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# A BILL FOR AN ACT

RELATING TO PUBLIC LAND.

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

1           SECTION 1. Act 55, Session Laws of Hawaii 2011, codified  
2 as chapter 171C, Hawaii Revised Statutes, created the public  
3 land development corporation. Section 171C-1, Hawaii Revised  
4 Statutes, states in pertinent part:

5           "The purpose of this chapter is to create a vehicle and  
6 process to make optimal use of public land for the  
7 economic, environmental, and social benefit of the people  
8 of Hawaii. This chapter establishes a public corporation  
9 to administer an appropriate and culturally-sensitive  
10 public land development program. The corporation shall  
11 coordinate and administer programs to make optimal use of  
12 public land, while ensuring that the public land is  
13 maintained for the people of Hawaii."

14           The legislature finds that Act 55 has engendered  
15 significant public concern and scrutiny due in part to the fact  
16 that projects undertaken pursuant to Act 55 are exempt from  
17 state and county laws regarding land use, zoning, and  
18 construction standards for subdivisions, development, and



1 improvement of land. In addition, concerns have been raised  
2 regarding inadequate notice given to the public to testify on  
3 the exemption provisions. The exemptions, coupled with the  
4 manner in which Act 55 was passed, have led to distrust and  
5 uncertainty of the public land development corporation's  
6 intentions and development plans. Despite efforts to allay  
7 concerns, many individuals and organizations, particularly  
8 environmental and native Hawaiian organizations, have expressed  
9 support for legislation to repeal Act 55.

10 The legislature further finds that the implementation of  
11 Act 55 falls short of "ensuring that the public land is  
12 maintained for the people of Hawaii." The intent of the  
13 legislature is to ensure that the public lands of Hawaii are  
14 used and administered in an equitable and transparent manner  
15 that should not necessarily be relegated to administrative  
16 decision-making or rule-making on an ad hoc basis. While the  
17 optimization of the use of public lands is a meritorious goal  
18 with the potential to significantly benefit the people of  
19 Hawaii, achieving this goal requires a greater respect for  
20 existing laws and procedures and greater assurance that the  
21 public land development corporation is the vehicle that will



1 produce economic, environmental, and social benefit for the  
2 people of Hawaii.

3 The legislature further finds that the county councils of  
4 Kauai and Maui have adopted resolutions urging the legislature  
5 to abolish the public land development corporation by repealing  
6 chapter 171C, Hawaii Revised Statutes. The Honolulu city  
7 council has considered a similar resolution, but has yet to  
8 adopt such a resolution.

9 The purpose of this Act is to repeal chapter 171C, Hawaii  
10 Revised Statutes, relating to the public land development  
11 corporation.

12 SECTION 2. Section 171-2, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§171-2 Definition of public lands. "Public lands" means  
15 all lands or interest therein in the State classed as government  
16 or crown lands previous to August 15, 1895, or acquired or  
17 reserved by the government upon or subsequent to that date by  
18 purchase, exchange, escheat, or the exercise of the right of  
19 eminent domain, or in any other manner; including lands accreted  
20 after May 20, 2003, and not otherwise awarded, submerged lands,  
21 and lands beneath tidal waters that are suitable for



1 reclamation, together with reclaimed lands that have been given  
2 the status of public lands under this chapter, except:

3 (1) Lands designated in section 203 of the Hawaiian Homes  
4 Commission Act, 1920, as amended;

5 (2) Lands set aside pursuant to law for the use of the  
6 United States;

7 (3) Lands being used for roads and streets;

8 (4) Lands to which the United States relinquished the  
9 absolute fee and ownership under section 91 of the  
10 Hawaiian Organic Act prior to the admission of Hawaii  
11 as a state of the United States unless subsequently  
12 placed under the control of the board of land and  
13 natural resources and given the status of public lands  
14 in accordance with the state constitution, the  
15 Hawaiian Homes Commission Act, 1920, as amended, or  
16 other laws;

17 (5) Lands to which the University of Hawaii holds title;

18 (6) Lands to which the Hawaii housing finance and  
19 development corporation in its corporate capacity  
20 holds title;

21 (7) Lands to which the Hawaii community development  
22 authority in its corporate capacity holds title;



1 (8) Lands to which the department of agriculture holds  
 2 title by way of foreclosure, voluntary surrender, or  
 3 otherwise, to recover moneys loaned or to recover  
 4 debts otherwise owed the department under chapter 167;

5 (9) Lands that are set aside by the governor to the Aloha  
 6 Tower development corporation; lands leased to the  
 7 Aloha Tower development corporation by any department  
 8 or agency of the State; or lands to which the Aloha  
 9 Tower development corporation holds title in its  
 10 corporate capacity;

