
A BILL FOR AN ACT

RELATING TO KAKAAKO.

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

1 SECTION 1. The legislature finds that Honolulu has become
2 the primary urban core for the island of Oahu, with the
3 increasing concentration of density at its downtown and Kakaako
4 center. In Act 153, Session Laws of Hawaii 1976, the
5 legislature created the Hawaii community development authority
6 as the authority in charge of the planning and development of
7 Kakaako, one of the main centers of urban living in Honolulu.
8 This was due to its central location and largely unplanned and
9 underutilized condition at the time.

10 The State realizes the importance of Kakaako due to its
11 location and has invested millions of dollars in clean-up and
12 the building of infrastructure so that this area can become a
13 planned community. The legislature finds that the State further
14 needs to partner with the landowners in the area to fully
15 develop this community.

16 The opportunities presented by the planning framework in
17 place and the fact that there are but a few large landowners in



1 Kakaako make it imperative that planning incentives continue to
2 be made available for Kakaako to be developed to its fullest
3 potential.

4 Accordingly, the purpose of this Act is to encourage the
5 development of affordable residential housing units while
6 preserving current uses through the use of various incentives.

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

10 **"§206E- Reserved housing requirement for Kakaako mauka**
11 **area.** (a) The countable floor area of a development on a lot
12 within the Kakaako mauka area shall be developed and made
13 available for reserved housing units according to the following
14 table:

Land Area (square feet)	Residential Development (%)	Commercial Development (%)
0-19,999	0	0
20,000-79,999	20	10
80,000 or more	30	20

15
16 provided that if a developer receives and elects to take a
17 transit oriented development density bonus, then for residential



1 developments, ten per cent of the reserved housing requirement
2 shall be added to the reserved housing requirement to be
3 developed; provided further that after five years from the
4 effective date of this Act, each residential and commercial
5 development percentage requirement shall be increased by five
6 per cent unless the legislature determines there is adequate
7 reserved housing in Kakaako at that time. A project that has a
8 building permit and obtains its certificate of occupancy prior
9 to seven years after the effective date of this Act shall use
10 the percentage as of the effective date of this Act.

11 The developer of the development shall divide the floor
12 area required for reserved housing into, and construct the
13 number, types, and sizes of reserved housing units set by the
14 authority. The authority shall establish sale prices or rents
15 to be charged that are affordable to families intended to be
16 served by the reserved housing units. The authority shall also
17 set the number of parking stalls to be assigned to the reserved
18 housing units.

19 (b) For properties 80,000 square feet or more, the
20 following flexibility options shall be applicable to allow a
21 developer to offset the reserved housing requirements under
22 subsection (a):



- 1 (1) Notwithstanding any law to the contrary, up to thirty
2 per cent of the reserved housing requirement credits
3 may be developed outside of the district provided
4 that:
- 5 (A) One-half of one reserved housing requirement
6 credit shall be offset for each eligible unit of
7 an equivalent square footage constructed outside
8 of the district; provided that up to an
9 additional one-half of one reserved housing
10 requirement credit may be offset for each
11 eligible unit of a greater square footage
12 constructed outside of the district, as
13 determined by rule;
- 14 (B) Three-fourths of one reserved housing requirement
15 credit shall be offset for each eligible unit
16 constructed outside of the district if the
17 developer is a recipient of a transit oriented
18 development density bonus;
- 19 (2) An additional reserved housing requirement credit
20 offset of one-half of one reserved housing requirement
21 credit shall apply if a unit remains an affordable
22 rental for twenty years; and



1 (3) If a developer transfers land to the authority, the
2 developer shall receive one-half of one reserved
3 housing requirement credit for each reserved housing
4 unit developed by the authority.

5 (c) Notwithstanding any law to the contrary, the for-sale
6 reserved housing units shall remain reserved housing units for a
7 period of ten years from the date of the original sale of the
8 reserved housing unit. The authority shall set the types and
9 sizes of the reserved housing units and establish sale prices or
10 rents to be charged that are affordable to families intended to
11 be served by the reserved housing units. The authority also
12 shall set the number of parking stalls to be assigned to the
13 reserved housing units. The authority shall not allow a
14 developer to make a cash payment to the authority in lieu of
15 developing and making available the reserved housing floor area
16 or units required under this section; provided that the
17 authority may adopt rules providing for a contribution, in lieu
18 of the provision of reserved housing units, of a fee simple
19 assignment of real property within the Kakaako mauka area.

