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# A BILL FOR AN ACT

RELATING TO THE 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 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 corporation's intentions and development  
6 plans. Despite efforts to allay concerns, many individuals and  
7 organizations, particularly environmental and Native Hawaiian  
8 organizations, have expressed support for legislation to repeal  
9 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, the means of achieving this goal requires a greater  
20 respect for existing laws and procedures and greater assurance  
21 that the corporation is the vehicle that will produce economic,  
22 environmental, and social benefit for the people of Hawaii.



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

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

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

11           "**§171-2 Definition of public lands.** "Public lands" means  
12   all lands or interest therein in the State classed as government  
13   or crown lands previous to August 15, 1895, or acquired or  
14   reserved by the government upon or subsequent to that date by  
15   purchase, exchange, escheat, or the exercise of the right of  
16   eminent domain, or in any other manner; including lands accreted  
17   after May 20, 2003, and not otherwise awarded, submerged lands,  
18   and lands beneath tidal waters that are suitable for  
19   reclamation, together with reclaimed lands that have been given  
20   the status of public lands under this chapter, except:

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



- 1           (2) Lands set aside pursuant to law for the use of the  
2           United States;
- 3           (3) Lands being used for roads and streets;
- 4           (4) Lands to which the United States relinquished the  
5           absolute fee and ownership under section 91 of the  
6           Hawaiian Organic Act prior to the admission of Hawaii  
7           as a state of the United States unless subsequently  
8           placed under the control of the board of land and  
9           natural resources and given the status of public lands  
10          in accordance with the state constitution, the  
11          Hawaiian Homes Commission Act, 1920, as amended, or  
12          other laws;
- 13          (5) Lands to which the University of Hawaii holds title;
- 14          (6) Lands to which the Hawaii housing finance and  
15          development corporation in its corporate capacity  
16          holds title;
- 17          (7) Lands to which the Hawaii community development  
18          authority in its corporate capacity holds title;
- 19          (8) Lands to which the department of agriculture holds  
20          title by way of foreclosure, voluntary surrender, or  
21          otherwise, to recover moneys loaned or to recover  
22          debts otherwise owed the department under chapter 167;



- 1           (9) Lands that are set aside by the governor to the Aloha  
2           Tower development corporation; lands leased to the  
3           Aloha Tower development corporation by any department  
4           or agency of the State; or lands to which the Aloha  
5           Tower development corporation holds title in its  
6           corporate capacity;
- 7           (10) Lands that are set aside by the governor to the  
8           agribusiness development corporation; lands leased to  
9           the agribusiness development corporation by any  
10          department or agency of the State; or lands to which  
11          the agribusiness development corporation in its  
12          corporate capacity holds title; and
- 13          (11) Lands to which the high technology development  
14          corporation in its corporate capacity holds title[  
15          and
- 16          ~~(12) Lands which are set aside by the governor to the~~  
17          ~~public land development corporation; lands leased to~~  
18          ~~the public land development corporation by any~~  
19          ~~department or agency of the State; or lands to which~~  
20          ~~the public land development corporation holds title in~~  
21          ~~its corporate capacity] . "~~



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

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

13 (1) Land set aside pursuant to law for the use of the  
14 United States;

15 (2) Land to which the United States relinquished the  
16 absolute fee and ownership under section 91 of the  
17 Organic Act prior to the admission of Hawaii as a  
18 state of the United States;

19 (3) Land to which the University of Hawaii holds title;

20 (4) Land to which the Hawaii housing finance and  
21 development corporation in its corporate capacity  
22 holds title;



- 1 (5) Land 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 (6) Land that is set aside by the governor to the Aloha  
6 Tower development corporation; or land to which the  
7 Aloha Tower development corporation holds title in its  
8 corporate capacity;
- 9 (7) Land that is set aside by the governor to the  
10 agribusiness development corporation; or land to which  
11 the agribusiness development corporation in its  
12 corporate capacity holds title; and
- 13 (8) Land to which the high technology development  
14 corporation in its corporate capacity holds title[+  
15 and  
16 ~~(9) Land that is set aside by the governor to the public~~  
17 ~~land development corporation or land to which the~~  
18 ~~public land development corporation holds title in its~~  
19 ~~corporate capacity]."~~

20 SECTION 4. Section 173A-4, Hawaii Revised Statutes, is  
21 amended by amending subsection (c) to read as follows:



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

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

19           "(i) Based on applications from state agencies, counties,  
20 and nonprofit land conservation organizations, the department,  
21 in consultation with the senate president and speaker of the  
22 house of representatives, shall recommend to the board specific





1 parcels of land to be acquired, restricted with conservation  
2 easements, or preserved in similar fashion. The board shall  
3 review the selections and approve or reject the selections  
4 according to the availability of moneys in the fund. To be  
5 eligible for grants from the fund, state and county agencies and  
6 nonprofit land conservation organizations shall submit  
7 applications to the department that contain:

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



1 (8) Other similar, related, or relevant information as  
2 determined by the department."

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

5 "§206E-4 Powers; generally. Except as otherwise limited  
6 by this chapter, the authority may:

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



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



1 money mortgage in connection therewith; and repurchase  
2 or otherwise acquire any project which the authority  
3 has theretofore sold or otherwise conveyed,  
4 transferred, or disposed of;

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

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

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

21 (14) Provide advisory, consultative, training, and  
22 educational services, technical assistance, and advice



1 to any person, partnership, or corporation, either  
2 public or private, to carry out the purposes of this  
3 chapter, and engage the services of consultants on a  
4 contractual basis for rendering professional and  
5 technical assistance and advice;

6 (15) Procure insurance against any loss in connection with  
7 its property and other assets and operations in such  
8 amounts and from such insurers as it deems desirable;

9 (16) Contract for and accept gifts or grants in any form  
10 from any public agency or from any other source;

11 (17) Do any and all things necessary to carry out its  
12 purposes and exercise the powers given and granted in  
13 this chapter; and

14 (18) Allow satisfaction of any affordable housing  
15 requirements imposed by the authority upon any  
16 proposed development project through the construction  
17 of reserved housing, as defined in section 206E-101,  
18 by a person on land located outside the geographic  
19 boundaries of the authority's jurisdiction; provided  
20 that the authority shall not permit any person to make  
21 cash payments in lieu of providing reserved housing,  
22 except to account for any fractional unit that results



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

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

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

21 ~~(19) Assist the public land development corporation~~  
22 ~~established by section 171C-3 in identifying public~~



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

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

13           SECTION 8. (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) Any proceeds generated and deposited into the stadium  
20           facilities special fund pursuant to Act 282, Session Laws of  
21           Hawaii 2012, that are unexpended and unencumbered as of the



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

3 (c) Any proceeds generated and deposited into the school  
4 facilities special fund pursuant to Act 309, Session Laws of  
5 Hawaii 2012, that are unexpended and unencumbered as of the  
6 effective date of this Act shall be deposited into the general  
7 fund on the effective date of this Act.

8 (d) The planner and project-related development specialist  
9 hired for purposes of Act 55, Session Laws of Hawaii 2011, shall  
10 be transferred to the department of land and natural resources  
11 without loss of salary, seniority, prior service credit,  
12 vacation, sick leave, or other employee benefit or privilege as  
13 a consequence of this Act.

14 SECTION 9. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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

17

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

*John Ilee*





# S.B. NO. /

**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.*

