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# A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF LAND AND NATURAL RESOURCES.

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

**PART I**

**PUBLIC LAND DEVELOPMENT CORPORATION**

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**"CHAPTER**

**PUBLIC LAND DEVELOPMENT CORPORATION**

**PART I. GENERAL PROVISIONS**

§ -1 **Findings and purpose.** The legislature finds that certain public lands under the jurisdiction of the department of land and natural resources are not used effectively. Public lands in certain areas may serve the State and its people better if managed and developed into suitable recreational and leisure centers where the public can congregate and where visitors to our State can go as part of their holiday experience. However, the department of land and natural resources is hamstrung by its limited mission. Creating a development arm of the department of land and natural resources, similar to the agribusiness



1 development corporation, and placing appropriate public lands  
2 into the new corporation's jurisdiction, may help to create  
3 these recreation and leisure areas, while also creating revenue-  
4 generating opportunities for the new corporation. In turn,  
5 revenues generated may be used to offset the regulatory  
6 functions of the department of land and natural resources.

7 The purpose of this chapter is to create a vehicle and  
8 process to make optimal use of public land for the economic,  
9 environmental, and social benefit of the people of Hawaii. This  
10 chapter establishes a public corporation to administer an  
11 appropriate and culturally-sensitive public land development  
12 program. The corporation shall coordinate and administer  
13 programs to make optimal use of public land, while ensuring that  
14 the public land is maintained for the people of Hawaii. The  
15 corporation shall identify the public lands that are suitable  
16 for development under this chapter, carry on marketing analysis  
17 to determine the best revenue-generating programs for the public  
18 lands identified, enter into public-private agreements to  
19 appropriately develop the public lands identified, and to  
20 provide the leadership for the development, financing,  
21 improvement, or enhancement of the selected development  
22 opportunities.



1           §   -2 **Definitions.** As used in this chapter, unless the  
2 context clearly requires otherwise:

3           "Board" means the board of directors of the public land  
4 development corporation.

5           "Coordinating entrepreneur" means a qualified person  
6 capable of organizing, operating, and assuming the risk for  
7 enterprises that may include securing land and seed capital,  
8 developing or managing commercial or recreational facilities or  
9 projects, arranging concession agreements, supplying materials,  
10 maintaining equipment and infrastructure, and providing for the  
11 processing and marketing of services or products.

12          "Corporation" means the public land development  
13 corporation.

14          "Coventure" means an investment by the corporation in  
15 qualified securities of an enterprise in which a substantial  
16 investment is also being made or has been made by a professional  
17 investor to provide seed capital to an enterprise. A guarantee  
18 by the corporation of qualified securities provided by a  
19 professional investor shall be classified as a coventure. An  
20 investment made by the corporation, which is a direct  
21 investment, may later be classified as a coventure upon an  
22 investment by a professional investor.



1 "Direct investment" means an investment by the corporation  
2 in qualified securities of an enterprise in which no investment  
3 is being or has been made by a professional investor to provide  
4 seed capital to the enterprise.

5 "Enterprise" means a business with its principal place of  
6 business in Hawaii, which is or proposes to be engaged in  
7 recreational and commercial area development, development of new  
8 value-added products, enhancement of existing recreational or  
9 commercial commodities, and the application of existing  
10 recreation or commercial areas and appurtenant facilities to  
11 productive uses.

12 "Fund" means the Hawaii public lands development revolving  
13 fund.

14 "Private lender" includes banks, savings and loan  
15 associations, mortgage companies, and other qualified companies  
16 whose business includes the making of loans in the State.

17 "Professional investor" means any bank, bank holding  
18 company, savings institution, farm credit institution, trust  
19 company, insurance company, investment company registered under  
20 the federal Investment Company Act of 1940, financial services  
21 loan company, pension or profit-sharing trust or other financial  
22 institution or institutional buyer, licensee under the federal



1 Small Business Investment Act of 1958, or any person,  
2 partnership, or other entity of whose resources, a substantial  
3 amount is dedicated to investing in securities or debt  
4 instruments, and whose net worth exceeds \$250,000.

5 "Project" means a specific undertaking, improvement, or  
6 system consisting of work or improvement, including personal  
7 property or any interest therein acquired, constructed,  
8 reconstructed, rehabilitated, improved, altered, or repaired by  
9 the corporation.

10 "Project cost" means the total of all costs incurred by the  
11 corporation in carrying out all undertakings that it considers  
12 reasonable and necessary for the development of a project,  
13 including studies; plans; specifications; architectural,  
14 engineering, or any other development related services;  
15 acquisition of land and any improvement thereon; site  
16 preparation and development; construction; reconstruction;  
17 rehabilitation; the necessary expenses in administering this  
18 chapter; the cost of financing the project; and relocation  
19 costs.

20 "Project facilities" includes roads and streets, utility  
21 and service corridors, utility lines where applicable, water and  
22 irrigation systems, lighting systems, security systems, sanitary



1 sewerage systems, and other community facilities where  
2 applicable.

3 "Qualified person" means any individual, partnership,  
4 corporation, or public agency possessing the competence,  
5 expertise, experience, and resources, including financial,  
6 personnel, and tangible qualifications, as may be deemed  
7 desirable by the corporation in administering this chapter.

8 "Qualified security" means any note, stock, treasury stock  
9 bond, debenture, evidence of indebtedness, certificate of  
10 interest or participation in any profit-sharing agreement,  
11 preorganization certificate of subscription, transferable share,  
12 investment contract, certificate of deposit for a security,  
13 certificate of interest or participation in a patent or patent  
14 application, or in royalty or other payments under such a patent  
15 or application, or, in general, any interest or instrument  
16 commonly known as a "security" or any certificate for, receipt  
17 for, or option, warrant, or right to subscribe to or purchase  
18 any of the foregoing.

19 "Revenue bonds" means bonds, notes, or other evidence of  
20 indebtedness of the corporation issued to finance any project  
21 facility.



1 "Seed capital" means financing that is provided for the  
2 development, refinement, and commercialization of a product or  
3 process and other working capital needs.

4 "Trustee" means a national or state bank or trust company,  
5 within or outside the State, that enters into a trust indenture.

6 "Trust indenture" means an agreement by and between the  
7 corporation and a trustee that sets forth the duties of the  
8 trustee with respect to the revenue bonds, the security thereof,  
9 and other provisions as may be deemed necessary or convenient by  
10 the corporation to secure the revenue bonds.

11 "Value-added" means any activity that increases, by means  
12 of development or any other means, the value of public lands.

