

# S.B. NO.

**Report Title:**

HCDA; OHA; Kakaako Makai; Residential Development; Height Limit; Workforce Housing; Owner-occupant; Hawaii Community Development; Revolving Fund; Special Account; Kakaako Makai; Association Fee

**Description:**

Allows the Hawaii Community Development Authority to approve residential development on certain parcels of land in the Kakaako Makai area. Raises the building height limit on certain parcels in the area. Requires a certain percentage of the residential units developed on certain parcels to be allocated to households at or below a certain income level, with priority given to certain essential workforce in the area. Limits the sale of residential units developed in certain residential developments to prospective owner-occupants. Requires the Hawaii Community Development Authority to determine a Kakaako Makai Association Fee to be collected from all residential developments on certain parcels to be deposited into a special account in the Hawaii Community Development Revolving Fund to fund various services and projects in the Kakaako Makai area.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*



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## 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,  
3 of the Hawaii State Constitution to "hold title to all the real  
4 and personal property now or hereafter set aside or conveyed to  
5 it 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  
10 from whatever sources for native Hawaiians and Hawaiians,  
11 including all income and proceeds from that pro rata portion of  
12 the trust referred to in section 4 of this article [the public  
13 land trust] for native Hawaiians". The board of trustees is  
14 also authorized under article XII, section 6, "to exercise  
15 control over real and personal property set aside by state,  
16 federal or private sources and transferred to the board for  
17 native Hawaiians and Hawaiians."



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

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

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

14           Further, section 2 of Act 15 stated, "the fee simple  
15 interest to the . . . parcels of land . . . is conveyed to the  
16 office of Hawaiian affairs as grantee, as of July 1, 2012, as  
17 is, where is[.]" In the same section of Act 15, however, the  
18 legislature specifically directed that, "[t]he [properties] are  
19 and shall remain (even after conveyance to the office) under the  
20 jurisdiction and authority of the Hawaii community development  
21 authority, with respect to zoning, land use conditions[, ] and



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1 all other matters over which the authority has jurisdiction and  
2 authority to act" and "shall be subject to all laws, except  
3 sections 206E-8, 206E-10, 206E-34, Hawaii Revised Statutes, and  
4 otherwise provided in this Act".

5 Particularly pertinent to the purpose of Act 15, in  
6 section 6, the legislature further declared that:

7 The [p]roperties conveyed by this Act shall be deemed  
8 income and proceeds from the public land trust, as if  
9 the [p]roperties had been paid out of the income and  
10 proceeds from the public land trust pursuant to article  
11 XII, section 6 of the Hawaii State Constitution.

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



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

13           The legislature agrees that the residential development  
14 restriction to which the parcels transferred to the office of  
15 Hawaiian affairs by Act 15 were and continue to be subject  
16 should be lifted for certain parcels to the extent necessary to  
17 allow the office of Hawaiian affairs to realize the maximum  
18 income or proceeds that those parcels could generate if they  
19 were developed for residential use.

20           The legislature further finds that the State continues to  
21 suffer from a shortage of affordable housing with fewer families



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1 able to afford to buy or rent a home in the State. Hawaii is  
2 the most expensive state in the nation for housing, with its  
3 housing costs being 2.7 times the national average. Housing  
4 costs in the State have tripled since 1990, resulting in a  
5 \$850,000 median price for a single-family home. This price  
6 equates to a \$252,000 annual income needed to afford a new  
7 median priced home and fewer than one in three households in the  
8 State meet that income threshold. In addition, Native Hawaiians  
9 suffer disproportionately from this lack of affordable housing.  
10 Native Hawaiians have the highest rate of poverty and the lowest  
11 median household income of the major ethnic groups in the State,  
12 causing many to become homeless or to leave the State.  
13 Therefore, it is essential that a certain percentage of the  
14 residential units developed on certain parcels of land conveyed  
15 to the office of Hawaiian affairs pursuant to Act 15 be  
16 workforce housing allocated to households within a certain  
17 income range.

