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# A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC LANDS DEVELOPMENT CORPORATION.

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

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

4                                 "CHAPTER

5                                 HAWAII PUBLIC LANDS DEVELOPMENT CORPORATION

6           § -1 **Findings and purpose.** The legislature finds that  
7 public lands are at a crossroads in history as competing forces  
8 between development, affordable housing, and conservation vie  
9 for limited public lands. Although the department of land and  
10 natural resources must consider the financial means by which it  
11 may continue performing its duties, these financial  
12 considerations should not undermine the fundamental purposes of  
13 the department, including the preservation and management of  
14 public lands.

15           The purpose of this chapter is to create the public lands  
16 development corporation to make optimal use of public lands for  
17 the economic, environmental, and social benefit of the people of  
18 Hawaii.



1           §   -2 **Definitions.** As used in this chapter:

2           "Board" means the board of directors of the Hawaii public  
3 lands development corporation.

4           "Coordinating entrepreneur" means a qualified person  
5 capable of organizing, operating, and assuming the risk for  
6 enterprises that may include securing land and seed capital,  
7 supplying materials, and maintaining equipment and  
8 infrastructure.

9           "Corporation" means the Hawaii public lands development  
10 corporation.

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

20          "Direct investment" means an investment by the corporation  
21 in qualified securities of an enterprise in which no investment



1 is being or has been made by a professional investor to provide  
2 seed capital to the enterprise.

3 "Enterprise" means a business with its principal place of  
4 business in Hawaii, which is, or proposes to be, engaged in land  
5 management and land development, development of new value-added  
6 products, enhancement of existing public lands and appurtenant  
7 facilities to productive uses.

8 "Fund" means the Hawaii public lands development revolving  
9 fund.

10 "Professional investor" means any bank, bank holding  
11 company, savings institution, farm credit institution, trust  
12 company, insurance company, investment company registered under  
13 the federal Investment Company Act of 1940, financial services  
14 loan company, pension or profit-sharing trust or other financial  
15 institution or institutional buyer, licensee under the federal  
16 Small Business Investment Act of 1958, or any person,  
17 partnership, or other entity of whose resources, a substantial  
18 amount is dedicated to investing in securities or debt  
19 instruments, and whose net worth exceeds \$250,000.

20 "Project" means a specific undertaking, improvement, or  
21 system consisting of work or improvement, including personal  
22 property or any interest therein, acquired, constructed,



1 reconstructed, rehabilitated, improved, altered, or repaired by  
2 the corporation.

3 "Project cost" means the total of all costs incurred by the  
4 corporation in carrying out all undertakings that it considers  
5 reasonable and necessary for the development of a project,  
6 including, but not limited to: studies; plans; specifications;  
7 architectural, engineering, or any other development related  
8 services; acquisition of land and any improvement thereon; site  
9 preparation and development; construction; reconstruction;  
10 rehabilitation; the necessary expenses in administering this  
11 chapter; the cost of financing the project; and relocation  
12 costs.

13 "Project facilities" includes roads and streets, utility  
14 and service corridors, utility lines where applicable, water and  
15 irrigation systems, lighting systems, security systems, sanitary  
16 sewerage systems, and other community facilities where  
17 applicable.

18 "Public lands" shall have the same meaning as in section  
19 171-2.

20 "Qualified person" includes any individual, partnership,  
21 corporation, or public agency possessing the competence,  
22 expertise, experience, and resources, including financial,



1 personnel, and tangible qualifications, as may be deemed  
2 desirable by the corporation in administering this chapter.

3 "Revenue bonds" means bonds, notes, or other evidence of  
4 indebtedness of the corporation issued to finance any project  
5 facility.

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

16 § -3 **Hawaii public lands development corporation; board**  
17 **of directors; established.** (a) There is established the Hawaii  
18 public lands development corporation, which shall be a public  
19 body corporate and politic and an instrumentality and agency of  
20 the State. The corporation shall be headed by a board of  
21 directors. The corporation shall be placed within the  
22 department of land and natural resources for administrative



1 purposes, but the corporation may later incorporate as a  
2 nonprofit corporation if this proves desirable to further its  
3 objectives; provided that any reorganization as a nonprofit  
4 corporation shall not adversely affect the federal tax status of  
5 the interest on any bonds issued to finance any project or  
6 project facility.