13 **§ -3 Public land development corporation; board of**  
14 **directors; established.** (a) There is established the public  
15 land development corporation, which shall be a public body  
16 corporate and politic and an instrumentality and agency of the  
17 State. The corporation shall be headed by a board of directors.  
18 The corporation shall be placed within the department of land  
19 and natural resources for administrative purposes, but the  
20 corporation may later incorporate as a nonprofit corporation if  
21 this proves desirable to further its objectives; provided that  
22 such reorganization as a nonprofit corporation shall not



1 adversely affect the federal tax status of the interest on any  
2 bonds issued to finance any project or project facility.

3 (b) The board of directors of the corporation shall  
4 consist of eleven voting members, of whom eight shall be  
5 appointed by the governor. The terms of these eight members  
6 shall be four years; provided that, commencing on July 1, 2014,  
7 the governor shall reduce the terms of those initially appointed  
8 so as to provide, as nearly as can be, for the expiration of an  
9 equal number of terms at intervals of one year. The eight  
10 members shall be selected on the basis of their knowledge,  
11 experience, and proven expertise in small and large businesses  
12 within the development and recreational industries, banking,  
13 real estate, finance, promotion, marketing, and management. Of  
14 these eight members, one shall be from the city and county of  
15 Honolulu, one shall be from the county of Hawaii, one shall be  
16 from the county of Maui, one shall be from the county of Kauai,  
17 and four shall be appointed at-large. The director of business,  
18 economic development, and tourism and the chairperson of the  
19 board of land and natural resources, or their designated  
20 representatives, shall serve as ex officio, voting members of  
21 the board. All members shall continue in office until their  
22 respective successors have been appointed and qualified. The





1 board shall annually elect its chairperson from among its  
2 members; provided that the chairperson shall not be an  
3 ex officio member.

4 (c) The members of the board shall serve without  
5 compensation, but shall be reimbursed for actual expenses  
6 incurred in the performance of their duties.

7 (d) The board shall appoint an executive director, who  
8 shall serve at the pleasure of the board and shall be exempt  
9 from chapter 76. The salary of the executive director shall be  
10 set by the board.

11 (e) The board, through its executive director, may appoint  
12 officers, agents, and employees; prescribe their duties and  
13 qualifications; and fix their salaries, without regard to  
14 chapter 76.

15 § -4 Powers; generally. Except as otherwise limited by  
16 this chapter, the corporation may:

- 17 (1) Sue and be sued;
- 18 (2) Have a seal and alter the same at its pleasure;
- 19 (3) Make and alter bylaws for its organization and  
20 internal management;



- 1 (4) Adopt rules under chapter 91 necessary to effectuate  
2 this chapter in connection with its projects,  
3 operations, and properties;
- 4 (5) Make and execute contracts and all other instruments  
5 necessary or convenient for the exercise of its powers  
6 and functions under this chapter;
- 7 (6) Carry out surveys, research, and investigations into  
8 technological, business, financial, consumer trends,  
9 and other aspects of leisure or recreational land uses  
10 in the national and international community;
- 11 (7) Acquire or contract to acquire by grant or purchase  
12 any real, personal, or mixed-use property or any  
13 interest therein for its immediate or future use for  
14 the purposes of this chapter; own, hold, improve, and  
15 rehabilitate any real, personal, or mixed property  
16 acquired; and sell, assign, exchange, transfer,  
17 convey, lease, or otherwise dispose of, or encumber  
18 the same;
- 19 (8) By itself, or in partnership with qualified persons or  
20 other governmental agencies, acquire, construct,  
21 reconstruct, rehabilitate, improve, alter, or repair  
22 any infrastructure or accessory facilities in



1 connection with any project; own, hold, sell, assign,  
2 transfer, convey, exchange, lease, or otherwise  
3 dispose of, or encumber any project; and develop or  
4 manage, by itself, or in partnership with qualified  
5 persons or other governmental agencies, any project  
6 that meets the purposes of this chapter;

7 (9) In cooperation with the department of land and natural  
8 resources, pursuant to chapter 171, or other  
9 governmental agency, or otherwise through direct  
10 investment or coventure with a professional investor  
11 or enterprise or any other person, or otherwise,  
12 acquire, construct, operate, and maintain public land  
13 facilities at rates or charges determined by the  
14 corporation;

15 (10) Assist developmental, recreational, and visitor-  
16 industry related enterprises, or projects developed or  
17 managed by the corporation, by conducting detailed  
18 marketing analysis and developing marketing and  
19 promotional strategies to strengthen the position of  
20 those enterprises and to better exploit local,  
21 national, and international markets;



- 1       (11) Carry out specialized programs designed to develop new  
2           markets for recreation and visitor-industry related  
3           products;
- 4       (12) Receive, examine, and determine the acceptability of  
5           applications of qualified persons for allowances or  
6           grants for the development of new recreation and  
7           visitor-industry related products, the expansion of  
8           established recreation and visitor-industry or land  
9           development enterprises, and the altering of existing  
10          recreational, visitor-industry related, or land  
11          development enterprises;
- 12       (13) Coordinate its activities with any federal or state  
13          programs;
- 14       (14) Grant options to purchase any project or to renew any  
15          lease entered into by the corporation in connection  
16          with any of its projects, on the terms and conditions  
17          it deems advisable;
- 18       (15) Provide advisory, consultative, training, and  
19          educational services, technical assistance, and advice  
20          to any person, partnership, or corporation, either  
21          public or private, in order to carry out the purposes  
22          of this chapter, and engage the services of



- 1 consultants on a contractual basis for rendering
- 2 professional and technical assistance and advice;
- 3 (16) Procure insurance against any loss in connection with
- 4 its property and other assets and operations in such
- 5 amounts and from such insurers as it deems desirable;
- 6 (17) Accept gifts or grants in any form from any public
- 7 agency or any other source; and
- 8 (18) Do all things necessary or proper to carry out the
- 9 purposes of this chapter.

10 § -5 Hawaii public land optimization plan. (a) The  
11 corporation shall prepare the Hawaii public land optimization  
12 plan which shall define and establish goals, objectives,  
13 policies, and priority guidelines for its public land  
14 optimization development strategy. The plan shall include:

- 15 (1) An inventory of public lands with suitable adequate  
16 development potential that are or will become  
17 available that can be used to meet present and future  
18 recreational, visitor-industry, or land development  
19 needs;
- 20 (2) Protect culturally-sensitive areas;



1 (3) Feasible strategies for the promotion and marketing of  
2 any leisure or recreational projects in local,  
3 national, and international markets;

4 (4) Strategies to insure the provision of adequate air and  
5 surface transportation services and supporting  
6 facilities to support the visitor industry in meeting  
7 local, national, and international market needs;

8 (5) Proposals to improve the gathering of data and the  
9 timely presentation of information on market demands  
10 and trends that can be used to plan future projects;  
11 and

12 (6) Strategies for federal and state legislative actions  
13 that will promote the development and enhancement of  
14 Hawaii's public lands.