11 (10) Lands that are set aside by the governor to the  
 12 agribusiness development corporation; lands leased to  
 13 the agribusiness development corporation by any  
 14 department or agency of the State; or lands to which  
 15 the agribusiness development corporation in its  
 16 corporate capacity holds title; and

17 (11) Lands to which the high technology development  
 18 corporation in its corporate capacity holds title[+  
 19 and

20 ~~(12) Lands which are set aside by the governor to the~~  
 21 ~~public land development corporation; lands leased to~~  
 22 ~~the public land development corporation by any~~



1           ~~department or agency of the State; or lands to which~~  
2           ~~the public land development corporation holds title in~~  
3           ~~its corporate capacity]."~~

4           SECTION 3. Section 171-64.7, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6           "(a) This section applies to all lands or interest therein  
7 owned or under the control of state departments and agencies  
8 classed as government or crown lands previous to August 15,  
9 1895, or acquired or reserved by the government upon or  
10 subsequent to that date by purchase, exchange, escheat, or the  
11 exercise of the right of eminent domain, or any other manner,  
12 including accreted lands not otherwise awarded, submerged lands,  
13 and lands beneath tidal waters [~~which~~] that are suitable for  
14 reclamation, together with reclaimed lands [~~which~~] that have  
15 been given the status of public lands under this chapter,  
16 including:

- 17           (1) Land set aside pursuant to law for the use of the  
18           United States;
- 19           (2) Land to which the United States relinquished the  
20           absolute fee and ownership under section 91 of the  
21           Organic Act prior to the admission of Hawaii as a  
22           state of the United States;



- 1 (3) Land to which the University of Hawaii holds title;
- 2 (4) Land to which the Hawaii housing finance and  
3 development corporation in its corporate capacity  
4 holds title;
- 5 (5) Land to which the department of agriculture holds  
6 title by way of foreclosure, voluntary surrender, or  
7 otherwise, to recover moneys loaned or to recover  
8 debts otherwise owed the department under chapter 167;
- 9 (6) Land that is set aside by the governor to the Aloha  
10 Tower development corporation; or land to which the  
11 Aloha Tower development corporation holds title in its  
12 corporate capacity;
- 13 (7) Land that is set aside by the governor to the  
14 agribusiness development corporation; or land to which  
15 the agribusiness development corporation in its  
16 corporate capacity holds title; and
- 17 (8) Land to which the high technology development  
18 corporation in its corporate capacity holds title[+  
19 and
- 20 ~~(9) Land that is set aside by the governor to the public~~  
21 ~~land development corporation or land to which the~~



1           ~~public land development corporation holds title in its~~  
2           ~~corporate capacity]."~~

3           SECTION 4. Section 173A-4, Hawaii Revised Statutes, is  
4 amended by amending subsections (c) and (d) to read as follows:

5           "(c) The board [~~shall~~], in consultation with the senate  
6 president and the speaker of the house of representatives, shall  
7 require as a condition of the receipt of funds that state and  
8 county agencies receiving funds under this chapter provide a  
9 conservation easement under chapter 198, or an agricultural  
10 easement or deed restriction or covenant to the department of  
11 land and natural resources; the department of agriculture; the  
12 agribusiness development corporation; [~~the public land~~  
13 ~~development corporation,]~~ an appropriate land conservation  
14 organization; or a county, state, or federal natural resource  
15 conservation agency, that shall run with the land and be  
16 recorded with the land to ensure the long-term protection of  
17 land having value as a resource to the State and preserve the  
18 interests of the State. The board shall require as a condition  
19 of the receipt of funds that it be an owner of [~~any such~~] a  
20 conservation easement.

21           (d) The board [~~shall~~], in consultation with the senate  
22 president and the speaker of the house of representatives, shall





1 require as a condition of the receipt of funds that nonprofit  
2 land conservation organizations receiving funds under this  
3 chapter provide a conservation easement under chapter 198, or an  
4 agricultural easement or deed restriction or covenant to the  
5 department of land and natural resources; the department of  
6 agriculture; the agribusiness development corporation; [~~the~~  
7 ~~public land development corporation;~~] an appropriate land  
8 conservation agency; or an appropriate county, state, or federal  
9 natural resource conservation agency, that shall run with the  
10 land and be recorded with the land to ensure the long-term  
11 protection of land having value as a resource to the State and  
12 preserve the interests of the State. The board shall require as  
13 a condition of the receipt of funds that it be an owner of [~~any~~  
14 ~~such~~] a conservation easement."

