

JAN 18 2013

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# A BILL FOR AN ACT

RELATING TO PUBLIC LAND DEVELOPMENT CORPORATION.

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

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

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

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



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

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



1 that the corporation is the vehicle that will produce economic,  
2 environmental, and social benefit for the people of Hawaii.

3 The purpose of this Act is to repeal chapter 171C, Hawaii  
4 Revised Statutes, the public land development corporation.

5 SECTION 2. Chapter 171C, Hawaii Revised Statutes, is  
6 repealed.

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

9 **"§206E-4 Powers; generally.** Except as otherwise limited  
10 by this chapter, the authority may:

- 11 (1) Sue and be sued;
- 12 (2) Have a seal and alter the same at pleasure;
- 13 (3) Make and execute contracts and all other instruments  
14 necessary or convenient for the exercise of its powers  
15 and functions under this chapter;
- 16 (4) Make and alter bylaws for its organization and  
17 internal management;
- 18 (5) Make rules with respect to its projects, operations,  
19 properties, and facilities, which rules shall be in  
20 conformance with chapter 91;
- 21 (6) Through its executive director appoint officers,  
22 agents, and employees, prescribe their duties and



1 qualifications, and fix their salaries, without regard  
2 to chapter 76;

3 (7) Prepare or cause to be prepared a community  
4 development plan for all designated community  
5 development districts;

6 (8) Acquire, reacquire, or contract to acquire or  
7 reacquire by grant or purchase real, personal, or  
8 mixed property or any interest therein; to own, hold,  
9 clear, improve, and rehabilitate, and to sell, assign,  
10 exchange, transfer, convey, lease, or otherwise  
11 dispose of or encumber the same;

12 (9) Acquire or reacquire by condemnation real, personal,  
13 or mixed property or any interest therein for public  
14 facilities, including but not limited to streets,  
15 sidewalks, parks, schools, and other public  
16 improvements;

17 (10) By itself, or in partnership with qualified persons,  
18 acquire, reacquire, construct, reconstruct,  
19 rehabilitate, improve, alter, or repair or provide for  
20 the construction, reconstruction, improvement,  
21 alteration, or repair of any project; own, hold, sell,  
22 assign, transfer, convey, exchange, lease, or



1 otherwise dispose of or encumber any project, and in  
2 the case of the sale of any project, accept a purchase  
3 money mortgage in connection therewith; and repurchase  
4 or otherwise acquire any project which the authority  
5 has theretofore sold or otherwise conveyed,  
6 transferred, or disposed of;

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

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

17 (13) Prepare or cause to be prepared plans, specifications,  
18 designs, and estimates of costs for the construction,  
19 reconstruction, rehabilitation, improvement,  
20 alteration, or repair of any project, and from time to  
21 time to modify such plans, specifications, designs, or  
22 estimates;

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



1 cash payments in lieu of providing reserved housing,  
2 except to account for any fractional unit that results  
3 after calculating the percentage requirement against  
4 residential floor space or total number of units  
5 developed. The substituted housing shall be located  
6 on the same island as the development project and  
7 shall be substantially equal in value to the required  
8 reserved housing units that were to be developed on  
9 site. The authority shall establish the following  
10 priority in the development of reserved housing:

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

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



1       ~~(19) Assist the public land development corporation~~  
2           ~~established by section 171C-3 in identifying public~~  
3           ~~lands that may be suitable for development, carrying~~  
4           ~~on marketing analysis to determine the best revenue-~~  
5           ~~generating programs for the public lands identified,~~  
6           ~~entering into public-private agreements to~~  
7           ~~appropriately develop the public lands identified, and~~  
8           ~~providing the leadership for the development,~~  
9           ~~financing, improvement, or enhancement of the selected~~  
10          ~~development opportunities; provided that no assistance~~  
11          ~~shall be provided unless the authority authorizes the~~  
12          ~~assistance]."~~

13       SECTION 4. (a) Any funds appropriated to the department  
14 of land and natural resources pursuant to Act 55, Session Laws  
15 of Hawaii 2011, that are unexpended and unencumbered as of the  
16 effective date of this Act shall be deposited into the land  
17 conservation fund established pursuant to section 173A-5, Hawaii  
18 Revised Statutes, on the effective date of this Act.

19       (b) The planner and project-related development specialist  
20 hired for purposes of Act 55, Session Laws of Hawaii 2011, shall  
21 be transferred to the department of land and natural resources  
22 without loss of salary, seniority, prior service credit,





1 vacation, sick leave, or other employee benefit or privilege as  
2 a consequence of this Act.

3 SECTION 5. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: ~~DC. Keith~~ DC. Keith  
George H. Baker  
John G. ...



# S.B. NO. 338

**Report Title:**

Public Land Development Corporation

**Description:**

Repeals chapter 171C, HRS, relating to the public land development corporation. Repeals requirement that Hawaii community development authority assist the public land development corporation in certain specified areas.

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