15 (b) The corporation shall revise the Hawaii public lands  
16 optimization plan from time to time and shall incorporate the  
17 plan in its annual report to the governor and the legislature as  
18 provided in section -19.

19 § -6 **Subsidiaries; establishment.** (a) The corporation  
20 may exercise its powers through one or more subsidiary  
21 corporations. The corporation, by resolution, may direct any of  
22 its members, officers, or employees to organize a subsidiary



1 corporation pursuant to either chapter 414 or chapter 414D;  
2 provided that the organization of a subsidiary corporation shall  
3 not adversely affect the federal tax status of the interest on  
4 any bonds issued to finance any project or project facility.  
5 The resolution shall prescribe the purposes for which the  
6 subsidiary corporation is established. The subsidiary  
7 corporation shall remain a subsidiary of the corporation as long  
8 as more than one-half of its voting shares are owned or held by  
9 the corporation, or a majority of its directors are designated  
10 by the corporation; provided that the corporation shall not  
11 convey or otherwise dispose of any subsidiary corporation or  
12 surrender the right to designate a majority of the directors of  
13 any subsidiary corporation if the sale or surrender has an  
14 adverse affect on the federal tax status of the interest on any  
15 bonds issued to finance any project or project facility. The  
16 subsidiary corporation may be operated, maintained, and enhanced  
17 at the full discretion of the corporation or its designee.

18 (b) If the corporation acquires the assets of a private or  
19 other corporation, then, notwithstanding any law to the  
20 contrary:



1 (1) Neither the corporation nor any subsidiary corporation  
2 vested with the assets shall be subject to chapter 91  
3 with respect to the assets;

4 (2) Employees retained to operate the assets shall not be  
5 subject to chapter 76;

6 (3) Assets constituting real property interest shall not  
7 be subject to chapter 171;

8 (4) No investment, loan, or use of funds by the  
9 corporation or a subsidiary corporation vested with  
10 the assets shall be subject to chapter 42F or 103; and

11 (5) Neither the corporation nor a subsidiary corporation  
12 vested with the assets shall constitute a public  
13 utility or be subject to the jurisdiction of the  
14 public utilities commission under chapter 269.

15 (c) The corporation may transfer to any subsidiary  
16 corporation any moneys, any real, personal, or mixed property,  
17 or any project, in order to carry out the purposes of this  
18 chapter. Each subsidiary corporation shall have all the powers  
19 of the corporation.

20 § -7 **Public lands optimization projects; development**

21 **plans.** (a) The corporation may develop and implement public  
22 lands optimization projects where appropriate public lands may





1 be developed or managed to create appropriate leisure or  
2 recreational areas to create revenue-generating centers or  
3 where, through detailed analysis, opportunities exist to exploit  
4 potential local, national, and international markets.

5 (b) The corporation may initiate and coordinate the  
6 preparation of business and public land development plans for  
7 its projects. The plans shall include a proposal for the  
8 organization of the enterprise, a marketing information and  
9 strategy, the impact on existing development or visitor-related  
10 industries throughout the State, and a recommendation for the  
11 construction, reconstruction, rehabilitation, improvement,  
12 alteration, or repair of any infrastructure or accessory  
13 facilities in connection with any project.

14 (c) The corporation may enter into cooperative agreements  
15 with coordinating entrepreneurs or public agencies when the  
16 powers, services, and capabilities of the persons or agencies  
17 are deemed necessary and appropriate for the development and  
18 implementation of the business and public land development  
19 plans.

20 (d) Notwithstanding any provision of this chapter to the  
21 contrary, when leasing corporation-controlled public land, the  
22 corporation may contract with a financial institution chartered



1 under chapter 412 or a federal financial institution, as defined  
2 under section 412:1-109, that transacts business in this State  
3 to provide lease management services. For the purposes of this  
4 subsection, "lease management services" includes the collection  
5 of lease rent and any other moneys owed to the corporation  
6 related to the lease of public land under the corporation's  
7 control.

8 (e) The public land planning activities of the corporation  
9 shall be coordinated with the county planning departments and  
10 the county land use plans, policies, and ordinances.

11 (f) The corporation may amend the business and public land  
12 development plans as may be necessary.

13 (g) Any undertaking by the corporation pursuant to this  
14 chapter shall be with the express written consent of the  
15 landowner or landowners directly affected.

16 § -8 **Project facility program.** (a) The corporation may  
17 develop a project to identify necessary project facilities  
18 within a project area.

19 (b) Unless and except as otherwise provided by law,  
20 whenever the corporation undertakes, or causes to be undertaken,  
21 any project facility as part of a project, the cost of providing  
22 the project facilities shall be assessed against the real



1 property in the project area specially benefiting from the  
2 project facilities. Subject to the express written consent of  
3 the landowners directly affected, the corporation shall  
4 determine the properties that will benefit from the project  
5 facilities to be undertaken and may establish assessment areas  
6 that include the properties specially benefiting from the  
7 project facilities. The corporation may issue and sell bonds in  
8 such amounts as may be authorized by the legislature to provide  
9 funds to finance the project facilities. The corporation shall  
10 fix the assessments against the real property specially  
11 benefited.

12 (c) Unless and except as otherwise provided by law, the  
13 corporation may adopt rules pursuant to chapter 91 to establish  
14 the method of undertaking and financing project facilities in a  
15 project area.

16 (d) Unless and except as otherwise provided by law, bonds  
17 issued to provide funds to finance project facilities shall be  
18 secured solely by the real properties benefited or improved and  
19 the assessments thereon, or by the revenues derived from the  
20 project for which the bonds were issued, including reserve  
21 accounts and earnings thereon, insurance proceeds, and other  
22 revenues, or any combination thereof. The bonds may be



1 additionally secured by the pledge or assignment of loans and  
2 other agreements or any note or other undertaking, obligation,  
3 or property held by the corporation. The bonds shall be issued  
4 according to and subject to the rules adopted pursuant to this  
5 section. Any other law to the contrary notwithstanding, in  
6 assessing real property for project facilities, the corporation  
7 shall assess the real property within a project area according  
8 to the special benefits conferred upon the real property by the  
9 project facilities. These methods may include assessment on a  
10 frontage basis or according to the area of real property within  
11 a project area, or any other assessment method that assesses the  
12 real property according to the special benefit conferred, or any  
13 combination thereof. No such assessment levies against real  
14 property specially benefited under this chapter shall constitute  
15 a tax on real property within the meaning of any law.

