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# A BILL FOR AN ACT

RELATING TO PUBLIC LANDS.

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

1 PART I

2 SECTION 1. The legislature finds that because of the  
3 policies guiding the management of public lands with commercial,  
4 industrial, resort, and hotel uses, there has been little  
5 incentive for the lessees to make major improvements to their  
6 infrastructure, resulting in the deterioration of infrastructure  
7 and facilities. The lack of improvements in many of these areas  
8 has resulted in dilapidation, deterioration, or obsolescence of  
9 the buildings and structures.

10 The department of land and natural resources has the  
11 responsibility of planning for the disposition of commercial,  
12 industrial, and hotel and resort classes of public lands to  
13 determine specific uses, the minimum sizes of parcels, required  
14 building construction or improvements, and lease terms and  
15 requirements.

16 The legislature finds that the rejuvenation of areas of  
17 public lands that have become dilapidated, obsolete, or have



1 deteriorated over time is in the public interest and constitutes  
2 a valid public purpose.

3 The purpose of this Act is to authorize the designation of  
4 areas or regions of public lands classified as commercial,  
5 industrial, resort, and hotel, and the establishment and  
6 implementation of guidelines for the redevelopment of the areas  
7 or regions that will:

8 (1) Modernize the policies for the management of public  
9 lands in the designated area;

10 (2) Establish a plan for the designated area, including  
11 district-wide improvements, that is coordinated with  
12 state and county land use and planning policies; and

13 (3) Implement asset and property management concepts that  
14 can optimize income from the properties and evolve in  
15 response to changing principles of property  
16 administration.

17 PART II

18 SECTION 2. Chapter 171, Hawaii Revised Statutes, is  
19 amended by adding a new part to be appropriately designated and  
20 to read as follows:

21 "PART . PUBLIC LANDS REDEVELOPMENT



1           **§171-A Definitions.** As used in this part, unless the  
2 context requires otherwise:

3           "Planning committee" or "committee" means the policy-making  
4 committee established for a redevelopment district pursuant to  
5 section 171-C.

6           "Premises" means the property that is being leased or  
7 rented in a designated district.

8           "Public facilities" include streets and highways, storm  
9 drainage systems, water systems, street lighting systems, off-  
10 street parking facilities, and sanitary sewerage systems.

11           "Redevelopment district" or "designated district" means an  
12 area of public lands designated for redevelopment pursuant to  
13 section 171-B.

14           **§171-B Designation of redevelopment district; boundaries;**  
15 **transfer to the committee.** (a) The legislature shall designate  
16 redevelopment districts by law for any area of public lands  
17 classified as commercial and industrial; hotel, apartment, and  
18 motel; or resort use pursuant to section 171-10, if the  
19 legislature determines that there is a need for planning,  
20 development, or redevelopment because the buildings and



1 infrastructures in the area are dilapidated or have deteriorated  
2 due to age or obsolescence.

3 (b) The designation shall specify the boundaries of the  
4 redevelopment district.

5 (c) The law designating the redevelopment district shall  
6 transfer the management of the public lands within the district  
7 to the planning committee for the designated district; provided  
8 that any lessee or permittee within the designated district  
9 shall perform in full compliance with the existing lease or  
10 permit.

11 (d) All rules, policies, procedures, guidelines, leases,  
12 contracts, loans, agreements, permits, and other materials and  
13 documents adopted or developed by the department of land and  
14 natural resources to implement applicable state laws shall  
15 remain in full force and effect until amended or repealed by the  
16 committee.

17 **§171-C Planning committee; members; district**  
18 **administrator; repeal.** (a) Upon the designation of a  
19 redevelopment district pursuant to section 171-B, a planning  
20 committee for the designated district shall be established  
21 within the department for administrative purposes.



1 (b) The committee shall be an executive committee for the  
2 designated district and shall consist of nine voting members.

