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# A BILL FOR AN ACT

RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1           SECTION 1. The purpose of this Act is to enhance the  
2 revenue generating capacity of three parcels of land that were  
3 transferred to the office of Hawaiian affairs by Act 15, Session  
4 Laws of Hawaii 2012 (Act 15). To accomplish this purpose, this  
5 Act raises the building height limit for two of the three  
6 parcels to four hundred feet and lifts the current restriction  
7 against residential development in Kakaako makai, to which the  
8 parcels are subject, to allow residential development by the  
9 office of Hawaiian affairs itself or by third parties to which  
10 the office of Hawaiian affairs conveys the parcels.

11           The office of Hawaiian affairs was established under  
12 article XII, section 5, of the Hawaii State Constitution to  
13 "hold title to all the real and personal property now or  
14 hereafter set aside or conveyed to it which shall be held in  
15 trust for native Hawaiians and Hawaiians." Its board of  
16 trustees is authorized by article XII, section 6, of the State  
17 Constitution "to manage and administer the proceeds from the  
18 sale or other disposition of the lands... and income derived



1 from whatever sources for native Hawaiians and Hawaiians,  
2 including all income and proceeds from that pro rata portion of  
3 the trust referred to in section 4 of this article [i.e., the  
4 public land trust] for native Hawaiians..." That section also  
5 authorized the board to "exercise control over real ... property  
6 ... transferred to the board for native Hawaiians and  
7 Hawaiians."

8 In section 1 of Act 15, the legislature found that one of  
9 that Act's purposes was to:

10 effectively and responsibly fulfill the constitutional  
11 obligation to native Hawaiians under article XII,  
12 sections 4 and 6, of the State Constitution between  
13 November 7, 1978, up to and including June 30, 2012,  
14 by ... providing additional resources to the office  
15 [of Hawaiian affairs] in the form of fee simple title  
16 to certain parcels of land ....

17 In the same section of Act 15, the legislature declared that the  
18 "[c]onveyance of the fee simple interest to the lands ... will  
19 allow the State to effectively and responsibly meet [those]  
20 constitutional obligations to native Hawaiians."

21 Further, section 2 of Act 15 stated, "the fee simple  
22 interest to [nine] parcels of land [including lots 1 and 9 of



1 File Plan 2471 and the parcel identified by TMK (1) 2-1-15-61,  
 2 was] conveyed to the office of Hawaiian affairs as grantee, as  
 3 of July 1, 2012, as is, where is..." In the same section of Act  
 4 15, however, the legislature specifically directed that, "[t]he  
 5 [nine parcels] are and shall remain (even after conveyance to  
 6 the office) under the jurisdiction and authority of the Hawaii  
 7 community development authority with respect to zoning, land use  
 8 conditions and all other matters over which the authority has  
 9 jurisdiction and authority to act," and "shall be subject to all  
 10 laws, except sections 206E-8, 206E-10, 206E-34, Hawaii Revised  
 11 Statutes, and as otherwise provided in this Act..."

12 Particularly pertinent to the purpose of Act 15, in section  
 13 6, the legislature further declared that "[t]he [p]roperties  
 14 conveyed by this Act shall be deemed income and proceeds from  
 15 the public land trust, as if the [p]roperties had been paid out  
 16 of the income and proceeds from the public land trust pursuant  
 17 to article XII, section 6 of the State Constitution."

18 Relying on its board of trustees' authority to "exercise  
 19 control" over lands that the office of Hawaiian affairs holds in  
 20 trust for native Hawaiians, and to "manage and administer" the  
 21 income and proceeds from the public land trust lands it  
 22 receives, the office of Hawaiian affairs has asked the

1 legislature to enact this Act to allow the office of Hawaiian  
2 affairs to maximize the income or proceeds that three of the  
3 parcels of land conveyed by Act 15 could generate for the  
4 purposes of bettering the conditions of native Hawaiians, by  
5 allowing the parcels to be developed for residential use.

6 The legislature finds that the on-going transformation of  
7 Kakaako into a place where the people of Honolulu can live,  
8 work, and play should increase the revenue generating potential  
9 of the land conveyed to the office of Hawaiian affairs by Act 15  
10 and concomitantly increase the number of programs and kinds of  
11 services that the office of Hawaiian affairs was created and is  
12 able to provide for native Hawaiians. The legislature further  
13 finds that even more revenue could be generated to provide  
14 programs and services to better the conditions of native  
15 Hawaiians, if the office of Hawaiian affairs were permitted to  
16 develop some or all of the parcels it received under Act 15 for  
17 residential use.

18 The legislature agrees that the residential development  
19 restriction to which all of the parcels transferred to the  
20 office of Hawaiian affairs by Act 15 were and continue to be  
21 subject should be lifted to the extent necessary to allow the  
22 office of Hawaiian affairs to realize the maximum income or



1 proceeds that lots 1 and 9 of File Plan 2471, and the parcel  
2 identified by TMK (1) 2-1-15-61 could generate, if they were  
3 developed for residential use.

4 Finally, the legislature finds that inasmuch as this Act  
5 furthers one of the principle purposes for which the office of  
6 Hawaiian affairs was established as a state agency, its  
7 provisions should be deemed consistent with and not violative of  
8 article XI, section 5, of the State Constitution.