16 (e) The rules adopted pursuant to this section may  
17 include:

- 18 (1) The methods of establishing assessment areas within a  
19 project area;
- 20 (2) The method of assessing real properties specially  
21 benefited;



- 1           (3) The costs to be borne by the corporation, the county  
2           in which the project facilities are situated, and the  
3           property owners;
- 4           (4) The procedures before the corporation relating to the  
5           creation of the assessment areas by the owners of real  
6           property therein, including provisions for petitions,  
7           bids, contracts, bonds, and notices;
- 8           (5) Provisions relating to assessments;
- 9           (6) Provisions relating to financing, such as bonds, the  
10          Hawaii public land development revolving fund,  
11          advances from available funds, special funds for the  
12          payment of bonds, the payment of principal and  
13          interest, and the sale and use of bonds;
- 14          (7) Provisions relating to funds and the refunding of  
15          outstanding debts; and
- 16          (8) Provisions relating to limitations on time to sue, and  
17          other related provisions.
- 18          (f) Any other provisions to the contrary notwithstanding,  
19          the corporation, at its discretion, may enter into any agreement  
20          with the county in which project facilities are located, to  
21          implement the purposes of this section.



1 (g) All sums collected under this section shall be  
2 deposited in the fund established by section -17, except that  
3 all moneys collected on account of assessments and interests  
4 thereon for any specific project facilities financed by the  
5 issuance of bonds, shall be set apart in a separate special fund  
6 and applied solely to the payment of:

- 7 (1) The principal and interest on these bonds;
- 8 (2) The cost of administering, operating, and maintaining  
9 the program;
- 10 (3) The establishment of reserves; and
- 11 (4) Other purposes as may be authorized in the proceedings  
12 providing for the issuance of the bonds.

13 If any surplus remains in any special fund after the  
14 payment of the bonds chargeable against that special fund, the  
15 surplus shall be credited to and become a part of the fund.  
16 Notwithstanding any other law to the contrary, moneys in the  
17 fund may be used to make up any deficiencies in the special  
18 fund.

19 (h) If the project facilities to be financed through bonds  
20 by the corporation may be dedicated to the county in which the  
21 project facilities are to be located, the corporation shall

1 ensure that the project facilities are designed and constructed  
2 to meet county requirements.

3 § -8.5 Approval of projects, plans, and programs. All  
4 public lands optimization projects, public land development  
5 plans, and project facility programs developed by the  
6 corporation must be approved by the board of land and natural  
7 resources before implementation.

8 § -9 Bonds. (a) The corporation, with the approval of  
9 the governor, may issue, from time to time, revenue bonds in  
10 amounts not exceeding the total amount of bonds authorized to be  
11 issued by the legislature for the purpose of constructing,  
12 acquiring, remodeling, furnishing, and equipping any project  
13 facility, including the acquisition of the site of the facility;  
14 acquiring non-public lands through purchase to sustain and  
15 preserve leisure or recreational enterprises within a contiguous  
16 geographic area.

17 (b) All revenue bonds shall be issued pursuant to part III  
18 of chapter 39, except as provided in this chapter.

19 (c) The revenue bonds shall be issued in the name of the  
20 corporation and not in the name of the State. The final  
21 maturity date of the revenue bonds may be any date not exceeding  
22 thirty years from the date of issuance.



1           §   -10   **Revenue bonds; payment and security.**   (a)   The  
2   revenue bonds shall be payable from and secured by the real  
3   properties benefited or improved and the assessments thereon, or  
4   by the revenues derived from the project facility for which the  
5   revenue bonds were issued, including revenue derived from  
6   insurance proceeds and reserve accounts, and earnings thereon.

7           (b)   The corporation may pledge revenues derived from the  
8   project facility financed from the proceeds of the revenue bonds  
9   to the punctual payment of the principal, interest, and  
10   redemption premiums, if any, on the revenue bonds.

11          (c)   The revenue bonds may be additionally secured by the  
12   pledge or assignment of the loans and other agreements or any  
13   note or other undertaking, obligation, or property held by the  
14   corporation to secure the loans.

15          (d)   Any pledge made by the corporation shall create a  
16   perfected security interest in the revenues, moneys, or property  
17   so pledged and thereafter received by the corporation, from and  
18   after the time that the financing statement with respect to the  
19   revenues, moneys, or property so pledged and thereafter received  
20   are filed with the bureau of conveyances. Upon this filing, the  
21   revenues, moneys, or property so pledged and thereafter received  
22   by the corporation shall immediately be subject to a lien of any



1 such pledge without any physical delivery thereof or having  
2 claims of any kind in tort, contract, or otherwise against the  
3 corporation, irrespective of whether the parties have notice  
4 thereof. This section shall apply to any financing statement  
5 heretofore or hereafter filed with the bureau of conveyances  
6 with respect to any pledge made to secure revenue bonds issued  
7 under this chapter.

8 § -11 Revenue bonds; interest rate, price, and sale.

9 (a) The revenue bonds issued pursuant to this chapter shall  
10 bear interest at such rate or rates and shall be payable on such  
11 date or dates, as the corporation shall determine.

12 (b) The corporation shall include the costs of undertaking  
13 the project facility for which the revenue bonds are issued in  
14 determining the principal amount of revenue bonds to be issued.  
15 In determining the cost of undertaking the project facility, the  
16 corporation may include:

- 17 (1) The cost of constructing, acquiring, remodeling,  
18 furnishing, and equipping the project facility,  
19 including the acquisition of the site of the facility;
- 20 (2) The cost of purchasing or funding loans or other  
21 agreements entered into for the project facility;
- 22 (3) The costs of studies and surveys;



- 1 (4) Insurance premiums;
- 2 (5) Underwriting fees;
- 3 (6) Financial consultant, legal, accounting, and marketing
- 4 services incurred;
- 5 (7) Reserve account, trustee, custodian, and rating agency
- 6 fees; and
- 7 (8) Any capitalized interest.

8 (c) The revenue bonds may be sold at public or private  
 9 sale, and for a price as may be determined by the corporation.

10 § -12 Revenue bonds; investment of proceeds, and

11 redemption. Subject to any agreement with the holders of its  
 12 revenue bonds, the corporation may:

- 13 (1) Invest its moneys not required for immediate use,  
 14 including proceeds from the sale of revenue bonds, in  
 15 any investment in accordance with procedures  
 16 prescribed in a trust indenture; and
- 17 (2) Purchase its revenue bonds out of any fund or money of  
 18 the corporation available therefor, and hold, cancel,  
 19 or resell the revenue bonds.