3 The committee shall consist of:

4 (1) The chairperson of the board of land and natural  
5 resources and the director of planning of the county  
6 in which the designated district is located, or their  
7 designated representatives, who shall be ex officio,  
8 voting members of the committee; and

9 (2) Seven voting members of the public appointed by the  
10 governor pursuant to section 26-34; provided that of  
11 the members appointed pursuant to this paragraph:

12 (A) Three members shall be selected from a list of  
13 six names for each nomination submitted by the  
14 president of the senate and the speaker of the  
15 house of representatives in collaboration with  
16 the legislators representing the county in which  
17 the designated district is located;

18 (B) All members shall be selected on the basis of  
19 their knowledge, experience, and expertise in:

20 (i) Management of small or large businesses;

21 (ii) Economics, banking, investment, or finance;



- 1           (iii) Real estate development;
  - 2           (iv) Real estate management;
  - 3           (v) Marketing; or
  - 4           (vi) Hotel and resort management; and
- 5           (C) Four members shall be residents of the county in
- 6                 which the designated district is located, and
- 7                 three members shall be residents of the State and
- 8                 reside in a county other than the county in which
- 9                 the designated district is located.
- 10          (c) The committee shall elect its chairperson from among
- 11                 its members of the public.
- 12          (d) The members of the committee shall serve without
- 13                 compensation but shall be reimbursed for reasonable expenses,
- 14                 including travel expenses, incurred in the performance of their
- 15                 duties. This subsection shall not be construed to prohibit the
- 16                 ex officio members of the committee from receiving their
- 17                 salaries and wages for their work as public officials.
- 18          (e) The committee shall appoint a district administrator,
- 19                 who shall be the chief executive officer for the designated
- 20                 district. The district administrator shall have expertise in
- 21                 development of commercial, industrial, resort, or hotel lands as



1 well as expertise in at least one of the following areas and  
2 shall be selected on the basis of the person's knowledge,  
3 experience, and expertise in management of small or large  
4 businesses; economics, banking, investment, or finance; real  
5 estate development; real estate management; law; marketing; or  
6 hotel and resort management. The committee shall set the  
7 district administrator's duties, responsibilities, holidays,  
8 vacations, leaves, hours of work, and working conditions. The  
9 committee shall set the salary of the district administrator,  
10 who shall serve at the pleasure of the committee and shall be  
11 exempt from chapter 76.

12 (f) The committee shall be dissolved upon the completion  
13 of the redevelopment project.

14 **§171-D Powers and duties; generally; exemption from**  
15 **administrative supervision of boards and commissions.** (a) The  
16 committee shall have the following powers and duties:

- 17 (1) Through its district administrator, appoint staff and  
18 employees, prescribe their duties and qualifications,  
19 and fix their salaries, without regard to chapter 76;  
20 (2) Through its district administrator:



- 1 (A) Allocate space or spaces that are to be occupied
- 2 by the committee and appropriate staff; and
- 3 (B) Purchase necessary supplies, equipment, or
- 4 furniture;
- 5 (3) Prepare a redevelopment plan for the designated
- 6 district that will be submitted to the board for
- 7 review and approval;
- 8 (4) Notwithstanding any other law to the contrary, lease
- 9 public lands in a designated district and renew or
- 10 renegotiate any lease in connection with any project
- 11 contained in the redevelopment plan for the designated
- 12 district, on terms and conditions pursuant to section
- 13 171-F and consistent with the redevelopment plan;
- 14 (5) Prepare or cause to be prepared plans, design
- 15 criteria, landscaping, and estimates of costs for the
- 16 construction, rehabilitation, or repair of any project
- 17 contained in the redevelopment plan for the designated
- 18 district, and from time to time to modify the plans,
- 19 or estimates;
- 20 (6) Conduct studies in conjunction with county and state
- 21 agencies necessary to determine the appropriate





