

## ACT 7

S.B. NO. 2094-76

A Bill for an Act Amending Section 101-2 of the Hawaii Revised Statutes, Relating to Taking of Private Property for Public Use and the Disposal of Excess Property.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 101-2 of the Hawaii Revised Statutes is hereby amended to read as follows:

**“Section 101-2 Taking private property for public use; disposal of excess property.** Private property may be taken for public use. Private property may also be taken by the State or any county in excess of that needed for such public use in cases where small remnants would otherwise be left or where other justifiable cause necessitates such taking to protect and preserve the contemplated improvement, or public policy demands such taking in connection with the improvement, in which case the condemning authority may sell or lease such excess property, with such restrictions as may be dictated by considerations of public policy in order to protect and preserve such improvements; provided, that in the disposal of any such excess property, if such property is less than the minimum lot size requirements of the applicable zoning regulations, is of a

configuration or topography which in the judgment of the appropriate county zoning authority cannot be put to a reasonable use in accordance with the applicable zoning regulations, or lacks proper access to a street, it shall be offered to the owner or owners of the abutting land for a reasonable price based on an appraisal; provided further, that if such excess property conforms to said minimum lot size requirements, is of a configuration and topography which in the judgment of the appropriate county zoning authority can be put to a reasonable use in accordance with the applicable zoning regulations and has proper access to a street, then the State or the county, as the case may be, may sell such property at public auction. If there is more than one abutting owner who is interested in purchasing any such excess property which is less than the minimum lot size requirements of the applicable zoning regulations, is of a configuration or topography which in the judgement of the appropriate county zoning authority cannot be put to a reasonable use in accordance with applicable zoning regulations, or lacks proper access to a street, it shall be sold by the condemning authority by sealed bid to the abutting owner submitting the highest offer above the appraised value; provided further, that if any such excess property abuts more than one parcel, the condemning authority may make application for subdividing such property so that a portion thereof may be sold to each abutting owner at the appraised value if the public interest is best served by such subdivision and disposal. All moneys received from the sale or lease of such excess property shall be paid into the fund or appropriation from which money was taken for the original condemnation and shall be available for the purposes of such fund or appropriation.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.\*

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

(Approved April 9, 1976.)

---

\*Edited accordingly.