20 § -13 Revenue bonds; special funds. (a) A separate  
 21 special fund shall be established for each project facility  
 22 financed from the proceeds of the revenue bonds secured under



1 the same trust indenture. Each fund shall be designated  
2 "project facility revenue bond special fund" and shall bear  
3 additional designation as the corporation deems appropriate to  
4 properly identify the fund.

5 (b) Notwithstanding any other law to the contrary,  
6 including section -17, all revenues, income, and receipts  
7 derived from the project facility for which the revenue bonds  
8 are issued shall be paid into the project facility revenue bond  
9 fund established for that project facility and applied as  
10 provided in the proceedings authorizing the issuance of the  
11 revenue bonds.

12 § -14 **Trustee; designation, duties.** (a) The  
13 corporation shall designate a trustee for each issue of revenue  
14 bonds secured under the same trust indenture.

15 (b) The trustee shall be authorized by the corporation to  
16 hold and administer the project facility revenue bond special  
17 fund established pursuant to section -13, to receive and  
18 receipt for, hold, and administer the revenues derived by the  
19 corporation from the project facility for which the revenue  
20 bonds were issued, and to apply these revenues to the payment of  
21 the cost:

22 (1) Of undertaking the project facility;



- 1           (2) Of administering and operating the proceedings
- 2                 providing for the issuance of the revenue bonds;
- 3           (3) To pay the principal or interest on these bonds;
- 4           (4) To the establishment of reserves; and
- 5           (5) To other purposes as may be authorized in the
- 6                 proceedings providing for the issuance of the revenue
- 7                 bonds.

8           (c) Notwithstanding section 39-68 to the contrary, the  
9 director of finance may appoint the trustee to serve as fiscal  
10 agent for:

- 11           (1) The payment of the principal of and interest on the
- 12                 revenue bonds; and
- 13           (2) The purchase, registration, transfer, exchange, and
- 14                 redemption of the bonds.

15           (d) The trustee shall perform additional functions with  
16 respect to the payment, purchase, registration, transfer,  
17 exchange, and redemption of the bonds, as the director of  
18 finance may deem necessary, advisable, or expeditious, including  
19 the holding of the revenue bonds and coupons that have been paid  
20 and the supervision of the destruction thereof in accordance  
21 with applicable law.



1 (e) Nothing in this chapter shall limit or be construed to  
2 limit the powers granted to the director of finance in sections  
3 36-3, 39-13, and 39-68(a), to appoint the trustee or others as  
4 fiscal agents, paying agents, and registrars for the revenue  
5 bonds or to authorize and empower those fiscal agents, paying  
6 agents, and registrars to perform the functions referred to in  
7 those sections.

8 § -15 **Trust indenture.** (a) A trust indenture may  
9 contain covenants and provisions authorized by part III of  
10 chapter 39, and as may be deemed necessary or convenient by the  
11 corporation for the purposes of this chapter.

12 (b) A trust indenture may allow the corporation to pledge  
13 and assign to the trustee loans and other agreements related to  
14 the project facility, and the rights of the corporation  
15 thereunder, including the right to receive revenues thereunder  
16 and to enforce the provisions thereof.

17 (c) A trust indenture shall also contain provisions as to:

18 (1) The investment of the proceeds of the revenue bonds,  
19 the investment of any reserve for the bonds, the  
20 investment of the revenues of the project facility,  
21 and the use and application of the earnings from  
22 investments; and



1           (2) The terms and conditions upon which the holders of the  
2           revenue bonds or any portion of them or any trustee  
3           thereof may institute proceedings for the foreclosure  
4           of any loan or other agreement or any note or other  
5           undertaking, obligation, or property securing the  
6           payment of the bonds and the use and application of  
7           the moneys derived from the foreclosure.

8           (d) A trust indenture may also contain provisions deemed  
9           necessary or desirable by the corporation to obtain or permit,  
10          by grant, interest, subsidy, or otherwise, the participation of  
11          the federal government in the financing of the costs of  
12          undertaking the project facility.

13           §   -16   Use of public lands; acquisition of state lands.

14          (a) Notwithstanding chapter 171 to the contrary, the department  
15          of land and natural resources may transfer lands under its  
16          jurisdiction to the corporation for its use.

17          (b) If state lands under the control and management of  
18          other public agencies are required by the corporation for its  
19          purposes, the agency having the control and management of those  
20          required lands, upon request by the corporation and with the  
21          approval of the governor, may lease the lands to the corporation



1 upon such terms and conditions as may be agreed to by the  
2 parties.

3 (c) Notwithstanding subsection (b) to the contrary, no  
4 public lands shall be leased to the corporation if the lease  
5 would impair any covenant between the State or any county, or  
6 any department or board thereof, and the holders of bonds issued  
7 by the State or the county, department, or board.

8 § -17 Hawaii public land development revolving fund;  
9 established; use of corporation funds. (a) There is  
10 established the Hawaii public land development revolving fund,  
11 to which shall be credited any state appropriations to the fund  
12 or other moneys made available to the fund, to be expended as  
13 directed by the corporation.

14 (b) The corporation shall hold the fund in an account or  
15 accounts separate from other funds. The corporation shall  
16 invest and reinvest the fund and the income thereof to:

17 (1) Purchase qualified securities issued by enterprises  
18 for the purpose of raising seed capital; provided that  
19 the investment shall comply with the requirements of  
20 this chapter;



1 (2) Make grants, loans, and provide other monetary forms  
2 of assistance necessary to carry out the purposes of  
3 this chapter; and

4 (3) Purchase securities as may be lawful investments for  
5 fiduciaries in the State.

6 All appropriations, grants, contractual reimbursements, and  
7 other funds not designated for this purpose may be used to pay  
8 for the proper general expenses and to carry out the purposes of  
9 the corporation.