- 1 activities for redevelopment in the designated  
2 district;
- 3 (7) Reduce or waive the lease rental on any lease of  
4 public land for any project in the designated district  
5 that requires substantial improvements; provided that  
6 the reduction or waiver shall not exceed one year;
- 7 (8) Make and execute all contracts and instruments  
8 necessary for the exercise of its powers and functions  
9 relating to the designated district, including the  
10 engaging of the services of consultants for rendering  
11 of professional and technical assistance and advice;
- 12 (9) Enter into a development agreement with a developer or  
13 developers for any project contained in the  
14 redevelopment plan; provided that the development  
15 agreement shall contain:
- 16 (A) A description of the location, area, and size of  
17 the parcel to be developed;
- 18 (B) The use or uses to which the parcel shall be put  
19 in conformance with the redevelopment plan and  
20 with applicable state and county laws and  
21 ordinances;



- 1 (C) The period of time for the construction and  
2 completion of the redevelopment; and  
3 (D) Other terms and conditions that the committee  
4 deems necessary;
- 5 (10) Work closely and communicate with the county to  
6 coordinate the execution of the designated district's  
7 planning, incremental projects, work schedules, public  
8 works, and budget; and
- 9 (11) Do any and all things necessary to carry out its  
10 purposes and exercise the powers given and granted in  
11 this part.
- 12 (b) Notwithstanding any law to the contrary, the committee  
13 shall be exempt from section 26-35(a)(1), (4), (5), and (6).
- 14 **§171-E District redevelopment plan.** (a) The committee  
15 shall prepare a redevelopment plan for the designated district,  
16 including district development policies, the district  
17 improvement program, necessary public facilities, and the  
18 development guidelines and rules for the designated district.  
19 In carrying out its planning activities, the committee shall  
20 comply with chapter 205A and applicable county building and  
21 zoning ordinances.



1 (b) The committee shall prepare a redevelopment plan for  
2 the designated district that:

3 (1) Establishes, if applicable, areas principally for:

4 (A) Commercial activities;

5 (B) Processing, construction, manufacturing,  
6 transportation, wholesaling, storage, and similar  
7 industrial activities;

8 (C) Resort and hotel activities, including uses that  
9 provide facilities and services for visitors; and

10 (D) Public facilities and recreational facilities,  
11 with detailed standards for height, bulk, size,  
12 and location of buildings;

13 (2) Includes a district-wide improvement program for  
14 necessary district-wide public facilities within the  
15 designated district;

16 (3) Includes plans, specifications, and estimates of the  
17 costs for the development, construction,  
18 reconstruction, or improvement of any project in the  
19 designated district, and from time to time modify the  
20 plans, specifications, or estimates;



- 1 (4) If possible, identifies specific uses for areas in the  
2 designated district and the required parceling of land  
3 into minimum size areas related to the specific uses;
- 4 (5) Determines the lease rental that should be established  
5 for the specific uses and the terms and conditions of  
6 the leases;
- 7 (6) Establishes interim development controls to be  
8 implemented during the transition to the execution of  
9 the provisions of the redevelopment plan, such as  
10 recommending the holdover of a lessee pursuant to  
11 section 171-40 or issuance of permits pursuant to  
12 section 171-55 to existing lessees upon the expiration  
13 of their lease terms; and
- 14 (7) Allows the use of land or any building existing on the  
15 date the redevelopment plan is adopted to continue as  
16 a nonconforming use; provided that the nonconforming  
17 building shall not be replaced, expanded, or changed  
18 to another nonconforming use.
- 19 (c) The district redevelopment plan may provide for the  
20 withdrawal or taking for public purposes of public land or  
21 portion of public land under a lease. The rental shall be



1 reduced in proportion to the value of the portion of the  
2 premises condemned, and the lessee shall be entitled to receive  
3 the proportionate value of the permanent improvements legally  
4 made to or constructed upon the land by the lessee taken in the  
5 proportion that it bears to the unexpired term of the lease.

6 (d) Prior to adoption, the committee shall hold a public  
7 hearing on a proposed redevelopment plan for the designated  
8 district and shall consider the comments received and  
9 incorporate any revisions to the plan that may be necessary.

10 (e) The committee shall submit an annual report on the  
11 progress of the redevelopment project to the board. The report  
12 may include the redevelopment plan recommended by the committee  
13 with its recommendations for appropriations by the legislature  
14 or the authorization of bonds or both, to implement the  
15 redevelopment plan in a timely manner. The board shall review  
16 and approve the recommended redevelopment plan and shall submit  
17 the report to the governor and the legislature with a request  
18 for the required appropriations and bond authorization.

