

JAN 18 2013

S.B. NO. 405

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. Chapter 171C, Hawaii Revised Statutes, is
2 amended by adding three new sections to be appropriately
3 designated and to read as follows:

4 "§171C-A Exchange of public lands. Notwithstanding any
5 provision of this chapter to the contrary, all exchanges of land
6 to which the public land development corporation holds title
7 shall be subject to the provisions of section 171-50.

8 §171C-B Continuing payment of pro rata share of revenues
9 from the public land trust. Notwithstanding any provision of
10 this chapter to the contrary, the corporation shall be subject
11 to Act 178, Session Laws of Hawai'i 2006, or any other law that
12 provides for the office of Hawaiian affairs' pro rata portion of
13 the public land trust, pursuant to article XII, section 6 of the
14 state constitution, and section 10-3.

15 §171C-C Protection of traditional and customary
16 rights. Notwithstanding any provision of this chapter to the
17 contrary, the corporation shall consult with the office of
18 Hawaiian affairs regarding the corporation's projects,



1 activities, and rules to ensure that its activities and rules
 2 shall not diminish any right customarily and traditionally
 3 exercised for subsistence, cultural, and religious purposes and
 4 possessed by ahupua'a tenants who are descendants of native
 5 Hawaiians who inhabited the Hawaiian Islands prior to 1778,
 6 subject to the right of the State to regulate such rights, as
 7 stated in article XII, section 7 of the state constitution and
 8 relevant case law."

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 171C-3, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The board of directors of the public land development
4 corporation shall consist of [~~five~~] seven voting members. The
5 members shall include:

- 6 (1) The chairperson of the board of land and natural
7 resources, or the first deputy to the chairperson of
8 the board of land and natural resources;
- 9 (2) The director of finance, or the director's designee;
- 10 (3) The director of business, economic development, and
11 tourism, or the director's designee;
- 12 (4) One member to be appointed by the speaker of the house
13 of representatives; [~~and~~]
- 14 (5) One member to be appointed by the president of the
15 senate;
- 16 (6) The administrator of the office of Hawaiian affairs,
17 or the administrator's designee; and
- 18 (7) One member who has demonstrated expertise in
19 sustainable planning and natural and cultural resource
20 management and is appointed in the manner, and serves
21 for the term, set forth in section 26-34;



1 provided that the persons appointed by the speaker of the house
2 of representatives and the president of the senate shall possess
3 sufficient knowledge, experience, and proven expertise in small
4 and large businesses within the development or recreation
5 industries, banking, real estate, finance, promotion, marketing,
6 or management.

7 The term of office of the two voting members appointed by
8 the speaker of the house of representatives and the president of
9 the senate shall be four years each."

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

12 "(a) The corporation shall prepare the [~~Hawaii~~] Hawai'i
13 public land optimization plan, which shall define and establish
14 goals, objectives, policies, and priority guidelines for its
15 public land optimization development strategy. The plan shall
16 include:

17 (1) An inventory of public lands with suitable, adequate
18 development potential that are or will become
19 available that can be used to meet present and future
20 land development needs;

21 (2) Protection of culturally-sensitive areas[+] and
22 cultural practices, including traditional and



1 customary native Hawaiian rights protected pursuant to
2 article XII, section 7 of the state constitution;

3 (3) Feasible strategies for the promotion and marketing of
4 any projects, including but not limited to leisure,
5 recreational, commercial, residential, time share,
6 hotel, office space, and business projects, in local,
7 national, and international markets;

8 (4) Proposals to improve the gathering of data and the
9 timely presentation of information on market demands
10 and trends that can be used to plan future projects;
11 and

12 (5) Strategies for federal and state legislative actions
13 that will promote the development and enhancement of
14 [~~Hawaii's~~] Hawai'i's public lands."

15 SECTION 5. Section 171C-6, Hawaii Revised Statutes, is
16 amended by amending subsection (b) to read as follows:

17 "(b) The corporation [~~may~~] shall initiate and coordinate
18 the preparation of business and public land development plans
19 for each of its projects. The plans shall include [~~a~~] the
20 following:

21 (1) A proposal for the organization of the enterprise[~~r~~
22 a];



- 1 (2) A marketing strategy[~~, marketing-related~~];
- 2 (3) Marketing-related information[~~, the~~];
- 3 (4) The impact on existing development or visitor-related
4 industries throughout the State[~~, and a~~];
- 5 (5) A recommendation for the construction, reconstruction,
6 rehabilitation, improvement, alteration, or repair of
7 any infrastructure or accessory facilities in
8 connection with any project[~~-~~]; and
- 9 (6) A culturally-sensitive development plan that shall
10 include:
 - 11 (A) The identification and description of any
12 cultural practices, including traditional and
13 customary native Hawaiian rights, and cultural,
14 historic, and natural resources in the ahupua'a in
15 which the project is proposed;
 - 16 (B) An assessment of the project's potential effects
17 on cultural practices, including traditional and
18 customary native Hawaiian rights protected
19 pursuant to article XII, section 7 of the state
20 constitution, and cultural, historic, and natural
21 resources; and
 - 22 (C) Proposed mitigation measures for those effects."



1 SECTION 6. Section 171C-19, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~§171C-19~~§~~] Exemption from requirements.

4 Notwithstanding section 171-42 and except as otherwise noted in
5 this chapter, projects pursuant to this chapter shall be exempt
6 from all statutes, ordinances, charter provisions, and rules of
7 any government agency relating to special improvement district
8 assessments or requirements; [~~land use, zoning, and~~]
9 construction standards for subdivisions, development, and
10 improvement of land; and the construction, improvement, and sale
11 of homes thereon; provided that the public land planning
12 activities of the corporation shall be coordinated with the
13 county planning departments and the county land use plans,
14 policies, and ordinances."

15 SECTION 7. In codifying the new sections added by section
16 1 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 8. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval.

2

INTRODUCED BY: *James Merenda*

By Request



S.B. NO. 405

Report Title:

OHA Package; PLDC; Consultation; Cultural Practices; Exemptions

Description:

Subjects PLDC to laws regarding land exchanges, land use, zoning, and OHA's pro rata portion of the public land trust. Requires PLDC to consult with OHA. Increases membership of the board of directors of PLDC from 5 to 7. Requires the Hawaii public land optimization plan to include the protection of cultural practices. Requires PLDC to include a culturally-sensitive development plan for each of its projects.

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

