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# A BILL FOR AN ACT

RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

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

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

3           "§171-2 Definition of public lands. "Public lands" means  
4 all lands or interest therein in the State classed as government  
5 or crown lands previous to August 15, 1895, or acquired or  
6 reserved by the government upon or subsequent to that date by  
7 purchase, exchange, escheat, or the exercise of the right of  
8 eminent domain, or in any other manner; including lands accreted  
9 after May 20, 2003, and not otherwise awarded, submerged lands,  
10 and lands beneath tidal waters that are suitable for  
11 reclamation, together with reclaimed lands that have been given  
12 the status of public lands under this chapter, except:

- 13           (1) Lands designated in section 203 of the Hawaiian Homes  
14           Commission Act, 1920, as amended;
- 15           (2) Lands set aside pursuant to law for the use of the  
16           United States;
- 17           (3) Lands being used for roads and streets;

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

1 to recover debts otherwise owed the department under  
2 chapter 167;

3 ~~[(9)]~~ (10) Lands that are set aside by the governor to  
4 the Aloha Tower development corporation; lands leased  
5 to the Aloha Tower development corporation by any  
6 department or agency of the State; or lands to which  
7 the Aloha Tower development corporation holds title in  
8 its corporate capacity;

9 ~~[(10)]~~ (11) Lands that are set aside by the governor to  
10 the agribusiness development corporation; lands leased  
11 to the agribusiness development corporation by any  
12 department or agency of the State; or lands to which  
13 the agribusiness development corporation in its  
14 corporate capacity holds title;

15 ~~[(11)]~~ (12) Lands to which the Hawaii technology  
16 development corporation in its corporate capacity  
17 holds title; and

18 ~~[(12)]~~ (13) Lands to which the department of education  
19 holds title;

20 provided that, except as otherwise limited under federal law and  
21 except for state land used as an airport as defined in section  
22 262-1, public lands shall include the air rights over any

1 portion of state land upon which a county mass transit project  
2 is developed after July 11, 2005."

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

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

- 15 (1) Land set aside pursuant to law for the use of the  
16 United States;
- 17 (2) Land to which the United States relinquished the  
18 absolute fee and ownership under section 91 of the  
19 Organic Act prior to the admission of Hawaii as a  
20 state of the United States;
- 21 (3) Land to which the University of Hawaii holds title;

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- 1           (4) Land to which the Hawaii housing finance and  
2           development corporation in its corporate capacity  
3           holds title;
- 4           (5) Land to which the department of agriculture holds  
5           title by way of foreclosure, voluntary surrender, or  
6           otherwise, to recover moneys loaned or to recover  
7           debts otherwise owed the department under chapter 167;
- 8           (6) Land that is set aside by the governor to the Aloha  
9           Tower development corporation; or land to which the  
10          Aloha Tower development corporation holds title in its  
11          corporate capacity;
- 12          (7) Land that is set aside by the governor to the  
13          agribusiness development corporation; or land to which  
14          the agribusiness development corporation in its  
15          corporate capacity holds title;
- 16          (8) Land to which the Hawaii technology development  
17          corporation in its corporate capacity holds title;  
18          [and]
- 19          (9) Land to which the department of education holds  
20          title[-]; and
- 21          (10) Land to which the Hawaii public housing authority in  
22          its corporate capacity holds title."

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1           SECTION 3. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3           SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: 

6

BY REQUEST

7

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1 **Report Title:**

2 Hawaii Public Housing Authority Lands; Public Lands

3

4 **Description:**

5 Excludes from the definition of "public lands" in section 171-2,  
6 Hawaii Revised Statutes, lands set aside by the governor to the  
7 Hawaii Public Housing Authority (HPHA) or lands to which the  
8 HPHA holds title. Requires legislative approval of the sale of  
9 lands to which the HPHA holds title.

## JUSTIFICATION SHEET

DEPARTMENT: Human Services, Hawaii Public Housing Authority

TITLE: A BILL FOR AN ACT RELATING TO THE HAWAII PUBLIC HOUSING AUTHORITY.

PURPOSE: To exclude from the definition of "public lands" the lands set aside by the Governor to the Hawaii Public Housing Authority (HPHA) or lands to which the HPHA in its corporate capacity holds title. To require legislative approval of the sale or gift of HPHA titled lands.

MEANS: Amend sections 171-2 and 171-64.7(a), Hawaii Revised Statutes.

JUSTIFICATION: The HPHA is authorized to acquire, own and hold real property and, therefore, its titled lands do not fall under the catchall definition of state "public lands" under the Department of Land and Natural Resources (DLNR) or the DLNR's jurisdiction.

In 2006, the Legislative Reference Bureau published a report, "Clarifying Statutory References in State Housing Agency Laws," stating that an amendment should be made based on the facts and history of both the HPHA and Hawaii Housing Finance and Development Corporation (HHFDC).

"Prior to 1987, §171-2 excluded from the definition of 'public lands' those 'lands to which the Hawaii housing authority in its corporate capacity holds title'. Act 337, SLH 1987, that established the housing finance and development corporation, added a further exclusion in §171-2 for the corporation's properties. After 1997, when the two agencies merged into the housing and community development corporation of Hawaii, this section was further amended to change the reference from the housing and community



development corporation of Hawaii to the (present) Hawaii housing finance and development corporation.

It would appear that this section should be amended to include both the Hawaii housing finance and development corporation and the Hawaii public housing authority, as both agencies are authorized to acquire, own, and hold real property." "Clarifying Statutory References in State Housing Agency Laws," Report No. 5, 2006, Legislative Reference Bureau.

By also including lands set aside by the Governor to the HPHA, the HPHA will be provided with greater flexibility and autonomy over the management and disposition of lands under its control, particularly given the HPHA's critical mission to provide housing relief for our most vulnerable populations.

Amending section 171-64.7(a), Hawaii Revised Statutes, to include HPHA titled lands will be consistent with other state lands excluded from the definition of "public lands" in section 171-2, Hawaii Revised Statutes.

Impact on the public: There should be a positive impact on the public as this measure will clarify the jurisdiction over lands set aside by the Governor to the HPHA and HPHA titled lands.

Amending section 171-64.7(a), Hawaii Revised Statutes, to include HPHA titled lands will clarify that the sale or gift of these lands would be subject to legislative approval.

Impact on the department and other agencies:  
None.

GENERAL FUNDS: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: HMS 220; HMS 229.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.