19 **§171-F Designated redevelopment district revolving fund.**

20 (a) A separate revolving fund shall be established for each



1 redevelopment district designated pursuant to section 171-B,  
2 into which shall be deposited:

- 3 (1) Fifty per cent of the revenues, income, and receipts  
4 of the department from the public lands in the  
5 designated district, notwithstanding section 171-19;  
6 (2) Moneys appropriated by the legislature to the  
7 revolving fund; and  
8 (3) Any gifts, grants, and other funds accepted by the  
9 committee.

10 Each revolving fund shall bear the name used by the legislature  
11 in designating the redevelopment district.

12 (b) Moneys in each designated redevelopment district  
13 revolving fund shall be expended by the committee and used in  
14 the designated district for the purposes of this part; provided  
15 that no expenditure shall be made from the fund and no  
16 obligation shall be incurred against the fund in excess of the  
17 amount standing to the credit of the fund.

18 (c) After the committee is dissolved, the unencumbered  
19 balance remaining in the corresponding redevelopment district  
20 revolving fund shall be transferred to the special land and  
21 development fund established pursuant to section 171-19."



1 PART III

2 SECTION 3. The legislature designates the public lands on  
3 the Waiakea peninsula on the island of Hawaii as the Waiakea  
4 peninsula redevelopment district.

5 SECTION 4. The Waiakea peninsula redevelopment district  
6 shall include the area bounded by the shoreline from the  
7 intersection of Lihikai street and Kamehameha avenue; Kamehameha  
8 avenue to its intersection with Kalaniana'ole avenue;  
9 Kalaniana'ole avenue to its intersection with Banyan way; Banyan  
10 way from its intersection with Kalaniana'ole avenue to its  
11 intersection with Banyan drive; from the intersection of Banyan  
12 way and Banyan drive to the shoreline; the shoreline around the  
13 Waiakea peninsula, including Mokuola island, to the intersection  
14 of Lihikai street and Kamehameha avenue.

15 SECTION 5. There is established a Waiakea peninsula  
16 redevelopment district planning committee. The committee shall  
17 be appointed as provided in section 171-C, Hawaii Revised  
18 Statutes, and shall exercise the powers and duties in the  
19 designated district as authorized by chapter 171, part  
20 Hawaii Revised Statutes. Pursuant to section 171-B(c), Hawaii  
21 Revised Statutes, the public lands within the Waiakea peninsula



1 redevelopment district are transferred to the Waiakea peninsula  
2 redevelopment district planning committee.

3 SECTION 6. There is established the Waiakea peninsula  
4 redevelopment district revolving fund, into which shall be  
5 deposited:

6 (1) Fifty per cent of the revenues, income, and receipts  
7 from the public lands in the Waiakea peninsula  
8 redevelopment district;

9 (2) Moneys appropriated by the legislature to the  
10 revolving fund; and

11 (3) Any gifts, grants, and other funds accepted by the  
12 Waiakea peninsula redevelopment district planning  
13 committee.

14 The moneys in the revolving fund shall be used in the Waiakea  
15 peninsula redevelopment district for the purposes described in  
16 chapter 171, part A, Hawaii Revised Statutes.

17 SECTION 7. There is appropriated out of the general  
18 revenues of the State of Hawaii the sum of \$ or so  
19 much thereof as may be necessary for fiscal year 2019-2020 to be  
20 deposited into Waiakea peninsula redevelopment district  
21 revolving fund.





1 SECTION 8. There is appropriated out of the Waiakea  
2 peninsula redevelopment district revolving fund the sum of  
3 \$ or so much thereof as may be necessary for fiscal  
4 year 2019-2020 and the same sum or so much thereof as may be  
5 necessary for fiscal year 2020-2021 for the purposes of this  
6 part.

7 The sums appropriated shall be expended by the department  
8 of land and natural resources for the purposes of this part.