20 (d) Subject to the rules of the authority, reserved
21 housing units shall be built and made available for occupancy
22 prior to or concurrently with the development of the lot that



1 required the provision of the reserved housings units. The
2 authority shall prohibit the issuance of any certificate of
3 occupancy for any of the other uses before the issuance of the
4 certificate of occupancy for all the required reserved housing
5 floor area or units.

6 (e) Any project that provides more reserved housing units
7 than required under this section may transfer excess housing
8 credits to another project in the Kakaako community development
9 district toward satisfaction of the reserved housing units
10 requirement of that project as follows:

11 (1) \$60,000 for a studio with one bathroom of at least
12 four hundred square feet;

13 (2) \$75,000 for a one bedroom with one bathroom of at
14 least five hundred square feet;

15 (3) \$105,000 for a two bedroom with one bathroom of at
16 least seven hundred square feet;

17 (4) \$112,500 for a two bedroom with one and a half
18 bathroom of at least seven hundred fifty square feet;

19 (5) \$120,000 for a two bedroom with two bathrooms of at
20 least eight hundred square feet;

21 (6) \$135,000 for a three bedroom with two bathrooms of at
22 least nine hundred square feet; and



1 (7) \$150,000 for a four bedroom with two bathrooms of at
2 least one thousand square feet.

3 The authority shall annually review the amount and price
4 for the transfer of the excess credits and is authorized to
5 increase the amount as deemed necessary; provided that the
6 authority shall consider adjustments in construction costs and
7 changes based on government subsidies received. The terms of
8 the reserved housing credits transfer shall be approved by the
9 authority.

10 (f) For the purposes of this section:

11 "Base zone" means the use, lot area, building area, height,
12 density, bulk, yard, setback, open space, on-site parking and
13 loading, and other zoning standards or other restrictions
14 imposed upon a development on a particular lot.

15 "Community service use" means any of the following uses:

16 (1) Nursing or convalescent home, nursing facility,
17 assisted living administration, or ancillary assisted
18 living amenities for the elderly or persons with
19 disabilities;

20 (2) Child care, day care, or senior citizen center;

21 (3) Nursery school or kindergarten;

22 (4) Church;



1 (5) Charitable institution or nonprofit organization;

2 (6) Public use;

3 (7) Public utility; or

4 (8) Consulate.

5 "Countable floor area" of a development means the total
6 floor area of every building on the lot of a development, except
7 the floor area developed for the following:

8 (1) Industrial use;

9 (2) Community service use; or

10 (3) Special facility use;

11 provided that the term "industrial use" shall be defined by
12 rules adopted by the Hawaii community development authority
13 applicable to the Kakaako community development district as of
14 the effective date of this Act.

15 "Development" means the construction of a new building or
16 other structure on a lot, the relocation of an existing building
17 on another lot, the use of a tract of land for a new use, or the
18 enlargement of an existing building or use.

19 "Floor area":

20 (1) Means the total area of the several floors of a
21 building, including basement but not unroofed areas,
22 measured from the exterior faces of the exterior walls



1 or from the center line of party walls separating
2 portions of a building. The floor area of a building
3 or portion thereof not provided with surrounding
4 exterior walls shall be the usable area under the
5 horizontal projection of the roof or floor above,
6 excluding elevator shafts, corridors, and stairways;
7 and

8 (2) Shall not include the area for parking facilities and
9 loading spaces, driveways, access ways, lanai or
10 balconies of dwelling or lodging units that do not
11 exceed fifteen per cent of the total floor area of the
12 units to which they are appurtenant, attic areas with
13 head room less than seven feet, covered rooftop areas,
14 and rooftop machinery equipment and elevator housings
15 on the top of buildings.

16 "Kakaako mauka area" means that portion of the Kakaako
17 community development district, established by section 206E-32,
18 that is bound by King street, Piikoi street from its
19 intersection with King street to Ala Moana boulevard, Ala Moana
20 boulevard, exclusive, from Piikoi street to its intersection
21 with Punchbowl street, and Punchbowl street to its intersection
22 with King street.



1 "Lot" means a duly recorded parcel of land that can be
2 used, developed, or built upon as a unit.

3 "Median income" means the median annual income, adjusted
4 for family size, for households in the city and county of
5 Honolulu as most recently established by the United States
6 Department of Housing and Urban Development for the section 8
7 housing assistance payment program.

