
A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1 SECTION 1. The legislature finds that the office of
2 Hawaiian affairs was established under article XII, section 5 of
3 the Hawaii State Constitution to "hold title to all the real and
4 personal property now or hereafter set aside or conveyed to it
5 which shall be held in trust for native Hawaiians and
6 Hawaiians." The office of Hawaiian affairs' board of trustees
7 is authorized by article XII, section 6, of the Hawaii State
8 Constitution "to manage and administer the proceeds from the
9 sale or other disposition of the lands...and income derived from
10 whatever sources for native Hawaiians and Hawaiians, including
11 all income and proceeds from that pro rata portion of the trust
12 referred to in section 4 of this article [the public land trust]
13 for native Hawaiians." The board of trustees is also authorized
14 to exercise control over real and personal property set aside by
15 state, federal or private sources and transferred to the board
16 for native Hawaiians and Hawaiians."



1 In section 1 of Act 15, Session Laws of Hawaii 2012 (Act
2 15), the legislature found that a purpose of the Act was to:

3 "[E]ffectively and responsibly fulfill the constitutional
4 obligation to native Hawaiians under article XII, sections
5 4 and 6, of the State Constitution between November 7,
6 1978, up to and including June 30, 2012...and providing
7 additional resources to the office in the form of fee
8 simple title to certain parcels of land."

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

13 Further, section 2 of Act 15 stated, "the fee simple
14 interest to [nine] parcels of land [including parcels identified
15 by tax map key (1) 2-1-58-129 (Lot A), tax map key (1) 2-1-58-6
16 (Lot E), tax map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-
17 1-15-61 (Lot I), and tax map key (1) 2-1-15-51 (Lot L), was]
18 conveyed to the Office of Hawaiian Affairs as grantee, as of
19 July 1, 2012, as is where is." In the same section of Act 15,
20 however, the legislature specifically directed that, "[t]he
21 [nine parcels] are and shall remain (even after conveyance to



1 the office) under the jurisdiction and authority of the Hawaii
2 community development authority with respect to zoning, land use
3 conditions[,] and all other matters over which the authority has
4 jurisdiction and authority to act," and "shall be subject to all
5 laws, except sections 206E-8, 206E-10, 206E-34, Hawaii Revised
6 Statutes, and otherwise provided in this Act."

7 Particularly pertinent to the purpose of Act 15, in section
8 6, the legislature further declare that "[t]he [p]roperties
9 conveyed by this Act shall be deemed income and proceeds from
10 the public land trust, as if the [p]roperties had been paid out
11 of the income and proceeds from the public land trust pursuant
12 to article XII, section 6 of the Hawaii State Constitution."

13 Relying on its board of trustees' authority to "exercise
14 control" over lands that the office of Hawaiian affairs holds in
15 trust for native Hawaiians, and to "manage and administer" the
16 income and proceeds from the public land trust lands it
17 receives, the office of Hawaiian affairs has asked the
18 legislature to enact this Act to allow the office of Hawaiian
19 affairs to maximize the income or proceeds that six of the
20 parcels of land conveyed by Act 15 could generate for the



1 purposes of bettering the conditions of native Hawaiians, by
2 allowing the parcels to be developed for residential use.

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

15 The legislature agrees that the residential development
16 restriction to which all of the parcels transferred to the
17 office of Hawaiian affairs by Act 15 were and continue to be
18 subject should be lifted to the extent necessary to allow the
19 office of Hawaiian affairs to realize the maximum income or
20 proceeds that the parcels identified by tax map key (1) 2-1-58-
21 129 (Lot A), tax map key (1) 2-1-58-6 (Lot E), tax map key (1)



1 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I), and tax
2 map key (1) 2-1-15-51 (Lot L) 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 Hawaii State Constitution.

9 The purpose of this Act is to enhance the revenue
10 generating capacity of six parcels of land that were transferred
11 to the office of Hawaiian affairs by Act 15. To accomplish this
12 purpose, this Act seeks to raise the building height limit for
13 two of the six parcels to four hundred feet and lifts the
14 current restriction against residential development in Kakaako
15 makai, to allow residential development by the office of
16 Hawaiian affairs or by third parties to which the office of
17 Hawaiian affairs conveys the parcels.