18 The legislature also acknowledges that Act 172, Session  
19 Laws of Hawaii 2023, appropriated funds into and out of the  
20 school facilities special fund to construct housing prioritized  
21 for teachers, educators, and staff. Likewise, the legislature



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1 finds that priority for the workforce housing developed on  
2 certain parcels of lands conveyed to the office of Hawaiian  
3 affairs pursuant to Act 15 should be given to certain essential  
4 workforce in the area.

5 Furthermore, the legislature acknowledges the extensive  
6 planning and community outreach efforts by the Kakaako community  
7 planning advisory council, which resulted in the 2011 Kakaako  
8 Makai Conceptual Master Plan; the office of Hawaiian affairs'  
9 efforts, which produced the 2013 Kakaako Makai Strategic  
10 Management Plan; and the Hawaii community development  
11 authority's work and adoption of the 2017 Kakaako Makai Area  
12 Parks Master Plan and the 2023 Kakaako Community Development  
13 District Makai Area Plan. The legislature strongly encourages  
14 the office of Hawaiian affairs to incorporate development  
15 concepts from these various plans into its master plan  
16 development proposal for Kakaako makai to create a live, work,  
17 and play community that addresses the recreational, cultural,  
18 educational, economic, and workforce housing needs of the State.

19 Finally, the legislature finds that inasmuch as this Act  
20 furthers one of the principle purposes for which the office of  
21 Hawaiian affairs was established as a state agency, its



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1 provisions should be deemed consistent with and not violative of  
2 article XI, section 5, of the Hawaii State Constitution.

3 The purpose of this Act is to enhance the revenue  
4 generating capacity of certain parcels of land in the Kakaako  
5 makai area, including parcels that were conveyed to the office  
6 of Hawaiian affairs pursuant to Act 15 while making housing  
7 available to the essential workforce in the area by:

- 8 (1) Allowing the Hawaii community development authority to  
9 approve residential development on certain parcels;
- 10 (2) Raising the building height limit on certain parcels;
- 11 (3) Requiring fifty per cent plus one of the residential  
12 units developed on certain parcels to be allocated to  
13 households with income at or below one hundred forty  
14 per cent of the area median income, with priority  
15 given to individuals who are essential workers working  
16 within a five-mile radius of Kakaako makai, including  
17 but not limited to essential workers working for an  
18 employer in the health care, hospitality, education,  
19 law enforcement, civil service, or construction  
20 industry;





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1 (4) Limiting the sale of residential units developed in  
 2 certain residential developments to prospective owner-  
 3 occupants; and

4 (5) Establishing a Kakaako makai special fund and  
 5 association fee to fund various services and projects  
 6 in the Kakaako makai area.

7 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is  
 8 amended by adding three new sections to part II to be  
 9 appropriately designated and to read as follows:

10 **"§206E-A Limited residential development in Kakaako;**  
 11 **public hearing; height limit; disclosures; nuisance mitigation;**  
 12 **workforce housing.** (a) The authority may approve any plan or  
 13 proposal for any residential development in Kakaako on any  
 14 parcels identified in the parcels bounded by:

- 15 (1) Ala Moana Boulevard;
- 16 (2) Forrest Avenue from its intersection with Ala Moana  
 17 Boulevard to Ilalo Street;
- 18 (3) Ilalo Street from its intersection with Forrest Avenue  
 19 to Ohe Street;
- 20 (4) Ohe Street from its intersection with Ilalo Street to  
 21 Olomehani Street;



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1        (5) Olomehani Street from its intersection with Ohe Street  
2        to Ahui Street;

3        (6) Ahui Street from its intersection with Olomehani  
4        Street to the shoreline of the Kewalo Basin; and

5        (7) The shoreline of Kewalo Basin to its intersection with  
6        Ala Moana Boulevard;

7        provided that approval may be granted only after the applicant  
8        seeking approval conducts a public hearing held in accordance  
9        with subsection (b).

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

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

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

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

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



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1       (c) An applicant seeking approval of a plan or proposal  
2 for residential development pursuant to this section shall fully  
3 address all issues and questions raised in the written and oral  
4 submissions permitted pursuant to subsection (b) regarding the  
5 proposed residential development prior to submitting the plan or  
6 proposal to the authority.