8 "Reserved housing unit":

9 (1) Means a multi-family dwelling unit that is developed
10 for:

11 (A) Purchase by a family that:

12 (i) Has an income of not more than one hundred
13 forty per cent of the median income; and

14 (ii) Complies with other eligibility requirements
15 established by statute or rule; or

16 (B) Rent to a family that:

17 (i) Has an income of not more than one hundred
18 per cent of the median income; and

19 (ii) Complies with other eligibility requirements
20 established by statute or rule; and

21 (2) Shall be one of the following types of dwelling units:

22 (A) Studio with one bathroom;



- 1 (B) One bedroom with one bathroom;
- 2 (C) Two bedrooms with one bathroom;
- 3 (D) Two bedrooms with one and one-half bathrooms;
- 4 (E) Two bedrooms with two bathrooms;
- 5 (F) Three bedrooms with one and one-half bathrooms;
- 6 (G) Three bedrooms with two bathrooms; and
- 7 (H) Four bedrooms with two bathrooms.

8 "Special facility use" means a use in a "special facility"
 9 as defined under section 206E-181."

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

12 **"§206E-4 Powers; generally.** Except as otherwise limited
 13 by this chapter, the authority may:

- 14 (1) Sue and be sued;
- 15 (2) Have a seal and alter the same at pleasure;
- 16 (3) Make and execute contracts and all other instruments
 17 necessary or convenient for the exercise of its powers
 18 and functions under this chapter;
- 19 (4) Make and alter bylaws for its organization and
 20 internal management;



- 1 (5) Make rules with respect to its projects, operations,
2 properties, and facilities, which rules shall be in
3 conformance with chapter 91;
- 4 (6) Through its executive director appoint officers,
5 agents, and employees, prescribe their duties and
6 qualifications, and fix their salaries, without regard
7 to chapter 76;
- 8 (7) Prepare or cause to be prepared a community
9 development plan for all designated community
10 development districts;
- 11 (8) Acquire, reacquire, or contract to acquire or
12 reacquire by grant or purchase real, personal, or
13 mixed property or any interest therein; to own, hold,
14 clear, improve, and rehabilitate, and to sell, assign,
15 exchange, transfer, convey, lease, or otherwise
16 dispose of or encumber the same;
- 17 (9) Acquire or reacquire by condemnation real, personal,
18 or mixed property or any interest therein for public
19 facilities, including [~~but not limited to~~] streets,
20 sidewalks, parks, schools, and other public
21 improvements;



- 1 (10) By itself, or in partnership with qualified persons,
2 acquire, reacquire, construct, reconstruct,
3 rehabilitate, improve, alter, or repair or provide for
4 the construction, reconstruction, improvement,
5 alteration, or repair of any project; own, hold, sell,
6 assign, transfer, convey, exchange, lease, or
7 otherwise dispose of or encumber any project, and in
8 the case of the sale of any project, accept a purchase
9 money mortgage in connection therewith; and repurchase
10 or otherwise acquire any project [~~which~~] that the
11 authority has [~~theretofore~~] sold or otherwise
12 conveyed, transferred, or disposed of;
- 13 (11) Arrange or contract for the planning, replanning,
14 opening, grading, or closing of streets, roads,
15 roadways, alleys, or other places, or for the
16 furnishing of facilities or for the acquisition of
17 property or property rights or for the furnishing of
18 property or services in connection with a project;
- 19 (12) Grant options to purchase any project or to renew any
20 lease entered into by it in connection with any of its
21 projects, on such terms and conditions as it deems
22 advisable;



- 1 (13) Prepare or cause to be prepared plans, specifications,
2 designs, and estimates of costs for the construction,
3 reconstruction, rehabilitation, improvement,
4 alteration, or repair of any project, and from time to
5 time to modify [~~such~~] the plans, specifications,
6 designs, or estimates;
- 7 (14) Provide advisory, consultative, training, and
8 educational services, technical assistance, and advice
9 to any person, partnership, or corporation, either
10 public or private, [~~in order~~] to carry out the
11 purposes of this chapter, and engage the services of
12 consultants on a contractual basis for rendering
13 professional and technical assistance and advice;
- 14 (15) Procure insurance against any loss in connection with
15 its property and other assets and operations in [~~such~~]
16 amounts and from [~~such~~] insurers as it deems
17 desirable;
- 18 (16) Contract for and accept gifts or grants in any form
19 from any public agency or from any other source;
- 20 (17) Do any and all things necessary to carry out its
21 purposes and exercise the powers given and granted in
22 this chapter; and