7 (b) The board of directors of the corporation shall  
8 consist of eleven voting members, of whom eight shall be  
9 appointed by the governor. The terms of these eight members  
10 shall be four years; provided that, commencing on July 1, 2012,  
11 the governor shall reduce the terms of those initially appointed  
12 so as to provide, as nearly as can be, for the expiration of an  
13 equal number of terms at intervals of one year. The eight  
14 members shall be selected on the basis of their knowledge,  
15 experience, and proven expertise in land conservation, land  
16 economics, banking, real estate, finance, promotion, marketing,  
17 and management. Of these eight members, one shall be from the  
18 city and county of Honolulu, one shall be from the county of  
19 Hawaii, one shall be from the county of Maui, one shall be from  
20 the county of Kauai, and four shall be appointed at-large. The  
21 director of business, economic development, and tourism; the  
22 chairperson of the board of land and natural resources, or their



1 designated representatives, shall be ex-officio, voting members  
2 of the board. All members shall continue in office until their  
3 respective successors have been appointed and qualified. The  
4 board shall annually elect its chairperson from among its  
5 members; provided that the chairperson shall not be an ex-  
6 officio member.

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

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

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

18 § -4 Powers; generally. Except as otherwise limited by  
19 this chapter, the corporation may:

20 (1) Sue and be sued;

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



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





1 improve, alter, or repair any infrastructure or  
2 accessory facilities in connection with any project;  
3 and own, hold, sell, assign, transfer, convey,  
4 exchange, lease, or otherwise dispose of, or encumber  
5 any project;

6 (9) In cooperation with the department of land and natural  
7 resources, pursuant to chapter 171, or otherwise  
8 through direct investment or coventure with a  
9 professional investor or enterprise or any other  
10 person, or otherwise, acquire, construct, operate, and  
11 maintain projects; provided that:

12 (A) This chapter shall not be construed to permit or  
13 allow the department of land and natural  
14 resources to:

15 (i) Amend or modify rights or entitlements to  
16 water as provided for by article XI, section  
17 7, of the Constitution of the State of  
18 Hawaii; the Hawaiian Homes Commission Act,  
19 1920, as amended; and chapter 168;

20 (ii) Diminish or abridge the traditional and  
21 customary rights of ahupuaa tenants who



1                   inhabited the Hawaiian islands prior to 1778  
2                   under sections 1-1 and 7-1; and

3                   (iii) Impair, abridge, or terminate the legal  
4                   rights or interests to water and its uses,  
5                   whether by lease, easement, or other means,  
6                   which are possessed or held by organizations  
7                   whose primary purpose is to benefit people  
8                   of Hawaiian ancestry; and

9                   (B) All usage of water shall be in accordance with  
10                  chapter 174C and other applicable laws in the  
11                  State;

12                  (10) Coordinate its activities with any federal or state  
13                  farm credit programs;

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

18                  (12) 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 (13) 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 (14) Accept gifts or grants in any form from any public
- 7 agency or any other source; and
- 8 (15) Do all things necessary or proper to carry out the
- 9 purposes of this chapter.

10 § -5 Public land development projects. (a) The  
11 corporation may develop and implement public land development  
12 projects where there are large tracts of public lands.

13 (b) The corporation may initiate and coordinate the  
14 preparation of public land development plans for its projects,  
15 and a recommendation for the construction, reconstruction,  
16 rehabilitation, improvement, alteration, or repair of any  
17 infrastructure or accessory facilities in connection with any  
18 project.

19 (c) The corporation may enter into cooperative agreements  
20 with coordinating entrepreneurs or public agencies when the  
21 powers, services, and capabilities of the persons or agencies



1 are deemed necessary and appropriate for the development and  
2 implementation of public land development plans.

3 (d) The corporation may purchase, accept, and maintain  
4 permanent conservation easements, or transfer these easements.

