

JAN 18 2013

---

---

# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1           SECTION 1. The purpose of this Act is to repeal chapter  
2 171C, Hawaii Revised Statutes, relating to the public land  
3 development corporation, and make necessary conforming  
4 amendments to state law.

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

7           "**§171-2 Definition of public lands.** "Public lands" means  
8 all lands or interest therein in the State classed as government  
9 or crown lands previous to August 15, 1895, or acquired or  
10 reserved by the government upon or subsequent to that date by  
11 purchase, exchange, escheat, or the exercise of the right of  
12 eminent domain, or in any other manner; including lands accreted  
13 after May 20, 2003, and not otherwise awarded, submerged lands,  
14 and lands beneath tidal waters that are suitable for  
15 reclamation, together with reclaimed lands that have been given  
16 the status of public lands under this chapter, except:

17           (1) Lands designated in section 203 of the Hawaiian Homes  
18 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 subsections (c) and (d) to read as follows:

1           "(c) The board [~~shall~~], in consultation with the senate  
2 president and the speaker of the house of representatives, shall  
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           (d) The board [~~shall~~], in consultation with the senate  
18 president and the speaker of the house of representatives, shall  
19 require as a condition of the receipt of funds that nonprofit  
20 land conservation organizations receiving funds under this  
21 chapter provide a conservation easement under chapter 198, or an  
22 agricultural easement or deed restriction or covenant to the



1 department of land and natural resources; the department of  
2 agriculture; the agribusiness development corporation; [the  
3 ~~public land development corporation,~~] an appropriate land  
4 conservation agency; or an appropriate county, state, or federal  
5 natural resource conservation agency, that shall run with the  
6 land and be recorded with the land to ensure the long-term  
7 protection of land having value as a resource to the State and  
8 preserve the interests of the State. The board shall require as  
9 a condition of the receipt of funds that it be an owner of any  
10 such conservation easement."

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

13 "(i) Based on applications from state agencies, counties,  
14 and nonprofit land conservation organizations, the department,  
15 in consultation with the senate president and speaker of the  
16 house of representatives, shall recommend to the board specific  
17 parcels of land to be acquired, restricted with conservation  
18 easements, or preserved in similar fashion. The board shall  
19 review the selections and approve or reject the selections  
20 according to the availability of moneys in the fund. To be  
21 eligible for grants from the fund, state and county agencies and



1 nonprofit land conservation organizations shall submit  
2 applications to the department that contain:

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

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





1           "§206E-4 Powers; generally. Except as otherwise limited  
2 by this chapter, the authority may:

3           (1) Sue and be sued;

4           (2) Have a seal and alter the same at pleasure;

5           (3) Make and execute contracts and all other instruments  
6           necessary or convenient for the exercise of its powers  
7           and functions under this chapter;

8           (4) Make and alter bylaws for its organization and  
9           internal management;

10          (5) Make rules with respect to its projects, operations,  
11          properties, and facilities, which rules shall be in  
12          conformance with chapter 91;

13          (6) Through its executive director appoint officers,  
14          agents, and employees, prescribe their duties and  
15          qualifications, and fix their salaries, without regard  
16          to chapter 76;

17          (7) Prepare or cause to be prepared a community  
18          development plan for all designated community  
19          development districts;

20          (8) Acquire, reacquire, or contract to acquire or  
21          reacquire by grant or purchase real, personal, or  
22          mixed property or any interest therein; to own, hold,



1 clear, improve, and rehabilitate, and to sell, assign,  
2 exchange, transfer, convey, lease, or otherwise  
3 dispose of or encumber the same;

4 (9) Acquire or reacquire by condemnation real, personal,  
5 or mixed property or any interest therein for public  
6 facilities, including but not limited to streets,  
7 sidewalks, parks, schools, and other public  
8 improvements;

9 (10) By itself, or in partnership with qualified persons,  
10 acquire, reacquire, construct, reconstruct,  
11 rehabilitate, improve, alter, or repair or provide for  
12 the construction, reconstruction, improvement,  
13 alteration, or repair of any project; own, hold, sell,  
14 assign, transfer, convey, exchange, lease, or  
15 otherwise dispose of or encumber any project, and in  
16 the case of the sale of any project, accept a purchase  
17 money mortgage in connection therewith; and repurchase  
18 or otherwise acquire any project which the authority  
19 has theretofore sold or otherwise conveyed,  
20 transferred, or disposed of;