- 1 (18) Allow satisfaction of any affordable housing
2 requirements imposed by law or the authority upon any
3 proposed development project through the construction
4 of reserved housing[~~7~~] units, as defined in section
5 [~~206E-1017~~] 206E-___, by a person on land located
6 outside the [~~geographic boundaries of the authority's~~
7 ~~jurisdiction. Such substituted housing shall be~~
8 ~~located on the same island as the development project~~
9 ~~and shall be substantially equal in value to the~~
10 ~~required reserved housing units that were to be~~
11 ~~developed on site. The authority shall establish the~~
12 ~~following priority in the development of reserved~~
13 ~~housing:~~
- 14 ~~(A)~~ Within the] lot of the proposed development
15 project, but within the same community
16 development district;
- 17 [~~(B)~~ ~~Within areas immediately surrounding the~~
18 ~~community development district;~~
- 19 ~~(C)~~ ~~Areas within the central urban core;~~
- 20 ~~(D)~~ ~~In outlying areas within the same island as the~~
21 ~~development project.] provided that the~~
- 22 prohibitions of section 206E-31.5(2) shall apply.



1 The Hawaii community development authority shall
2 adopt rules relating to the approval of reserved
3 housing [~~that are~~] units to be developed outside [of a
4 ~~community development district. The rules shall~~
5 ~~include, but are not limited to, the establishment of~~
6 ~~guidelines to ensure compliance with the above~~
7 ~~priorities.]~~ the lot of a proposed development
8 project, but within the same community development
9 district, in accordance with this paragraph."

10 SECTION 4. Section 206E-15, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§206E-15 Residential projects; cooperative agreements.**

13 [~~(a)~~] If the authority deems it desirable to develop a
14 residential project, it may enter into an agreement with
15 qualified persons to construct, maintain, operate, or otherwise
16 dispose of the residential project. Sale, lease, or rental of
17 dwelling units in the project shall be as provided by the rules
18 established by the authority. The authority may enter into
19 cooperative agreements with the Hawaii housing finance and
20 development corporation for the financing, development,
21 construction, sale, lease, or rental of dwelling units and
22 projects.



1 ~~[(b) The authority may transfer the housing fees collected~~
2 ~~from private residential developments for the provision of~~
3 ~~housing for residents of low or moderate income to the Hawaii~~
4 ~~housing finance and development corporation for the financing,~~
5 ~~development, construction, sale, lease, or rental of such~~
6 ~~housing within or without the community development districts.~~
7 ~~The fees shall be used only for projects owned by the State or~~
8 ~~owned or developed by a qualified nonprofit organization. For~~
9 ~~the purposes of this section, "nonprofit organization" means a~~
10 ~~corporation, association, or other duly chartered organization~~
11 ~~registered with the State, which organization has received~~
12 ~~charitable status under the Internal Revenue Code of 1986, as~~
13 ~~amended.] "~~

14 SECTION 5. Section 206E-33, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§206E-33 Kakaako community development district;**
17 **development guidance policies.** The following shall be the
18 development guidance policies generally governing the
19 authority's action in the Kakaako community development
20 district:

21 (1) Development shall result in a community ~~[which]~~ that
22 permits an appropriate land mixture of residential,



1 commercial, industrial, and other uses. In view of
2 the innovative nature of the mixed use approach, urban
3 design policies should be established to provide
4 guidelines for the public and private sectors in the
5 proper development of this district; while the
6 authority's development responsibilities apply only to
7 the area within the district, the authority may engage
8 in any studies or coordinative activities permitted in
9 this chapter [~~which~~] that affect areas lying outside
10 the district, where the authority in its discretion
11 decides that those activities are necessary to
12 implement the intent of this chapter. The studies or
13 coordinative activities shall be limited to facility
14 systems, resident and industrial relocation, and other
15 activities with the counties and appropriate state
16 agencies. The authority may engage in construction
17 activities outside of the district; provided that
18 [~~such~~] the construction relates to infrastructure
19 development or residential or business relocation
20 activities; provided further, notwithstanding section
21 206E-7, that [~~such~~] the construction shall comply with



- 1 the general plan, development plan, ordinances, and
2 rules of the county in which the district is located;
- 3 (2) Existing and future industrial uses shall be permitted
4 and encouraged in appropriate locations within the
5 district. No plan or implementation strategy shall
6 prevent continued activity or redevelopment of
7 industrial and commercial uses [~~which~~] that meet
8 reasonable performance standards;
- 9 (3) Activities shall be located [~~so as~~] to provide primary
10 reliance on public transportation and pedestrian
11 facilities for internal circulation within the
12 district or designated subareas;
- 13 (4) Major view planes, view corridors, and other
14 environmental elements, such as natural light and
15 prevailing winds, shall be preserved through necessary
16 regulation and design review;
- 17 (5) Redevelopment of the district shall be compatible with
18 plans and special districts established for the Hawaii
19 Capital District, and other areas surrounding the
20 Kakaako district;
- 21 (6) Historic sites and culturally significant facilities,
22 settings, or locations shall be preserved;