15 SECTION 5. Section 173A-5, Hawaii Revised Statutes, is  
16 amended by amending subsection (i) to read as follows:

17 "(i) Based on applications from state agencies, counties,  
18 and nonprofit land conservation organizations, the department,  
19 in consultation with the senate president and speaker of the  
20 house of representatives, shall recommend to the board specific  
21 parcels of land to be acquired, restricted with conservation  
22 easements, or preserved in similar fashion. The board shall



1 review the selections and approve or reject the selections  
2 according to the availability of moneys in the fund. To be  
3 eligible for grants from the fund, state and county agencies and  
4 nonprofit land conservation organizations shall submit  
5 applications to the department that contain:

- 6 (1) Contact information for the project;
- 7 (2) A description of the project;
- 8 (3) The request for funding;
- 9 (4) Cost estimates for acquisition of the interest in the  
10 land;
- 11 (5) Location and characteristics of the land;
- 12 (6) The project's public benefits, including but not  
13 limited to where public access may be practicable or  
14 not practicable and why;
- 15 (7) Results of the applicant's consultation with the staff  
16 of the department, the department of agriculture, and  
17 the agribusiness development corporation [~~and the~~  
18 ~~public land development corporation~~] regarding the  
19 maximization of public benefits of the project, where  
20 practicable; and
- 21 (8) Other similar, related, or relevant information as  
22 determined by the department."



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

3 "§206E-4 Powers; generally. Except as otherwise limited  
4 by this chapter, the authority may:

- 5 (1) Sue and be sued;
- 6 (2) Have a seal and alter the same at pleasure;
- 7 (3) Make and execute contracts and all other instruments  
8 necessary or convenient for the exercise of its powers  
9 and functions under this chapter;
- 10 (4) Make and alter bylaws for its organization and  
11 internal management;
- 12 (5) Make rules with respect to its projects, operations,  
13 properties, and facilities, which rules shall be in  
14 conformance with chapter 91;
- 15 (6) Through its executive director appoint officers,  
16 agents, and employees, prescribe their duties and  
17 qualifications, and fix their salaries, without regard  
18 to chapter 76;
- 19 (7) Prepare or cause to be prepared a community  
20 development plan for all designated community  
21 development districts;



- 1           (8) Acquire, reacquire, or contract to acquire or  
2           reacquire by grant or purchase real, personal, or  
3           mixed property or any interest therein; to own, hold,  
4           clear, improve, and rehabilitate, and to sell, assign,  
5           exchange, transfer, convey, lease, or otherwise  
6           dispose of or encumber the same;
- 7           (9) Acquire or reacquire by condemnation real, personal,  
8           or mixed property or any interest therein for public  
9           facilities, including but not limited to streets,  
10          sidewalks, parks, schools, and other public  
11          improvements;
- 12          (10) By itself, or in partnership with qualified persons,  
13          acquire, reacquire, construct, reconstruct,  
14          rehabilitate, improve, alter, or repair or provide for  
15          the construction, reconstruction, improvement,  
16          alteration, or repair of any project; own, hold, sell,  
17          assign, transfer, convey, exchange, lease, or  
18          otherwise dispose of or encumber any project, and in  
19          the case of the sale of any project, accept a purchase  
20          money mortgage in connection therewith; and repurchase  
21          or otherwise acquire any project ~~[which]~~ that the



1 authority has theretofore sold or otherwise conveyed,  
2 transferred, or disposed of;

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

9 (12) Grant options to purchase any project or to renew any  
10 lease entered into by it in connection with any of its  
11 projects, on [such] terms and conditions as it deems  
12 advisable;

13 (13) Prepare or cause to be prepared plans, specifications,  
14 designs, and estimates of costs for the construction,  
15 reconstruction, rehabilitation, improvement,  
16 alteration, or repair of any project, and from time to  
17 time to modify [such] the plans, specifications,  
18 designs, or estimates;

19 (14) Provide advisory, consultative, training, and  
20 educational services, technical assistance, and advice  
21 to any person, partnership, or corporation, either  
22 public or private, to carry out the purposes of this



- 1 chapter, and engage the services of consultants on a  
2 contractual basis for rendering professional and  
3 technical assistance and advice;
- 4 (15) Procure insurance against any loss in connection with  
5 its property and other assets and operations in [such]  
6 amounts and from [such] insurers as it deems  
7 desirable;
- 8 (16) Contract for and accept gifts or grants in any form  
9 from any public agency or from any other source;
- 10 (17) Do any and all things necessary to carry out its  
11 purposes and exercise the powers given and granted in  
12 this chapter; and
- 13 (18) Allow satisfaction of any affordable housing  
14 requirements imposed by the authority upon any  
15 proposed development project through the construction  
16 of reserved housing, as defined in section 206E-101,  
17 by a person on land located outside the geographic  
18 boundaries of the authority's jurisdiction; provided  
19 that the authority shall not permit any person to make  
20 cash payments in lieu of providing reserved housing,  
21 except to account for any fractional unit that results  
22 after calculating the percentage requirement against