18 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
19 amended by adding a new section to part II to be appropriately
20 designated and to read as follows:



1 "§206E- Limited residential development in Kakaako;
2 public hearing prerequisite; height limit; association fee. (a)

3 The authority may approve any plan or proposal for any
4 residential development in Kakaako on any parcels identified as
5 tax map key (1) 2-1-58-129, tax map key (1) 2-1-58-6, tax map
6 key (1) 2-1-60-26, tax map key (1) 2-1-15-61, and tax map key
7 (1) 2-1-15-51; provided that the authorization for residential
8 development pursuant to this section shall apply to each of
9 these parcels regardless of if a parcel's tax map key number is
10 amended; provided further that approval may be granted only
11 after the applicant seeking approval conducts a public hearing
12 held in accordance with subsection (b).

13 (b) Prior to submission to the authority of any plan or
14 proposal for any residential development pursuant to this
15 section, the applicant seeking approval shall hold a public
16 hearing that shall be exempt from chapter 91. Notice shall be
17 published in accordance with section 1-28.5, at least thirty
18 days prior to the hearing. The notice shall include:

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

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



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

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

5 (c) Prior to submitting to the authority for approval any
6 plan or proposal for residential development pursuant to this
7 section, the applicant seeking approval shall fully address all
8 written and oral submissions permitted pursuant to subsection
9 (b) regarding the proposed residential development.

10 (d) Prior to the approval of any plan or proposal for
11 residential development pursuant to this section:

12 (1) The authority shall hold a public hearing in
13 accordance with subsection (b).

14 (2) The authority shall fully consider all written and
15 oral submissions received at the public hearings held
16 by the applicant and the authority.

17 (e) Any other law to the contrary notwithstanding, the
18 building height limit shall be four hundred feet for residential
19 development pursuant to this section on the parcels identified
20 by tax map key (1) 2-1-58-6 and tax map key (1) 2-1-15-61;
21 provided that the building height limit for residential



1 development pursuant to this section shall apply to each of
2 these land areas even in the event that a parcel's tax map key
3 number is amended."

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

6 **"§206E-12 Dedication for public facilities as condition to**
7 **development. (a)** The authority shall establish rules requiring
8 dedication for public facilities of land or facilities, or cash
9 payments in lieu thereof, by developers as a condition of
10 developing real property pursuant to the community development
11 plan. Where state and county public facilities dedication laws,
12 ordinances, or rules differ, the provision for greater
13 dedication shall prevail.

14 (b) This section shall not apply to lands identified in
15 section 206E- (a), Hawaii Revised Statutes."

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

18 **"§206E-31.5 Prohibitions.** Anything contained in this
19 chapter to the contrary notwithstanding, and except as provided
20 in section 206E- (a), the authority is prohibited from:



(1) Selling or otherwise assigning the fee simple interest in any lands in the Kakaako community development district to which the authority in its corporate capacity holds title, except with respect to:

(A) Utility easements;

(B) Remnants as defined in section 171-52;

(C) Grants to any state or county department or agency;

(D) Private entities for purposes of any easement, roadway, or infrastructure improvements; or

(E) Reserved housing as defined in section 206E-101; or

(2) Approving any plan or proposal for any residential development in that portion of the Kakaako community development district makai of Ala Moana boulevard and between Kewalo Basin and the foreign trade zone."

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2021.



Report Title:

Hawaii Community Development Authority; Office of Hawaiian Affairs; Residential Development; Kakaako Makai

Description:

Allows the raising of the building height limit for two of the six parcels owned by the office of Hawaiian affairs in the Kakaako Makai area to four hundred feet. Lifts the current restriction against residential development in Kakaako Makai to allow residential development by the office of Hawaiian affairs or by third parties to which the office of Hawaiian affairs conveys the parcels. (SD1)

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