in exchange for public facilities,  
15 amenities, and reserved housing units provided by the developer.

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

18 (1) Purchase by a family that:

19 (A) Has an income of not more than one hundred forty  
20 per cent of the median income; and

21 (B) Complies with other eligibility requirements  
22 established by statute or rule; or



1        (2) Rent to a family that:

2            (A) Has an income of not more than one hundred per  
3            cent of the median income; and

4            (B) Complies with other eligibility requirements  
5            established by statute or rule.

6    A "reserved housing unit" shall be one of the following types of  
7    dwelling units: studio with one bathroom; one bedroom with one  
8    bathroom; two bedrooms with one bathroom; two bedrooms with one  
9    and one-half bathrooms; two bedrooms with two bathrooms; three  
10   bedrooms with one and one-half bathrooms; three bedrooms with  
11   two bathrooms; or four bedrooms with two bathrooms.

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

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

16        "**§206E-4 Powers; generally.** Except as otherwise limited  
17   by this chapter, the authority may:

18        (1) Sue and be sued;

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

20        (3) Make and execute contracts and all other instruments  
21        necessary or convenient for the exercise of its powers  
22        and functions under this chapter;



- 1           (4) Make and alter bylaws for its organization and  
2                   internal management;
- 3           (5) Make rules with respect to its projects, operations,  
4                   properties, and facilities, which rules shall be in  
5                   conformance with chapter 91;
- 6           (6) Through its executive director appoint officers,  
7                   agents, and employees, prescribe their duties and  
8                   qualifications, and fix their salaries, without regard  
9                   to chapter 76;
- 10          (7) Prepare or cause to be prepared a community  
11                   development plan for all designated community  
12                   development districts;
- 13          (8) Acquire, reacquire, or contract to acquire or  
14                   reacquire by grant or purchase real, personal, or  
15                   mixed property or any interest therein; to own, hold,  
16                   clear, improve, and rehabilitate, and to sell, assign,  
17                   exchange, transfer, convey, lease, or otherwise  
18                   dispose of or encumber the same;
- 19          (9) Acquire or reacquire by condemnation real, personal,  
20                   or mixed property or any interest therein for public  
21                   facilities, including but not limited to streets,



- 1 sidewalks, parks, schools, and other public  
2 improvements;
- 3 (10) By itself, or in partnership with qualified persons,  
4 acquire, reacquire, construct, reconstruct,  
5 rehabilitate, improve, alter, or repair or provide for  
6 the construction, reconstruction, improvement,  
7 alteration, or repair of any project; own, hold, sell,  
8 assign, transfer, convey, exchange, lease, or  
9 otherwise dispose of or encumber any project, and in  
10 the case of the sale of any project, accept a purchase  
11 money mortgage in connection therewith; and repurchase  
12 or otherwise acquire any project [~~which~~] that the  
13 authority has [~~theretofore~~] sold or otherwise  
14 conveyed, transferred, or disposed of;
- 15 (11) Arrange or contract for the planning, replanning,  
16 opening, grading, or closing of streets, roads,  
17 roadways, alleys, or other places, or for the  
18 furnishing of facilities or for the acquisition of  
19 property or property rights or for the furnishing of  
20 property or services in connection with a project;
- 21 (12) Grant options to purchase any project or to renew any  
22 lease entered into by it in connection with any of its



- 1 projects, on such terms and conditions as it deems  
2 advisable;
- 3 (13) Prepare or cause to be prepared plans, specifications,  
4 designs, and estimates of costs for the construction,  
5 reconstruction, rehabilitation, improvement,  
6 alteration, or repair of any project, and from time to  
7 time to modify such plans, specifications, designs, or  
8 estimates;
- 9 (14) Provide advisory, consultative, training, and  
10 educational services, technical assistance, and advice  
11 to any person, partnership, or corporation, either  
12 public or private, to carry out the purposes of this  
13 chapter, and engage the services of consultants on a  
14 contractual basis for rendering professional and  
15 technical assistance and advice;
- 16 (15) Procure insurance against any loss in connection with  
17 its property and other assets and operations in [such]  
18 amounts and from [such] insurers as it deems  
19 desirable;
- 20 (16) Contract for and accept gifts or grants in any form  
21 from any public agency or from any other source;



- 1       (17) Do any and all things necessary to carry out its
- 2             purposes and exercise the powers given and granted in
- 3             this chapter; and
- 4       (18) Allow satisfaction of any affordable housing
- 5             requirements imposed by law or the authority upon any
- 6             proposed development project through the construction
- 7             of reserved housing[~~7~~] units, as defined in section
- 8             [~~206E-101,~~] 206E- , by a person on land located
- 9             outside the geographic boundaries of the authority's
- 10            jurisdiction; provided that the authority shall not
- 11            permit any person to make cash payments in lieu of
- 12            providing reserved housing, except to account for any
- 13            fractional unit that results after calculating the
- 14            percentage requirement against residential floor space
- 15            or total number of units developed. The substituted
- 16            housing shall be located on the same island as the
- 17            development project and shall be substantially equal
- 18            in value to the required reserved housing units that
- 19            were to be developed on site. The authority shall
- 20            establish the following priority in the development of
- 21            reserved housing:
- 22            (A) Within the community development district;



- 1 (B) Within areas immediately surrounding the
- 2 community development district;
- 3 (C) Areas within the central urban core;
- 4 (D) In outlying areas within the same island as the
- 5 development project.