21 (11) Arrange or contract for the planning, replanning,  
22 opening, grading, or closing of streets, roads,



- 1 roadway, alleys, or other places, or for the  
2 furnishing of facilities or for the acquisition of  
3 property or property rights or for the furnishing of  
4 property or services in connection with a project;
- 5 (12) Grant options to purchase any project or to renew any  
6 lease entered into by it in connection with any of its  
7 projects, on such terms and conditions as it deems  
8 advisable;
- 9 (13) Prepare or cause to be prepared plans, specifications,  
10 designs, and estimates of costs for the construction,  
11 reconstruction, rehabilitation, improvement,  
12 alteration, or repair of any project, and from time to  
13 time to modify such plans, specifications, designs, or  
14 estimates;
- 15 (14) Provide advisory, consultative, training, and  
16 educational services, technical assistance, and advice  
17 to any person, partnership, or corporation, either  
18 public or private, to carry out the purposes of this  
19 chapter, and engage the services of consultants on a  
20 contractual basis for rendering professional and  
21 technical assistance and advice;



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

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

6 (17) Do any and all things necessary to carry out its  
7 purposes and exercise the powers given and granted in  
8 this chapter; and

9 (18) Allow satisfaction of any affordable housing  
10 requirements imposed by the authority upon any  
11 proposed development project through the construction  
12 of reserved housing, as defined in section 206E-101,  
13 by a person on land located outside the geographic  
14 boundaries of the authority's jurisdiction; provided  
15 that the authority shall not permit any person to make  
16 cash payments in lieu of providing reserved housing,  
17 except to account for any fractional unit that results  
18 after calculating the percentage requirement against  
19 residential floor space or total number of units  
20 developed. The substituted housing shall be located  
21 on the same island as the development project and  
22 shall be substantially equal in value to the required



1 reserved housing units that were to be developed on  
2 site. The authority shall establish the following  
3 priority in the development of reserved housing:

- 4 (A) Within the community development district;  
5 (B) Within areas immediately surrounding the  
6 community development district;  
7 (C) Areas within the central urban core;  
8 (D) In outlying areas within the same island as the  
9 development project.

10 The Hawaii community development authority shall  
11 adopt rules relating to the approval of reserved  
12 housing that are developed outside of a community  
13 development district. The rules shall include, but  
14 are not limited to, the establishment of guidelines to  
15 ensure compliance with the above priorities[, and

16 ~~(19) Assist the public land development corporation~~  
17 ~~established by section 171C-3 in identifying public~~  
18 ~~lands that may be suitable for development, carrying~~  
19 ~~on marketing analysis to determine the best revenue-~~  
20 ~~generating programs for the public lands identified,~~  
21 ~~entering into public private agreements to~~  
22 ~~appropriately develop the public lands identified, and~~



1 ~~providing the leadership for the development,~~  
 2 ~~financing, improvement, or enhancement of the selected~~  
 3 ~~development opportunities, provided that no assistance~~  
 4 ~~shall be provided unless the authority authorizes the~~  
 5 ~~assistance]."~~

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

8 SECTION 8. Any rights, duties, and obligations transferred  
 9 to the public land development corporation from any public  
 10 agency by legislative or administrative action, including those  
 11 rights, duties, and obligations transferred by part I of Act  
 12 282, Session Laws of Hawaii 2012, shall be transferred back to  
 13 the public agency upon the effective date 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:

*[Handwritten signature]*  
 \_\_\_\_\_  
*[Handwritten signature]*  
 \_\_\_\_\_  
*[Handwritten signature]*  
 \_\_\_\_\_  
*[Handwritten signature]*  
 \_\_\_\_\_



# S.B. NO. 866

**Report Title:**

PLDC; Repeal

**Description:**

Repeals chapter 171C, HRS, relating to the PLDC, and the provisions of Act 282, SLH 2012.

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