5 (e) Notwithstanding any provision of this chapter to the  
6 contrary, when leasing corporation-controlled public land, the  
7 corporation may contract with a financial institution chartered  
8 under chapter 412 or a federal financial institution, as defined  
9 under section 412:1-109, that transacts business in this State  
10 to provide lease management services. For the purposes of this  
11 subsection, "lease management services" includes the collection  
12 of lease rent and any other moneys owed to the corporation  
13 related to the lease of public land under the corporation's  
14 control.

15 (f) The public land planning activities of the corporation  
16 shall be coordinated with the county planning departments and  
17 the county land use plans, policies, and ordinances.

18 (g) The corporation may amend the public land development  
19 plans as may be necessary.

20 (h) Any undertaking by the corporation pursuant to this  
21 chapter shall be with the express written consent of the State.



1           §   -6 **Project facility program.** (a) The corporation may  
2 develop a project to identify necessary project facilities  
3 within a project area.

4           (b) Unless and except as otherwise provided by law, the  
5 corporation may adopt rules pursuant to chapter 91 to establish  
6 the method of undertaking and financing project facilities in a  
7 project area.

8           (c) Unless and except as otherwise provided by law, bonds  
9 issued to provide funds to finance project facilities shall be  
10 secured solely by the State or by the revenues derived from the  
11 project for which the bonds were issued, including reserve  
12 accounts and earnings thereon, insurance proceeds, and other  
13 revenues, or any combination thereof. The bonds may be  
14 additionally secured by the pledge or assignment of loans and  
15 other agreements or any note or other undertaking, obligation,  
16 or property held by the corporation. The bonds shall be issued  
17 according to and subject to the rules adopted pursuant to this  
18 section.

19           (d) The rules adopted pursuant to this section may  
20 include:

21           (1) The methods of establishing assessment areas within a  
22 project area;



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



1 (f) All sums collected under this section shall be  
2 deposited in the Hawaii public lands development revolving fund,  
3 except that all moneys collected on account of assessments and  
4 interests thereon for any specific project facilities financed  
5 by the issuance of bonds, shall be set apart in a separate  
6 special fund 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 (g) 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 § -7 **Approval of projects, plans, and programs.** All  
4 projects, project development plans, and project facility  
5 programs developed by the corporation must be approved by the  
6 board of land and natural resources.

7 § -8 **Bonds.** (a) The corporation, with the approval of  
8 the governor, may issue, from time to time, revenue bonds in  
9 amounts not exceeding the total amount of bonds authorized to be  
10 issued by the legislature for the purpose of constructing,  
11 acquiring, remodeling, furnishing, and equipping any project  
12 facility, including the acquisition of the site of the facility;  
13 acquiring lands through purchase to augment and preserve public  
14 lands within a contiguous geographic area; or acquiring public  
15 lands for the protection of those public lands and public land  
16 banking.

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           §   -9   **Revenue bonds; payment and security.**   (a)   The  
2 revenue bonds shall be payable from and secured by the State or  
3 by the revenues derived from the project facility for which the  
4 revenue bonds were issued, including revenue derived from  
5 insurance proceeds and reserve accounts, and earnings thereon.

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

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

14          (d)   Any pledge made by the corporation shall create a  
15 perfected security interest in the revenues, moneys, or property  
16 so pledged and thereafter received by the corporation, from and  
17 after the time that the financing statement with respect to the  
18 revenues, moneys, or property so pledged and thereafter received  
19 are filed with the bureau of conveyances. Upon this filing, the  
20 revenues, moneys, or property so pledged and thereafter received  
21 by the corporation shall immediately be subject to a lien of any  
22 such pledge without any physical delivery thereof or having



1 claims of any kind in tort, contract, or otherwise against the  
 2 corporation, irrespective of whether the parties have notice  
 3 thereof. This section shall apply to any financing statement  
 4 heretofore or hereafter filed with the bureau of conveyances  
 5 with respect to any pledge made to secure revenue bonds issued  
 6 under this chapter.

7 § -10 Revenue bonds; interest rate, price, and sale.