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

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

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

- 20 (1) Development shall result in a community [~~which~~] that
- 21 permits an appropriate land mixture of residential,
- 22 commercial, industrial, and other uses. In view of



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





- 1           (2) Existing and future industrial uses shall be permitted  
2                   and encouraged in appropriate locations within the  
3                   district. No plan or implementation strategy shall  
4                   prevent continued activity or redevelopment of  
5                   industrial and commercial uses [~~which~~] that meet  
6                   reasonable performance standards;
- 7           (3) Activities shall be located [~~se-as~~] to provide primary  
8                   reliance on public transportation and pedestrian  
9                   facilities for internal circulation within the  
10                  district or designated subareas;
- 11          (4) Major view planes, view corridors, and other  
12                  environmental elements such as natural light and  
13                  prevailing winds, shall be preserved through necessary  
14                  regulation and design review;
- 15          (5) Redevelopment of the district shall be compatible with  
16                  plans and special districts established for the Hawaii  
17                  Capital District, and other areas surrounding the  
18                  Kakaako district;
- 19          (6) Historic sites and culturally significant facilities,  
20                  settings, or locations shall be preserved;
- 21          (7) Land use activities within the district, where  
22                  compatible, shall to the greatest possible extent be



1 mixed horizontally, that is, within blocks or other  
2 land areas, and vertically, as integral units of  
3 multi-purpose structures;

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

10           (1) Purchase by a family that has a household income of  
11           not more than one hundred forty per cent of the area  
12           median income; or

13           (2) Rental by a family that has a household income of not  
14           more than one hundred per cent of the area median  
15           income;

16 provided that the family meets other eligibility requirements as  
17 the authority may adopt by rule."

18           SECTION 6. The Hawaii community development authority  
19 shall adopt or amend rules to implement this Act without regard  
20 to the public notice and public hearing requirements of section  
21 91-3, Hawaii Revised Statutes, or the small business impact  
22 review requirements of chapter 201M, Hawaii Revised Statutes.



1 The authority shall adopt the rules before January 1, 2011. Any  
2 subsequent amendment of the rules adopted pursuant to this  
3 section shall be subject to all applicable provisions of chapter  
4 91 and chapter 201M, Hawaii Revised Statutes.

5 SECTION 7. (a) From the effective date of this Act until  
6 the effective date of the rules adopted or amended pursuant to  
7 section 6, the Hawaii community development authority shall not  
8 accept any planned development permit application for a planned  
9 development on a lot of at least one acre.

10 (b) From the effective date of the rules adopted or  
11 amended pursuant to section 6, the Hawaii community development  
12 authority may accept any planned development permit application  
13 for a planned development on a lot of at least one acre.

14 (c) From the effective date of this Act, the Hawaii  
15 community development authority may accept any planned  
16 development permit application for a planned development with  
17 multi-family dwelling units on a lot of between twenty thousand  
18 and 43,559 square feet. The reserved housing unit requirement  
19 for the planned development shall be subject to the statutes and  
20 rules in effect on the date of the permit application.

21 (d) Any planned development permit application pending on  
22 the effective date of this Act shall not be subject to this Act



1 or rules adopted pursuant to section 6. The planned development  
2 shall be subject to the statutes and rules in effect on the date  
3 of the planned development permit application.

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

7 (b) From the effective date of this Act until the  
8 effective date of the rules adopted or amended pursuant to  
9 section 6, the Hawaii community development authority shall  
10 prohibit the issuance of building permits by the city and county  
11 of Honolulu to a developer of a major development subject to  
12 subsection (a).

13 (c) From the effective date of the rules adopted or  
14 amended pursuant to section 6, the Hawaii community development  
15 authority shall allow the issuance of building permits by the  
16 city and county of Honolulu to a developer of a major  
17 development subject to subsection (a).

18 (d) Any major development subject to this section, the  
19 building permit application for which is pending on the  
20 effective date of this Act, shall not be subject to this Act or  
21 rules adopted pursuant to section 6. The major development



1 shall be subject to the statutes and rules in effect on the date  
2 of the building permit application.

3 SECTION 9. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect upon its approval.

6

INTRODUCED BY:

Calvin K. Fry

BY REQUEST

JAN 27 2010



**Report Title:**

Kakaako; 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. Requires the Hawaii community development authority to adopt or amend rules.

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