7       (d) The authority shall, prior to approving any plan or  
8 proposal for residential development pursuant to this section:

9       (1) Hold a public hearing; and

10       (2) Fully consider all written and oral submissions  
11 received at the public hearings held by the applicant  
12 and the authority.

13       (e) Any other law to the contrary notwithstanding, the  
14 building height limit shall be four hundred feet for any  
15 residential development approved by the authority on the parcels  
16 bounded by Ala Moana Boulevard, Ilalo Street, and Forrest Avenue  
17 pursuant to this section.

18       (f) Any plan or proposal for residential development  
19 submitted to the authority for approval pursuant to this section  
20 shall include an assessment and proposed mitigation plan for any  
21 possible noise, odor, and other aircraft-related nuisances that



1 may affect the development. The office of Hawaiian affairs and  
2 any person developing the residential development approved by  
3 the authority pursuant to this section shall, before entering  
4 into any lease agreement for any lot, parcel, structure, or unit  
5 of a structure located within the development, provide written  
6 notice to potential lessees and residents of the possible noise,  
7 odor, and other aircraft-related nuisances.

8 (g) Any residential development approved by the authority  
9 on the parcels bounded by Ala Moana Boulevard, Ilalo Street, and  
10 Forrest Avenue pursuant to this section shall allocate at least  
11 fifty per cent plus one unit of the residential units in the  
12 development to households with income at or below one hundred  
13 forty per cent of the area median income, with priority given to  
14 individuals who are essential workers working within a five-mile  
15 radius of Kakaako makai, including but not limited to essential  
16 workers working for an employer in the health care, hospitality,  
17 education, law enforcement, civil service, or construction  
18 industry; provided that nothing in this subsection shall be  
19 construed to limit eligibility for exemptions for housing  
20 developments under chapter 201H.



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1        (h) Notwithstanding any other law to the contrary, no  
2 residential unit in a residential development approved by the  
3 authority pursuant to this section, shall be sold to any person  
4 other than a prospective owner-occupant.

5        (i) For the purposes of this section, "owner-occupant" has  
6 the same meaning as defined in section 514B-95.

7        **§206E-B Kakaako makai association fee.** The authority  
8 shall determine a Kakaako makai association fee to be collected  
9 from all residential developments in Kakaako on lands identified  
10 in section 206E-A(a); provided that the fee shall be collected  
11 from residential owners.

12        **§206E-C Kakaako makai special account.** Kakaako makai  
13 association fees collected pursuant to section 206E-B shall be  
14 deposited into a special account in the Hawaii community  
15 development revolving fund established in section 206E-16.  
16 Moneys from the special account shall be used to fund various  
17 services and projects, including but not limited to maintenance,  
18 improvements, free public parking for park users, public beach  
19 access, security, and parks and open spaces, for the Kakaako  
20 community development district makai of Ala Moana Boulevard and  
21 between Kewalo Basin and the foreign trade zone, including the



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1 Kewalo Basin area. Disbursements from the special account shall  
2 be made in accordance with procedures adopted by the authority  
3 and approved by the director of finance."

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) Rules adopted by the authority pursuant to  
15 subsection (a) shall not apply to residential developments  
16 approved by the authority pursuant to section 206E-A."

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

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



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- 1           (1) Selling or otherwise assigning the fee simple interest  
2           in any lands in the Kakaako community development  
3           district to which the authority in its corporate  
4           capacity holds title, except with respect to:  
5           (A) Utility easements;  
6           (B) Remnants as defined in section 171-52;  
7           (C) Grants to any state or county department or  
8           agency;  
9           (D) Private entities for purposes of any easement,  
10          roadway, or infrastructure improvements; or  
11          (E) Reserved housing as defined in section 206E-101;  
12          or  
13          (2) Approving any plan or proposal for any residential  
14          development in that portion of the Kakaako community  
15          development district makai of Ala Moana boulevard and  
16          between Kewalo Basin and the foreign trade zone."

17          SECTION 5. In codifying the new sections added by  
18 section 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.

21          SECTION 6. New statutory material is underscored.



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**1** SECTION 7. This Act shall take effect on July 1, 2025.

**2**

INTRODUCED BY: \_\_\_\_\_





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