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

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

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



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

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

9 § -11 **Revenue bonds; investment of proceeds, and**  
10 **redemption.** Subject to any agreement with the holders of its  
11 revenue bonds, the corporation may:

12 (1) Invest its moneys not required for immediate use,  
13 including proceeds from the sale of revenue bonds, in  
14 any investment in accordance with procedures  
15 prescribed in a trust indenture; and

16 (2) Purchase its revenue bonds out of any fund or money of  
17 the corporation available therefor, and hold, cancel, or resell  
18 the revenue bonds.

19 § -12 **Revenue bonds; special funds.** (a) A separate  
20 special fund shall be established for each project facility  
21 financed from the proceeds of the revenue bonds secured under  
22 the same trust indenture. Each fund shall be designated



1 "project facility revenue bond special fund" and shall bear  
2 additional designation as the corporation deems appropriate to  
3 properly identify the fund.

4 (b) Notwithstanding any other law to the contrary,  
5 including section -16, all revenues, income, and receipts  
6 derived from the project facility for which the revenue bonds  
7 are issued shall be paid into the project facility revenue bond  
8 fund established for that project facility and applied as  
9 provided in the proceedings authorizing the issuance of the  
10 revenue bonds.

11 § -13 **Trustee; designation, duties.** (a) The  
12 corporation shall designate a trustee for each issue of revenue  
13 bonds secured under the same trust indenture.

14 (b) The trustee shall be authorized by the corporation to  
15 hold and administer the Hawaii public lands development  
16 revolving fund, to receive and receipt for, hold, and administer  
17 the revenues derived by the corporation from the project  
18 facility for which the revenue bonds were issued, and to apply  
19 these revenues to the payment of the cost:

20 (1) Of undertaking the project facility;

21 (2) Of administering and operating the proceedings  
22 providing for the issuance of the revenue bonds;



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

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

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

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

20 (e) Nothing in this chapter shall limit or be construed to  
21 limit the powers granted to the director of finance in sections  
22 36-3, 39-13, and 39-68, to appoint the trustee or others as



1 fiscal agents, paying agents, and registrars for the revenue  
2 bonds or to authorize and empower those fiscal agents, paying  
3 agents, and registrars to perform the functions referred to in  
4 those sections.

5 § -14 **Trust indenture.** (a) A trust indenture may  
6 contain covenants and provisions authorized by part III of  
7 chapter 39, and as may be deemed necessary or convenient by the  
8 corporation for the purposes of this chapter.

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

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

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

20 (2) The terms and conditions upon which the holders of the  
21 revenue bonds or any portion of them or any trustee  
22 thereof may institute proceedings for the foreclosure



1 of any loan or other agreement or any note or other  
2 undertaking, obligation, or property securing the  
3 payment of the bonds and the use and application of  
4 the moneys derived from the foreclosure.

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

10 § -15 Use of public lands; acquisition of state lands.

11 (a) Notwithstanding chapter 171, the governor may transfer  
12 lands located within a project area to the corporation for its  
13 use.

14 (b) If state lands under the control and management of  
15 other public agencies are required by the corporation for its  
16 purposes, the agency having the control and management of those  
17 required lands, upon request by the corporation and with the  
18 approval of the governor, may lease the lands to the corporation  
19 upon such terms and conditions as may be agreed to by the  
20 parties.

21 (c) Notwithstanding subsection (b), no public lands shall  
22 be leased to the corporation if the lease would impair any



1 covenant between the State or any county, or any department or  
2 board thereof, and the holders of bonds issued by the State or  
3 the county, department, or board.

4 § -16 Hawaii public lands development revolving fund;

5 established; use of corporation funds. (a) There is  
6 established the Hawaii public lands revolving fund, to which  
7 shall be credited any state appropriations to the fund or other  
8 moneys made available to the fund, to be expended as directed by  
9 the corporation.

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

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

16 (2) Purchase securities as may be lawful investments for  
17 fiduciaries in the State.

18 All appropriations, grants, contractual reimbursements, and  
19 other funds not designated for this purpose may be used to pay  
20 for the proper general expenses and to carry out the purposes of  
21 the corporation.