9 PART IV

10 SECTION 9. Chapter 171, Hawaii Revised Statutes, is  
11 amended by adding a new section to be appropriately designated  
12 and to read as follows:

13 "§171- Development of public lands in a redevelopment  
14 area. (a) Notwithstanding any provision of law to the  
15 contrary, a local redevelopment agency created pursuant to  
16 section 53-2, with the prior approval of the council of the  
17 applicable county, approval of the governor, and authorization  
18 of the legislature by concurrent resolution, may negotiate a  
19 development agreement with a developer for commercial, business,  
20 or hotel or resort uses on public lands within a redevelopment



1 area according to a redevelopment plan adopted by the local  
2 redevelopment agency pursuant to chapter 53.

3 (b) The development agreement shall provide for the  
4 leasehold disposition of the land and shall:

5 (1) Describe the land subject to the development  
6 agreement, including the location, area, and size of  
7 the land;

8 (2) Specify the permitted use or uses for the land;

9 (3) Require that the permitted use or uses conform with  
10 all applicable state and county laws and ordinances;

11 (4) Include the start and completion dates of construction  
12 negotiated with the developer;

13 (5) Specify the on-site and off-site improvements involved  
14 with the development;

15 (6) Provide the lease commencement and termination dates  
16 and rent requirements of the land specified in the  
17 development agreement; and

18 (7) Include any other terms or conditions determined to be  
19 necessary by the local redevelopment agency."



1 SECTION 10. Chapter 237, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§237- Redevelopment project. (a) This chapter shall  
5 not apply to amounts received from the construction of work or  
6 improvements of a redevelopment project.

7 (b) For the purposes of this section:

8 "Construction of work or improvements of a redevelopment  
9 project" includes any costs of design, engineering, labor, and  
10 materials associated with the demolition and construction of a  
11 redevelopment project that is part of the redevelopment plan  
12 adopted by a local redevelopment agency pursuant to chapter 53.

13 "Redevelopment project" shall have the same meaning as  
14 defined in section 53-1."

15 SECTION 11. Section 238-1, Hawaii Revised Statutes, is  
16 amended by amending the definition of "use" to read as follows:

17 "Use" (and any nounal, verbal, adjectival, adverbial, and  
18 other equivalent form of the term) herein used interchangeably  
19 means any use, whether the use is of such nature as to cause the  
20 property, services, or contracting to be appreciably consumed or  
21 not, or the keeping of the property or services for such use or



1 for sale, the exercise of any right or power over tangible or  
2 intangible personal property incident to the ownership of that  
3 property, and shall include control over tangible or intangible  
4 property by a seller who is licensed or who should be licensed  
5 under chapter 237, who directs the importation of the property  
6 into the State for sale and delivery to a purchaser in the  
7 State, liability and free on board (FOB) to the contrary  
8 notwithstanding, regardless of where title passes, but the term  
9 "use" shall not include:

10 (1) Temporary use of property, not of a perishable or  
11 quickly consumable nature, where the property is  
12 imported into the State for temporary use (not sale)  
13 therein by the person importing the same and is not  
14 intended to be, and is not, kept permanently in the  
15 State. For example, without limiting the generality  
16 of the foregoing language:

17 (A) In the case of a contractor importing permanent  
18 equipment for the performance of a construction  
19 contract, with intent to remove, and who does  
20 remove, the equipment out of the State upon  
21 completing the contract;



- 1 (B) In the case of moving picture films imported for
- 2 use in theaters in the State with intent or under
- 3 contract to transport the same out of the State
- 4 after completion of such use; and
- 5 (C) In the case of a transient visitor importing an
- 6 automobile or other belongings into the State to
- 7 be used by the transient visitor while therein
- 8 but which are to be used and are removed upon the
- 9 transient visitor's departure from the State;
- 10 (2) Use by the taxpayer of property acquired by the
- 11 taxpayer solely by way of gift;
- 12 (3) Use which is limited to the receipt of articles and
- 13 the return thereof, to the person from whom acquired,
- 14 immediately or within a reasonable time either after
- 15 temporary trial or without trial;
- 16 (4) Use of goods imported into the State by the owner of a
- 17 vessel or vessels engaged in interstate or foreign
- 18 commerce and held for and used only as ship stores for
- 19 the vessels;