1 residential floor space or total number of units  
2 developed. The substituted housing shall be located  
3 on the same island as the development project and  
4 shall be substantially equal in value to the required  
5 reserved housing units that were to be developed on  
6 site. The authority shall establish the following  
7 priority in the development of reserved housing:

- 8 (A) Within the community development district;  
9 (B) Within areas immediately surrounding the  
10 community development district;  
11 (C) Areas within the central urban core;  
12 (D) In outlying areas within the same island as the  
13 development project.

14 The Hawaii community development authority shall  
15 adopt rules relating to the approval of reserved  
16 housing that are developed outside of a community  
17 development district. The rules shall include, but  
18 are not limited to, the establishment of guidelines to  
19 ensure compliance with the above priorities[ ~~and~~

20 ~~(19) Assist the public land development corporation~~  
21 ~~established by section 171C-3 in identifying public~~  
22 ~~lands that may be suitable for development, carrying~~



1           ~~on marketing analysis to determine the best revenue-~~  
2           ~~generating programs for the public lands identified,~~  
3           ~~entering into public private agreements to~~  
4           ~~appropriately develop the public lands identified, and~~  
5           ~~providing the leadership for the development,~~  
6           ~~financing, improvement, or enhancement of the selected~~  
7           ~~development opportunities; provided that no assistance~~  
8           ~~shall be provided unless the authority authorizes the~~  
9           ~~assistance]."~~

10           SECTION 7. Chapter 171C, Hawaii Revised Statutes, is  
11           repealed.

12           SECTION 8. Act 117, Session Laws of Hawaii 2012, is  
13           amended by amending section 2 to read as follows:

14           "SECTION 2. The department of public safety, in  
15           cooperation with Ohana Ho'opakele and other restorative justice  
16           groups, is directed to prepare a plan for the creation of a  
17           pu'uhonua, or wellness center, on lands owned or controlled by  
18           the State. ~~[The public land development corporation shall~~  
19           ~~assist in determining an appropriate site for the center,~~  
20           ~~provided that the site formerly used as the Kulani correctional~~  
21           ~~facility on the island of Hawaii shall be given preference,~~





1 ~~unless another site will provide a greater possibility of~~  
2 ~~success.]~~

3       The department of public safety shall submit a report to  
4 the legislature on its plan, findings, and recommendations,  
5 including the factors used in determining site selection, and  
6 any budget requests necessary to achieve the purposes of this  
7 Act, no later than twenty days prior to the convening of the  
8 regular session of 2013."

9       SECTION 9. (a) Any funds appropriated to the department  
10 of land and natural resources pursuant to Act 55, Session Laws  
11 of Hawaii 2011, that are unexpended and unencumbered as of the  
12 effective date of this Act shall be deposited into the land  
13 conservation fund established pursuant to section 173A-5, Hawaii  
14 Revised Statutes, on the effective date of this Act.

15       (b) Any proceeds generated and deposited into the stadium  
16 facilities special fund pursuant to Act 282, Session Laws of  
17 Hawaii 2012, that are unexpended and unencumbered as of the  
18 effective date of this Act shall be deposited into the general  
19 fund on the effective date of this Act.

20       (c) Any proceeds generated and deposited into the school  
21 facilities special fund pursuant to Act 309, Session Laws of  
22 Hawaii 2012, that are unexpended and unencumbered as of the



1 effective date of this Act shall be deposited into the general  
2 fund on the effective date of this Act.

3 (d) All records, equipment, machines, files, supplies,  
4 contracts, books, papers, documents, maps, and other personal  
5 and real property heretofore made, used, acquired, or held by  
6 the public land development corporation shall be transferred to  
7 the department of land and natural resources.

8 SECTION 10. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 11. This Act shall take effect upon its approval.



**Report Title:**

Public Land Development Corporation; Repeal

**Description:**

Repeals chapter 171C, HRS, relating to the PLDC. Transfers PLDC assets to the DLNR. Deposits funds appropriated to the DLNR pursuant to Act 55, SLH 2011, into the land conservation fund. Deposits proceeds in the stadium facilities special fund and the school facilities special fund into the general fund. (SD2)

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