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

3 (1) Receiving:

4 (A) An application from the enterprise containing a  
5 business plan, which is consistent with public  
6 lands development, including a description of the  
7 enterprise and its management, product, and  
8 market;

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

11 (C) A statement of the potential economic impact of  
12 the enterprise, including the number, location,  
13 and types of jobs expected to be created; and

14 (D) Any other information as the corporation shall  
15 require;

16 (2) Determining, based upon the application submitted,  
17 that:

18 (A) The enterprise has a reasonable chance of  
19 success;

20 (B) The enterprise has the reasonable potential to  
21 create employment within the State and offers  
22 employment opportunities to residents;



- 1 (C) The coordinating entrepreneur and other founders
- 2 of the enterprise have already made or are
- 3 prepared to make a substantial financial and time
- 4 commitment to the enterprise;
- 5 (D) The securities to be purchased are qualified
- 6 securities;
- 7 (E) There is reasonable possibility that the
- 8 corporation will recoup at least its initial
- 9 investment; and
- 10 (F) Binding commitments have been made to the
- 11 corporation by the enterprise for adequate
- 12 reporting of financial data to the corporation,
- 13 which shall include a requirement for an annual
- 14 or other periodic audit of the books of the
- 15 enterprise, and for control by the corporation
- 16 that it considers prudent over the management of
- 17 the enterprise, in order to protect the
- 18 investment of the corporation, including
- 19 membership on the board of directors of the
- 20 enterprise, ownership of voting stock, input in
- 21 management decisions, and the right of access to



1           the financial and other records of the  
2           enterprise; and

3       (3) Entering into a binding agreement with the enterprise  
4       concerning the manner of payback by the enterprise of  
5       the funds advanced, granted, loaned, or received from  
6       the corporation. The manner of payback may include  
7       the payment of dividends, returns from the public sale  
8       of corporate securities or products, royalties, and  
9       other methods of payback acceptable to the  
10       corporation. In determining the manner of payback the  
11       corporation shall establish a rate of return or rate  
12       of interest to be paid on any investment, loan, or  
13       grant of corporation funds under this section.

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

19       (e) The corporation shall not make investments in  
20       qualified securities issued by an enterprise in excess of the  
21       following limits:



- 1 (1) Not more than \$500,000 shall be invested in the  
2 securities of any one enterprise, except that more  
3 than a total of \$500,000 may be invested in the  
4 securities of any one enterprise, if the corporation  
5 finds, after its initial investment, that additional  
6 investments in that enterprise are required to protect  
7 the initial investment of the corporation, and the  
8 other findings set forth in subsections (d) and (e)  
9 are made as to the additional investment;
- 10 (2) The corporation shall not own securities representing  
11 more than forty-nine per cent of the voting stock of  
12 any one enterprise at the time of purchase by the  
13 corporation after giving effect to the conversion of  
14 all outstanding convertible securities of the  
15 enterprise, except that in the event of severe  
16 financial difficulty of the enterprise, threatening  
17 the investment of the corporation in the enterprise, a  
18 greater percentage of those securities may be owned by  
19 the corporation; and
- 20 (3) Not more than fifty per cent of the assets of the  
21 corporation shall be invested in direct investments at  
22 any time.



1 (f) No investment, loan, grant, or use of corporate funds  
2 for the purposes of this chapter shall be subject to chapter  
3 42F.

4 § -17 **Exemption from taxation.** The corporation shall  
5 not be required to pay state taxes of any kind.

6 § -18 **Annual report.** The corporation shall submit to  
7 the governor and the legislature, no later than twenty days  
8 prior to the convening of each regular session, a complete and  
9 detailed report of its plans and activities."

10 SECTION 2. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$ or so  
12 much thereof as may be necessary for fiscal year 2011-2012 and  
13 the same sum or so much thereof as may be necessary for fiscal  
14 year 2012-2013 to carry out the purposes of this Act, including  
15 the hiring of necessary staff.

16 The sums appropriated shall be expended by the department  
17 of land and natural resources for the purposes of this Act.

18 SECTION 3. This Act shall take effect on July 1, 2011.

19



**Report Title:**

Public Lands; Hawaii Public Lands Development Corporation;  
Appropriation

**Description:**

Creates the Hawaii public lands development corporation to optimize the use of public lands for the economic, environmental, and social benefit of the people of Hawaii. Creates the Hawaii public lands development revolving fund. Appropriate funds. (SD1)

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