10 (c) The corporation shall purchase qualified securities  
11 issued by an enterprise only after:

12 (1) Receiving:

13 (A) An application from the enterprise containing a  
14 business plan, which is consistent with the  
15 business and public land development plan,  
16 including a description of the enterprise and its  
17 management, product, and market;

18 (B) A statement of the amount, timing, and projected  
19 use of the capital required;

20 (C) A statement of the potential economic impact of  
21 the enterprise, including the number, location,  
22 and types of jobs expected to be created; and





- 1 (D) Any other information as the corporation shall  
2 require;
- 3 (2) Determining, based upon the application submitted,  
4 that:
- 5 (A) The proceeds of the investment will be used only  
6 to cover the seed capital needs of the  
7 enterprise, except as authorized in this section;
- 8 (B) The enterprise has a reasonable chance of  
9 success;
- 10 (C) The enterprise has the reasonable potential to  
11 create employment within the State and offers  
12 employment opportunities to residents;
- 13 (D) The coordinating entrepreneur and other founders  
14 of the enterprise have already made or are  
15 prepared to make a substantial financial and time  
16 commitment to the enterprise;
- 17 (E) The securities to be purchased are qualified  
18 securities;
- 19 (F) There is reasonable possibility that the  
20 corporation will recoup at least its initial  
21 investment; and



1 (G) Binding commitments have been made to the  
2 corporation by the enterprise for adequate  
3 reporting of financial data to the corporation,  
4 which shall include a requirement for an annual  
5 or other periodic audit of the books of the  
6 enterprise, and for control by the corporation  
7 that it considers prudent over the management of  
8 the enterprise, in order to protect the  
9 investment of the corporation, including  
10 membership on the board of directors of the  
11 enterprise, ownership of voting stock, input in  
12 management decisions, and the right of access to  
13 the financial and other records of the  
14 enterprise; and

15 (3) Entering into a binding agreement with the enterprise  
16 concerning the manner of payback by the enterprise of  
17 the funds advanced, granted, loaned, or received from  
18 the corporation. The manner of payback may include  
19 the payment of dividends, returns from the public sale  
20 of corporate securities or products, royalties, and  
21 other methods of payback acceptable to the  
22 corporation. In determining the manner of payback the



1 corporation shall establish a rate of return or rate  
2 of interest to be paid on any investment, loan, or  
3 grant of corporation funds under this section.

4 (d) If the corporation makes a direct investment, it shall  
5 also find that a reasonable effort has been made to find a  
6 professional investor to make an investment in the enterprise as  
7 a coventure, and that the effort was unsuccessful. The  
8 findings, when made by the corporation, shall be conclusive.

9 (e) The corporation shall make investments in qualified  
10 securities issued by an enterprise in accordance with the  
11 following limits:

12 (1) Not more than \$500,000 shall be invested in the  
13 securities of any one enterprise, except that more  
14 than a total of \$500,000 may be invested in the  
15 securities of any one enterprise, if the corporation  
16 finds, after its initial investment, that additional  
17 investments in that enterprise are required to protect  
18 the initial investment of the corporation, and the  
19 other findings set forth in subsections (d) and (e)  
20 are made as to the additional investment;

21 (2) The corporation shall not own securities representing  
22 more than forty-nine per cent of the voting stock of



1 any one enterprise at the time of purchase by the  
2 corporation after giving effect to the conversion of  
3 all outstanding convertible securities of the  
4 enterprise, except that in the event of severe  
5 financial difficulty of the enterprise, threatening  
6 the investment of the corporation in the enterprise, a  
7 greater percentage of those securities may be owned by  
8 the corporation; and

9 (3) Not more than fifty per cent of the assets of the  
10 corporation shall be invested in direct investments at  
11 any time.

12 (f) No investment, loan, grant, or use of corporate funds  
13 for the purposes of this chapter shall be subject to chapter  
14 42F.

15 § -18 **Exemption from taxation.** The corporation shall  
16 not be required to pay state taxes of any kind.

17 § -19 **Annual report.** The corporation shall submit to  
18 the governor and the legislature, no later than twenty days  
19 prior to the convening of each regular session, a complete and  
20 detailed report of its plans and activities.

21 **PART II. ACQUISITION OF APPROPRIATE PUBLIC LANDS**



1           §   -31   **Acquisitions of appropriate public lands**

2   **authorized by the legislature.** (a) The legislature may  
3   authorize the corporation to acquire non-public lands for the  
4   purposes of this chapter.

5           (b) The acquisition shall be authorized by a bill enacted  
6   into law and shall contain:

7           (1) A statement of the value of the interest in land as a  
8           resource to the State;

9           (2) A description of the specific parcel of land or  
10          easement proposed to be acquired;

11          (3) The name of the owner of the property; and

12          (4) The estimated costs of acquiring the interest in the  
13          land.

14          (c) The landowner shall receive payment for the interest  
15   in the land in a lump sum, through an installment purchase  
16   agreement as determined pursuant to section   -32, or from  
17   revenues derived from the issuance of revenue bonds pursuant to  
18   section   -32.

19          §   -32   **Acquisitions; payment.** (a) If the landowner  
20   agrees to the sale of the interest in lands pursuant to section  
21   -31, the landowner and the corporation shall agree on whether  
22   the landowner shall receive payment for the interest in a lump



1 sum or through an installment purchase agreement pursuant to  
2 section -33.

3 (b) The corporation may make payments from moneys  
4 appropriated by the legislature.

5 § -33 **Installment purchase agreements; interest payment.**

6 (a) The legislature may authorize the corporation to negotiate  
7 installment purchase agreements for the acquisition of specific  
8 parcels of land for the purposes of this chapter. The  
9 installment purchase agreements shall be structured pursuant to  
10 the requirements of the Internal Revenue Code, to defer  
11 recognition of capital gain until all of the purchase price is  
12 paid. The agreement shall include provisions for the periodic  
13 payment of a portion of the purchase price with the remainder of  
14 the purchase price paid at the end of the term of the agreement.  
15 The legislature shall authorize the purchase of United States  
16 Treasury zero coupon bonds for the installment purchase  
17 agreement with a maturity date equal to the term of the  
18 agreement.

19 (b) The interest rate paid on the installment purchase  
20 agreement shall be not less than the interest rate on the zero  
21 coupon bonds at the closing of the agreement or eight per cent,  
22 whichever is higher.



1 (c) The corporation shall make semi-annual interest  
2 payments on the outstanding balance of the installment purchase  
3 agreement purchase price."

4 **PART II**

5 **REHABILITATION OF THE ALA WAI SMALL BOAT HARBOR**

6 SECTION 2. The department of land and natural resources,  
7 through its division of boating and ocean recreation, operates  
8 and manages 21 harbors, 50 boat ramps, 2,122 moorings and  
9 berths, and 19 piers spread throughout the various counties of  
10 the State. The legislature finds that these ocean recreation  
11 facilities, in light of the present demand, are in short supply  
12 and, in most cases where they exist, are in dire need of long  
13 overdue repair and maintenance. Some facilities are in such  
14 need of repair and replacement that they cannot be used and pose  
15 public safety hazards.

16 One of these facilities, the Ala Wai small boat harbor, has  
17 been the recipient of some recent badly needed repair and  
18 replacement of floating docks; however, the need for further  
19 maintenance remains unfulfilled. In spite of its needs, the Ala  
20 Wai small boat harbor includes certain assets within its  
21 facilities that are under-used and, if properly developed, can  
22 potentially generate revenues that can benefit not only its



1 continued improvement and maintenance but also benefit the rest  
2 of the facilities now operated by the division of boating and  
3 ocean recreation.

