

Honolulu, Hawaii

FEB 17 2023

RE: S.B. No. 736

S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committees on Water and Land and Hawaiian Affairs, to which was referred S.B. No. 736 entitled:

"A BILL FOR AN ACT RELATING TO HOUSING,"

beg leave to report as follows:

The purpose and intent of this measure is to:

- (1) Allow the Hawaii Community Development Authority to approve the residential development on the nine parcels conveyed to the Office of Hawaiian Affairs pursuant to Act 15, Session Laws of Hawaii 2012;
- (2) Raise the building height limit and increase the maximum floor area ratio for residential development on three of the nine parcels;
- (3) Exempt the residential developments on the nine parcels from the:
 - (A) Requirement to dedicate public facilities of land or facilities, or cash payments in lieu thereof, as a condition of development;
 - (B) Prohibition on sale or assignment of fee simple interest in land in the Kakaako Community Development District; and



- (C) Prohibition on residential development in the Kakaako Makai area; and
- (4) Appropriate funds for repairs of certain structures located on the nine parcels and for compensation relating to the Office of Hawaiian Affairs' pro rata portion of income and proceeds from the public land trust.

Your Committees received testimony in support of this measure from the Office of Hawaiian Affairs; Ko'olau Foundation; Iron Workers Stabilization Fund; Kamehameha Schools; Hawaii Hui; Ko'olauloa Hawaiian Civic Club; Friends of Kahana; Native Hawaiian Protocol and Consultant Services, Inc.; Ali'i Pauahi Hawaiian Civic Club; Ke One o Kākuhihewa; Native Hawaiian Chamber of Commerce; Makaha Hawaiian Civic Club; Association of Hawaiian Civic Clubs; Innovations Development Group; and fifty-seven individuals. Your Committees received testimony in opposition to this measure from Hawaii's Thousand Friends; Coalition to Mitigate the Impacts of Sea Level Rise; The Collection Association of Unit Owners; Free Access Coalition; HULI PAC; Friends of Kewalos; Kaka'ako Makai Community Planning Advisory Council; Malama Moana; Kakaako United; and seventy-eight individuals. Your Committees received comments on this measure from the Department of the Attorney General; Hawai'i Community Development Authority; Environmental Caucus of the Democratic Party of Hawai'i; and five individuals.

Your Committees find that in 2012, the Office of Hawaiian Affairs and the State reached a settlement to resolve all claims for back revenues pertaining to the income and proceeds from the public land trust past-due to the Office of Hawaiian Affairs that accumulated during the period between November 7, 1978, up to and including June 30, 2012. Your Committees further find that the settlement, approved by the Legislature and enacted as Act 15, Session Laws of Hawaii 2012 (Act 15), resolved the back revenue claims by conveying to the Office of Hawaiian Affairs nine parcels of land on the island of Oahu, located in the Kakaako Community Development District makai of Ala Moana Boulevard and between Kewalo Basin and the foreign trade zone, known as the Kakaako Makai area.



Your Committees further find that these nine parcels of land conveyed to the Office of Hawaiian Affairs are restricted from residential development use. Your Committees find that the Office of Hawaiian Affairs intends to develop some or all of the parcels of land conveyed pursuant to Act 15 for residential use as part of a master plan with retail and other commercial uses.

Your Committees have heard the testimony of the Department of the Attorney General, expressing concern that this measure is a special law because it proposes to lift the residential and height restrictions on specifically identified parcels of state land. The Department of the Attorney General testified that to address this constitutional concern, the name "Kakaako Makai" and the identification of parcels by tax map key should be stricken from this measure.

Your Committees have also heard the testimony of the Hawaii Community Development Authority, requesting that the language establishing a public hearing and community-input process for development plans that would be in addition to the existing requirements of sections 206E-5.5 and 206E-5.6, Hawaii Revised Statutes (HRS), should be deleted for the purposes of clarity.

Therefore, your Committees have amended this measure by:

- (1) Removing the name "Kakaako Makai" and the identification of parcels by tax map key from this measure;
- (2) Deleting language specifying that authorization for residential development shall apply regardless of whether a parcel's tax map key number is amended;
- (3) Deleting the language establishing a public hearing and community-input process for development plans that would be in addition to the requirements of sections 206E-5.5 and 206E-5.6, HRS, for the purposes of clarity;
- (4) Lowering the proposed increase to the building height limit to three-hundred fifty feet, from four hundred feet;
- (5) Amending section 1 to reflect its amended purpose;



- (6) Inserting an effective date of July 1, 2050, to encourage further discussion; and
- (7) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the records of votes of the members of your Committees on Water and Land and Hawaiian Affairs that are attached to this report, your Committees are in accord with the intent and purpose of S.B. No. 736, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 736, S.D. 1, and be referred to your Committees on Ways and Means and Judiciary.

Respectfully submitted on
behalf of the members of the
Committees on Water and Land
and Hawaiian Affairs,



MAILE S.L. SHIMABUKURO, Chair




LORRAINE R. INOUYE, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Water and Land
WTL

Bill / Resolution No.:* SB 736	Committee Referral: WTL/HWN, WAM/JDC	Date: 2/16/23		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
INOUYE, Lorraine R. (C)	✓			
ELEFANTE, Brandon J.C. (VC)		✓		
CHANG, Stanley	✓			
MCKELVEY, Angus L.K.		✓		
FEVELLA, Kurt	✓			
TOTAL	3	2	0	0
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes

The Senate
Thirty-Second Legislature
State of Hawai'i

Record of Votes
Committee on Hawaiian Affairs
HWN

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<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
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Members	Aye	Aye (WR)	Nay	Excused
SHIMABUKURO, Maile S.L. (C)	/			
FEVELLA, Kurt (VC)	/		/	
IHARA, Jr., Les			/	
KEOHOKALOLE, Jarrett	/			
RICHARDS, III, Herbert M. "Tim"		/		/
TOTAL	3	1	1	-
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center; font-family: cursive; font-size: 1.2em;">Kurt Fevello</div>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

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