- 1 (5) The use or keeping for use of household goods,  
2 personal effects, and private automobiles imported  
3 into the State for nonbusiness use by a person who:  
4 (A) Acquired them in another state, territory,  
5 district, or country;  
6 (B) At the time of the acquisition was a bona fide  
7 resident of another state, territory, district,  
8 or country;  
9 (C) Acquired the property for use outside the State;  
10 and  
11 (D) Made actual and substantial use thereof outside  
12 this State;  
13 provided that as to an article acquired less than  
14 three months prior to the time of its importation into  
15 the State it shall be presumed, until and unless  
16 clearly proved to the contrary, that it was acquired  
17 for use in the State and that its use outside the  
18 State was not actual and substantial;
- 19 (6) The leasing or renting of any aircraft or the keeping  
20 of any aircraft solely for leasing or renting to  
21 lessees or renters using the aircraft for commercial



1 transportation of passengers and goods or the  
2 acquisition or importation of any such aircraft or  
3 aircraft engines by any lessee or renter engaged in  
4 interstate air transportation. For purposes of this  
5 paragraph, "leasing" includes all forms of lease,  
6 regardless of whether the lease is an operating lease  
7 or financing lease. The definition of "interstate air  
8 transportation" is the same as in 49 U.S.C. 40102;

9 (7) The use of oceangoing vehicles for passenger or  
10 passenger and goods transportation from one point to  
11 another within the State as a public utility as  
12 defined in chapter 269;

13 (8) The use of material, parts, or tools imported or  
14 purchased by a person licensed under chapter 237 which  
15 are used for aircraft service and maintenance, or the  
16 construction of an aircraft service and maintenance  
17 facility as those terms are defined in section 237-  
18 24.9;

19 (9) The use of services or contracting imported for resale  
20 where the contracting or services are for resale,



- 1 consumption, or use outside the State pursuant to  
2 section 237-29.53(a); [~~and~~]
- 3 (10) The use of property, services, or contracting imported  
4 by foreign diplomats and consular officials who are  
5 holding cards issued or authorized by the United  
6 States Department of State granting them an exemption  
7 from state taxes [~~-~~]; and
- 8 (11) The use of material, parts, or tools imported or  
9 purchased by a person licensed under chapter 237 that  
10 are used for the construction of work or improvements  
11 of a redevelopment project as defined in section  
12 237- .

13 With regard to purchases made and distributed under the  
14 authority of chapter 421, a cooperative association shall be  
15 deemed the user thereof."

16 PART V

17 SECTION 12. In codifying the new sections added by section  
18 2 of this Act, the revisor of statutes shall substitute  
19 appropriate section numbers for the letters used in designating  
20 the new sections in this Act.





1 SECTION 13. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4 SECTION 14. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 15. This Act shall take effect on July 1, 2019;  
7 provided that the county of Hawaii repeals the Banyan Drive  
8 Hawaii redevelopment agency.



**Report Title:**

Public Lands; Redevelopment; Waiakea Peninsula; Appropriation

**Description:**

Authorizes the designation of areas or regions of public lands classified as commercial, industrial, resort and hotel, and the establishment and implementation of guidelines for the redevelopment of the areas or regions that will: (1) modernize the policies for the management of public lands in the designated area; (2) establish a plan for the designated area, including district-wide improvements, that is coordinated with state and county land use and planning policies; and (3) implement asset and property management concepts that can optimize income from the properties and evolve in response to changing principles of property administration. Designates the public lands on the Waiakea peninsula on the island of Hawaii as the Waiakea Peninsula Redevelopment District. Authorizes a local redevelopment agency to contract with a developer for construction of non-residential projects on public land within a redevelopment area. Exempts the costs of construction of work or improvements of a redevelopment project from general excise and use taxes. Takes effect provided that the County of Hawaii repeals the Banyan Drive Hawaii redevelopment agency. Makes an appropriation. (Proposed SD1)

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