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# A BILL FOR AN ACT

RELATING TO THE DEFINITION OF REMNANTS.

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

1           SECTION 1. The legislature finds that a purportedly narrow  
2 exception to important procedural safeguards against improper  
3 disposition exists for public lands that can qualify as  
4 "remnant" pursuant to section 171-52, Hawaii Revised Statutes.  
5 Unlike other public lands, lands found to qualify as "remnants"  
6 may be alienated without legislative oversight, and without the  
7 public auction requirements that would otherwise ensure  
8 fairness, transparency, and adequate compensation to the State.  
9           The legislature further finds that recent land transactions  
10 by the board of land and natural resources have indicated that  
11 there is some confusion regarding the scope and applicability of  
12 the definition of "remnant" pursuant to section 171-52, Hawaii  
13 Revised Statutes. Uncharacteristically broad interpretations of  
14 this definition have led to the disposal of significant parcels  
15 of public lands, including public land trust lands, without  
16 legislative approval or public auction as would have been  
17 otherwise required.



1           Accordingly, the legislature finds that given the history  
2 and sensitivity of land use and ownership in Hawaii, the limited  
3 land resources of our island state, the state constitutional  
4 requirement that ensures that public lands are held in trust for  
5 the benefit of both present and future generations, and the need  
6 to ensure the consistent application of land disposition  
7 procedures, it is necessary to clarify the definition of  
8 "remnant" in section 171-52, Hawaii Revised Statutes.

9           The purpose of this Act is to clarify that the term  
10 "remnant" shall only apply to the categories already prescribed  
11 by statute and to specific parcels of land that lack cultural  
12 significance and that the attorney general specifically finds  
13 will create a substantial and unavoidable risk of liability to  
14 the State. The legislature intends that the definition of  
15 "remnant" for purposes of authorizing disposition of public  
16 lands by the department of land and natural resources shall  
17 reflect Hawaii's constitutional mandate to conserve and protect  
18 land and natural resources for the benefit of present and future  
19 generations, regardless of the land's current suitability or  
20 desirability for development.

21           SECTION 2. Section 171-52, Hawaii Revised Statutes, is  
22 amended by amending subsection (a) to read as follows:



1           "(a) Definition. The term "remnant" means a parcel of  
2 land economically or physically unsuitable or undesirable for  
3 current or future development or utilization as a separate unit  
4 by reason of location, size, shape, or other characteristics[-]  
5 and the alienation of which has been deemed to not violate the  
6 State's mandate to conserve and protect its natural resources  
7 for the benefit of current and future generations. A remnant  
8 [may] shall be:

- 9           (1) Land acquired by condemnation which is in excess of  
10           the needs for which condemned;
- 11           (2) [~~Vacated,~~] A vacated, closed, abandoned, or  
12           discontinued road, street or alley or walk, railroad,  
13           ditch, or other right-of-way[-]; or
- 14           (3) Land that has been determined by the attorney general  
15           to present, if retained by the State, a significant  
16           and unavoidable risk of liability beyond that  
17           generally associated with undeveloped natural areas  
18           based on engineering reports, land surveys, or a  
19           history of injuries to persons or property  
20           specifically concerning the parcel being considered as  
21           a remnant;



1 provided that no land that has been deemed to be culturally  
2 significant shall be a remnant for purposes of this section."

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

5 SECTION 4. This Act shall take effect on July 1, 2020.



**Report Title:**

OHA Package; Public Lands; Remnant Lands

**Description:**

Amends the definition of "remnant" of public land to revoke DLNR's authority for direct disposition of public land that is culturally significant and not a liability and to require adherence to the constitutional mandate to conserve and protect natural resources. Effective July 1, 2020. (HB1617 HD1)

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

