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# A BILL FOR AN ACT

RELATING TO NATIVE HAWAIIAN TRADITIONAL AND CUSTOMARY RIGHTS.

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

1           SECTION 1. Chapter 171C, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§171C-    Protection of traditional and customary rights.

5 Notwithstanding any provision of this chapter to the contrary,  
6 the corporation shall consult with the office of Hawaiian  
7 affairs regarding the corporation's projects, activities, and  
8 rules, to ensure that its activities and rules shall not  
9 diminish any right, customarily and traditionally exercised for  
10 subsistence, cultural, and religious purposes and possessed by  
11 ahupuaa tenants who are descendants of native Hawaiians who  
12 inhabited the Hawaiian Islands prior to 1778, subject to the  
13 right of the State to regulate such rights, as stated in article  
14 XII, section 7, of the Hawaii state constitution and relevant  
15 case law."

16           SECTION 2. Section 171C-5, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:



1           "(a) The corporation shall prepare the Hawaii public land  
2 optimization plan, which shall define and establish goals,  
3 objectives, policies, and priority guidelines for its public  
4 land optimization development strategy. The plan shall include:

5           (1) An inventory of public lands with suitable, adequate  
6 development potential that are or will become  
7 available that can be used to meet present and future  
8 land development needs;

9           (2) Protection of culturally-sensitive areas[+] and  
10 cultural practices, including traditional and  
11 customary native Hawaiian rights protected pursuant to  
12 article XII, section 7, of the Hawaii state  
13 constitution;

14           (3) Feasible strategies for the promotion and marketing of  
15 any projects, including but not limited to leisure,  
16 recreational, commercial, residential, time share,  
17 hotel, office space, and business projects, in local,  
18 national, and international markets;

19           (4) Proposals to improve the gathering of data and the  
20 timely presentation of information on market demands  
21 and trends that can be used to plan future projects;  
22 and



1 (5) Strategies for federal and state legislative actions  
2 that will promote the development and enhancement of  
3 Hawaii's public lands."

4 SECTION 3. Section 171C-6, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) The corporation [~~may~~] shall initiate and coordinate  
7 the preparation of business and public land development plans  
8 for each of its projects. The plans shall include [a]:

9 (1) A proposal for the organization of the enterprise[~~;~~  
10 a] i

11 (2) A marketing strategy[~~;~~ ~~marketing-related~~] i

12 (3) Marketing-related information[~~;~~ ~~the~~] i

13 (4) The impact on existing development or visitor-related  
14 industries throughout the State[~~;~~ ~~and a~~] i

15 (5) A recommendation for the construction, reconstruction,  
16 rehabilitation, improvement, alteration, or repair of  
17 any infrastructure or accessory facilities in  
18 connection with any project[~~;~~] i and

19 (6) A culturally sensitive development plan that shall  
20 include:



- 1           (A) The identification and description of the  
2           cultural practices, including traditional and  
3           customary native Hawaiian rights protected  
4           pursuant to article XII, section 7, of the Hawaii  
5           state constitution, and cultural, historic, and  
6           natural resources in the ahupuaa in which the  
7           project is proposed;
- 8           (B) An assessment of the project's potential effects  
9           on cultural practices, including traditional and  
10           customary native Hawaiian rights protected  
11           pursuant to article XII, section 7, of the Hawaii  
12           state constitution, and cultural, historic, and  
13           natural resources; and
- 14           (C) Proposed mitigation measures to address the  
15           project's potential effects, as assessed pursuant  
16           to subparagraph (B)."

17           SECTION 4. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: \_\_\_\_\_

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# S.B. NO. 2215

**Report Title:**

Public Land Development; Tradition and Customary Rights

**Description:**

Requires the public land development corporation to consult with the office of Hawaiian affairs on the corporation's projects, activities, and rules. Requires the Hawaii public land optimization plan to include protection of traditional and customary native Hawaiian rights. Requires the corporation to initiate and coordinate development plans to include a culturally sensitive development plan.

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