4 The legislature finds that the State cannot afford to let  
5 the value of our small boat harbors continue to decline.

6 The purpose of this part is to:

- 7 (1) Allow the limited issuance of commercial use permits  
8 for vessels with assigned moorings in Ala Wai and  
9 Keehi harbors;
- 10 (2) Provide for future mooring fees to be established by  
11 appraisal by a state-licensed appraiser; and
- 12 (3) Direct the department of land and natural resources to  
13 use the request for proposals process to enter into a  
14 public-private partnership for the development of  
15 portions of Ala Wai small boat harbor facilities that  
16 are presently under-used to maximize the revenue  
17 potential from its facilities.

18 SECTION 3. Section 200-2.5, Hawaii Revised Statutes, is  
19 amended by amending subsections (b) and (c) to read as follows:

20 "(b) The permissible uses under any lease disposed of  
21 under this section shall be consistent with the purpose for  
22 which the land was set aside by the governor pursuant to section





1 171-11. Permissible uses may include any use that will  
2 complement or support the ocean recreation or maritime  
3 activities of state boating facilities.

4 (c) Disposition of public lands of state boating  
5 facilities constructed, maintained, and operated in accordance  
6 with this chapter shall not exceed a maximum term of [~~fifty-~~  
7 ~~five]~~ sixty-five years."

8 SECTION 4. Section 200-8, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "[+]§200-8[+] **Boating program; payment of costs.** The cost  
11 of administering a comprehensive statewide boating program,  
12 including[~~7~~] but not limited to[~~7~~] the cost of:

- 13 (1) Operating, maintaining, and managing all boating  
14 facilities under the control of the department;  
15 (2) Improving boating safety;  
16 (3) Operating a vessel registration and boating casualty  
17 investigation and reporting system; and  
18 (4) Other boating program activities,

19 shall be paid from the boating special fund[~~-~~]; provided that  
20 any fees collected from state small boat harbors shall only be  
21 expended on costs related to the operation, upkeep, maintenance,  
22 and improvement of state small boat harbors. The amortization



1 (principal and interest) of the costs of capital improvements  
2 for boating facilities appropriated after July 1, 1975,  
3 including [7] but not limited to [7] berths, slips, ramps, related  
4 accommodations, general navigation channels, breakwaters, aids  
5 to navigation, and other harbor structures, may be paid from the  
6 boating special fund or from general revenues as the legislature  
7 may authorize in each situation. Revenues provided in this  
8 chapter for the boating special fund shall be at least  
9 sufficient to pay the special fund costs established in this  
10 section."

11 SECTION 5. Section 200-9, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§200-9 Purpose and use of state small boat harbors. (a)**

14 State small boat harbors are constructed, maintained, and  
15 operated for the purposes of:

- 16 (1) Recreational boating activities;  
17 (2) Landing of fish; and  
18 (3) Commercial vessel activities.

19 For the purpose of this section, "recreational boating  
20 activities" means the [utilization] use of watercraft for  
21 sports, hobbies, or pleasure, and "commercial vessel activities"  
22 means the [utilization] use of vessels for activities or



1 services provided on a fee basis. To implement these purposes,  
2 only vessels in good material and operating condition that are  
3 regularly navigated beyond the confines of the small boat  
4 harbor[7] and [which] that are used for recreational activities,  
5 the landing of fish, or commercial vessel activities shall be  
6 permitted to moor, anchor, or berth at [~~such~~] a state small boat  
7 harbor or use any of its facilities.

8 (b) Vessels used for purposes of recreational boating  
9 activities [~~which~~] that are also the principal habitation of the  
10 owners shall occupy no more than one hundred twenty-nine berths  
11 at Ala Wai boat harbor and thirty-five berths at Keehi boat  
12 harbor, which is equal to fifteen per cent of the respective  
13 total moorage space that was available as of July 1, 1976, at  
14 the Ala Wai and Keehi boat harbors. [~~Notwithstanding the~~  
15 ~~purposes of small boat harbors, moorage for commercial vessels~~  
16 ~~and commercial vessel activities is not permitted in the Ala Wai~~  
17 ~~and Keehi boat harbors; provided that]~~

18 (c) The total number of valid commercial use permits that  
19 may be issued for vessels assigned mooring in Ala Wai boat  
20 harbor shall not exceed fifteen per cent of the total berths and  
21 shall not exceed thirty-five per cent of the total berths at the



1 Keehi boat harbor; provided that at the Ala Wai boat harbor,  
2 vessels issued commercial use permits shall:

- 3       (1) Not exceed sixty-five feet in length;
- 4       (2) Occupy not more than fifty-six berths located along  
5       the row of berths furthestmost mauka or adjacent to  
6       Holomua street, with the remainder located throughout  
7       the Ala Wai boat harbor, with a priority assigned to  
8       row seven hundred and row eight hundred;
- 9       (3) Be phased-in in a manner that does not displace any  
10       existing recreational boater or existing catamaran  
11       operator; and
- 12       (4) Include commercial catamarans, for which valid  
13       commercial use permits or existing registration  
14       certificates have been issued by the department  
15       [which] that allow the catamarans to operate upon  
16       Waikiki shore waters for hire [~~may be permitted to~~  
17       ~~moor in Ala Wai boat harbor at facilities leased for~~  
18       ~~commercial purposes~~].

19       The department shall allow a sole proprietor of a catamaran  
20       operating with a valid commercial use permit or existing  
21       registration certificate, issued by the department, for a  
22       commercial catamaran to land its commercial catamaran on Waikiki



1 beach and to operate upon Waikiki shore waters for hire, to  
2 transfer the ownership of the vessel from personal ownership to  
3 corporate or other business ownership without terminating the  
4 right to operate under the commercial use permit or existing  
5 registration certificate. The existing commercial use permit or  
6 existing registration certificate shall be reissued in a timely  
7 manner in the name of the transferee corporation or other  
8 business entity. No valid commercial use permit or existing  
9 registration certificate issued to an owner of a commercial  
10 catamaran operating in the Waikiki area shall be denied or  
11 revoked without a prior hearing held in accordance with chapter  
12 91.

13 [~~e~~] (d) Notwithstanding any limitations on commercial  
14 permits for Maui county small boat facilities, vessels engaging  
15 in inter-island ferry service within Maui county shall be  
16 afforded preferential consideration for ferry landings,  
17 including the issuance of a commercial operating permit and the  
18 waiver of any applicable fees, at Maui county small boat  
19 facilities; provided that:

20 (1) The vessel operator has been issued a certificate of  
21 public convenience and necessity for the purpose of



1 engaging in inter-island ferry service that includes a  
2 route within Maui county;

3 (2) The design and performance characteristics of the  
4 vessel will permit safe navigation within the harbor  
5 entrance channel and safe docking within Maui county  
6 small boat facilities;

7 (3) The vessel operations will not result in unreasonable  
8 interference with the use of Maui county small boat  
9 facilities by other vessels; and

10 (4) All preferential consideration and waivers, including  
11 any commercial permits issued under this section,  
12 shall cease upon the vessel operator's termination of  
13 inter-island ferry service within Maui county.