9 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is  
10 amended by adding three new sections to part II to be  
11 appropriately designated and to read as follows:

12 **"§206E-A Limited residential development in Kakaako;**  
13 **public hearing prerequisite; height limit; association fee.** (a)

14 The authority may approve any plan or proposal for any  
15 residential development in Kakaako on any parcels identified as  
16 tax map key (1) 2-1-15-61 and Lots 1 and 9 of File Plan 2471  
17 filed at the bureau of conveyances on February 23, 2010;  
18 provided that the authorization for residential development  
19 pursuant to this section shall apply to each of these land areas  
20 even in the event that a parcel's official tax map key number  
21 changes; provided further that approval may be granted only  
22 after the applicant seeking approval conducts a public hearing



1 held in accordance with subsection (b), notwithstanding hearing  
2 procedures under chapter 91.

3 (b) Prior to submission to the authority of any plan or  
4 proposal for any residential development pursuant to this  
5 section, the applicant seeking approval shall hold a public  
6 hearing after notice is published, in accordance with section  
7 1-28.5, at least thirty days prior to the hearing. The notice  
8 shall include:

9 (1) The date, time, and place of the hearing;

10 (2) A statement of the topic of the hearing; and

11 (3) A description of where, when, and how the residential  
12 development proposal may be viewed by the public.

13 All interested persons may submit data or opinions, orally or in  
14 writing, in conjunction with the hearing.

15 (c) Prior to submitting to the authority for approval any  
16 plan or proposal for residential development pursuant to this  
17 section, the applicant for approval shall fully consider all  
18 written and oral submissions allowed pursuant to subsection (b)  
19 with regard to the proposed residential development.

20 (d) Prior to approving any plan or proposal for  
21 residential development pursuant to this section, the authority  
22 shall hold a public hearing in accordance with subsection (b).



1       (e) Prior to approving any plan or proposal for  
2 residential development pursuant to this section, the authority  
3 shall fully consider all written and oral submissions received  
4 at the public hearings held by the applicant and the authority.

5       (f) Any other law to the contrary notwithstanding, the  
6 building height limit shall be four hundred feet for residential  
7 development pursuant to this section on the parcels identified  
8 by tax map key (1) 2-1-15-61 and Lot 1 of File Plan 2471 filed  
9 at the bureau of conveyances on February 23, 2010.

10       §206E-B Kakaako makai association fee. The authority  
11 shall determine a Kakaako makai association fee to be collected  
12 from all residential developments in Kakaako on lands identified  
13 in section 206E-A(a); provided that the fee shall be collected  
14 from residential owners.

15       §206E-C Kakaako makai special account. Kakaako makai  
16 association fees collected pursuant to section 206E-B shall be  
17 deposited into a special account in the Hawaii community  
18 development revolving fund established in section 206E-16.  
19 Moneys from the special account shall be used to fund various  
20 services and projects, including but not limited to maintenance,  
21 improvements, free public parking for park users, public beach  
22 access, security, and parks and open spaces, for the Kakaako



1 community development district makai of Ala Moana boulevard and  
2 between Kewalo basin and the foreign trade zone. Disbursements  
3 from the special account shall be made in accordance with  
4 procedures adopted by the authority and approved by the director  
5 of finance."

6 SECTION 3. Section 206E-12, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "**§206E-12 Dedication for public facilities as condition to**  
9 **development.** The authority shall establish rules requiring  
10 dedication for public facilities of land or facilities, or cash  
11 payments in lieu thereof, by developers as a condition of  
12 developing real property pursuant to the community development  
13 plan. Where state and county public facilities dedication laws,  
14 ordinances, or rules differ, the provision for greater  
15 dedication shall prevail.

16 This section shall not apply to lands identified in section  
17 206E-A(a)."

18 SECTION 4. Section 206E-31.5, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**[+]§206E-31.5[+] Prohibitions.** Anything contained in  
21 this chapter to the contrary notwithstanding~~[7]~~ and except as  
22 provided in section 206E-A, the authority is prohibited from:





- 1           (1) Selling or otherwise assigning the fee simple interest
- 2           in any lands in the Kakaako community development
- 3           district to which the authority in its corporate
- 4           capacity holds title, except with respect to:
- 5           (A) Utility easements;
- 6           (B) Remnants as defined in section 171-52;
- 7           (C) Grants to any state or county department or
- 8           agency; or
- 9           (D) Private entities for purposes of any easement,
- 10          roadway, or infrastructure improvements; or
- 11          (2) Approving any plan or proposal for any residential
- 12          development in that portion of the Kakaako community
- 13          development district makai of Ala Moana boulevard and
- 14          between Kewalo basin and the foreign trade zone."

15          SECTION 5. In codifying the new sections added by section  
 16 2 of this Act, the revisor of statutes shall substitute  
 17 appropriate section numbers for the letters used in designating  
 18 the new sections in this Act.

19          SECTION 6. Statutory material to be repealed is bracketed  
 20 and stricken. New statutory material is underscored.

21          SECTION 7. This Act shall take effect on July 1, 2050.



**Report Title:**

Hawaii Community Development Authority; Residential Development

**Description:**

Authorizes residential development by OHA on specified parcels in Kakaako Makai subject to public hearing, HCDA approval, and association fees to fund services and projects. Exempts development from public facilities dedication requirement. Effective July 1, 2050. (SB3122 HD2)

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