14 [~~(d)~~] (e) The chairperson may adopt rules pursuant to  
15 chapter 91 to further implement this section."

16 SECTION 6. Section 200-10, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:

18 "(c) The permittee shall pay moorage fees to the  
19 department for the use permit that shall be based on~~[\_]~~ but not  
20 limited to~~[\_]~~ the use of the vessel, its effect on the harbor,  
21 use of facilities, and the cost of administering this mooring  
22 program; and, furthermore:



- 1           (1) ~~[Moorage]~~ Except for commercial maritime activities  
2           where there is a tariff established by the department  
3           of transportation, moorage fees shall be established  
4           by appraisal by a state-licensed appraiser approved by  
5           the department and shall be higher for  
6           nonresidents[+]. The mooring fees shall be set by  
7           appraisal categories schedule A and schedule B, to be  
8           determined by the department, and may be increased  
9           annually by the department, to reflect a cost-of-  
10          living index increase;
- 11          (2) For commercial maritime activities where there is a  
12          tariff established by the department of  
13          transportation, harbors division, the department may  
14          adopt the published tariff of the department of  
15          transportation, harbors division, or establish the fee  
16          by appraisal by a state licensed appraiser approved by  
17          the department; and
- 18          ~~[(+)]~~ (3) An application fee shall be collected when  
19          applying for moorage in state small boat harbors and  
20          shall thereafter be collected annually when the  
21          application is renewed. The application fee shall be:
- 22          (A) Set by the department; and



1 (B) Not less than \$100 for nonresidents;

2 [~~3~~] (4) If a recreational vessel is used as a place of  
3 principal habitation, the permittee shall pay, in  
4 addition to the moorage fee, a liveaboard fee that  
5 shall be calculated at a rate of:

6 (A) \$5.20 a foot of vessel length a month if the  
7 permittee is a state resident; and

8 (B) \$7.80 a foot of vessel length a month if the  
9 permittee is a nonresident;

10 provided that the liveaboard fees established by this  
11 paragraph may be increased by the department at the  
12 rate of the annual cost-of-living index, but not more  
13 than five per cent in any one year, beginning  
14 [~~January~~] July 1 of each year; [~~and~~

15 ~~(4)~~ (5) If a vessel is used for commercial purposes from  
16 its permitted mooring, the permittee shall pay, in  
17 lieu of the moorage and liveaboard fee, a fee based on  
18 three per cent of the gross revenues derived from the  
19 use of the vessel or two times the moorage fee  
20 assessed for a recreational vessel of the same size,  
21 whichever is greater ~~[=]~~ ; and





1       (6) In addition, the department is authorized to assess  
2       and collect utility fees, including electrical and  
3       water charges, and common area maintenance fees in  
4       small boat harbors."

5       SECTION 7. (a) Pursuant to section 200-2.5, Hawaii  
6 Revised Statutes, the department of land and natural resources  
7 is directed to lease certain fast lands at the Ala Wai harbor  
8 using the request for proposals process for the public-private  
9 development, management, and operation of areas of Ala Wai  
10 harbor.

11       (b) The permissible uses under this lease shall include:

12       (1) A minimum of not less than one hundred twenty berths  
13       for vessels; provided that:

14       (A) Not more than forty berths shall be available for  
15       vessels used for purposes of recreational boating  
16       activities that are also the principal habitation  
17       of the owners;

18       (B) Not more than thirty berths, including those  
19       allowed pursuant to section 200-9(b), Hawaii  
20       Revised Statutes, shall be available for vessels  
21       issued commercial use permits; and



- 1 (C) All berths provided under this paragraph shall be
- 2 made available to the public pursuant to
- 3 department of land and natural resources rules,
- 4 with moorage fees to be determined by the
- 5 developer;
- 6 (2) Office space, including a minimum of square
- 7 feet for division of boating and ocean recreation use;
- 8 (3) Vehicular parking, including a minimum of
- 9 parking stalls for division of boating and
- 10 ocean recreation use and for public metered parking;
- 11 (4) Commercial uses, including but not limited to
- 12 restaurants, retail shops, marine supplies shops, and
- 13 sundry stores, all made available to the public;
- 14 (5) Residential, hotel, and timeshare uses; provided that
- 15 the use is consistent with neighboring parcels with a
- 16 developable height limit of three hundred fifty feet
- 17 and a maximum floor area ratio of four;
- 18 (6) The development of a seawater air conditioning
- 19 district cooling facility designed to support the
- 20 visitor industry in Waikiki in the vicinity of Ala Wai
- 21 harbor;
- 22 (7) Vessel fueling facilities;



- 1 (8) Vessel haul-out and repair facilities; and  
2 (9) Vessel haul-out and storage facilities.  
3 (c) The lease shall not exceed a maximum term of  
4 sixty-five years and shall provide for:  
5 (1) A minimum lease rent that is the greater of a  
6 commercially acceptable percentage of the gross  
7 receipts of the lessee from the developed leased  
8 premises or a fair return on the fair market value of  
9 the vacant leased premises, as determined by appraisal  
10 by a state-licensed appraiser approved by the  
11 department, with reasonable periodic step-ups in the  
12 minimum lease rent over the term of the lease; and  
13 (2) A three-year development period with a fixed reduced  
14 lease rent.  
15 (d) Chapter 171 and section 190D-33, Hawaii Revised  
16 Statutes, notwithstanding, all revenues from the lease shall be  
17 deposited in the boating special fund.

18 **PART III**

19 **MISCELLANEOUS PROVISIONS**

20 SECTION 8. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.

22



1 SECTION 9. This Act shall take effect upon its approval.

2



**Report Title:**

DLNR; Public Land Development Corporation; Ala Wai Boat Harbors

**Description:**

Establishes a public corporation to administer an appropriate and culturally-sensitive public land development program; allows the limited issuance of commercial use permits for vessels with assigned moorings in Ala Wai and Keehi harbors; provides for future mooring fees to be established by appraisal by a state-licensed appraiser; and directs the department of land and natural resources to use the request for proposals process to enter into a public-private partnership for the development of portions of Ala Wai small boat harbor facilities that are presently under-used to maximize the revenue potential from its facilities. (SD1)

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