- 1 (7) Land use activities within the district, where
2 compatible, shall to the greatest possible extent be
3 mixed horizontally, that is, within blocks or other
4 land areas, and vertically, as integral units of
5 multi-purpose structures;
- 6 (8) Residential development may require a mixture of
7 densities, building types, and configurations in
8 accordance with appropriate urban design guidelines [+,
9 and the integration, both vertically and horizontally,
10 of residents of varying incomes, ages, and family
11 groups; ~~[and an increased supply of housing for~~
12 ~~residents of low or moderate income may be required as~~
13 ~~a condition of redevelopment in residential use.]~~
14 provided that the reserved housing requirements of
15 section 206E- shall be imposed upon a development
16 when applicable. Residential development shall
17 provide necessary community facilities, such as open
18 space, parks, community meeting places, child care
19 centers, parking stalls consistent with county
20 requirements, and other services, within and adjacent
21 to residential development; and



1 (9) Public facilities within the district shall be
2 planned, located, and developed [~~se-as~~] to support the
3 redevelopment policies for the district established by
4 this chapter and plans and rules adopted pursuant to
5 it."

6 SECTION 6. Section 206E-101, Hawaii Revised Statutes, is
7 amended by amending the definition of "reserved housing" to read
8 as follows:

9 "Reserved housing" means [~~housing designated for residents~~
10 ~~in the low or moderate income ranges who meet such~~] a reserved
11 housing unit, as defined under section 206E- , developed and
12 made available for purchase by a family that has a household
13 income of not more than one hundred forty per cent of the area
14 median income and that meets other eligibility requirements as
15 the authority may adopt by rule."

16 SECTION 7. The Hawaii community development authority
17 shall adopt new or amend existing rules to implement this Act
18 without regard to the public notice and public hearing
19 requirements of section 91-3, Hawaii Revised Statutes, or the
20 small business impact review requirements of chapter 201M,
21 Hawaii Revised Statutes. The authority shall adopt the rules
22 before January 1, 2010. Any subsequent amendment of the rules



1 adopted pursuant to this section shall be subject to all
2 applicable provisions of chapters 91 and 201M, Hawaii Revised
3 Statutes.

4 SECTION 8. (a) From the effective date of this Act until
5 the effective date of the new or amended rules adopted pursuant
6 to section 7 of this Act, the Hawaii community development
7 authority shall not accept any planned development permit or
8 base zone development permit application for a development on a
9 lot that is twenty thousand square feet or greater in area.

10 (b) From the effective date of this Act, the Hawaii
11 community development authority may accept any planned
12 development permit or base zone development permit application
13 for a development on a lot that is less than twenty thousand
14 square feet in area. The application for the development shall
15 be subject to the law and rules in effect on the date of the
16 permit application.

17 SECTION 9. Any planned development permit or base zone
18 permit application for any development that is pending on the
19 effective date of this Act shall not be subject to this Act or
20 rules adopted pursuant to section 7 of this Act. The
21 development shall be subject to the laws and rules in effect on
22 the date of the permit application.



1 SECTION 10. From the effective date of this Act until the
2 effective date of the new or amended rules adopted pursuant to
3 section 7, the Hawaii community development authority shall
4 prohibit the developer of a lot greater than twenty thousand
5 square feet in area in the Kakaako mauka area from submitting:

6 (1) A building permit application for the development to
7 the city and county of Honolulu; or

8 (2) A subdivision application to subdivide or consolidate
9 and subdivide any lot or lots that are twenty thousand
10 square feet or greater in area.

11 SECTION 11. (a) Twenty days prior to the convening of the
12 regular session of 2014, the Hawaii community development
13 authority shall submit a report to the legislature, including
14 any proposed legislation, on the status of its reserved housing
15 program in the Kakaako community development district.

16 (b) The report shall set forth:

17 (1) The total number of reserved housing units contained
18 in the Kakaako community development district at the
19 time of the report, broken down with regard to:

20 (A) Size and type of unit;

21 (B) Age group of occupants of the units; and

22 (C) Whether the units were sold or rented;



- 1 (2) The number of reserved housing units that were
- 2 provided or are under construction at the time of the
- 3 report as a result of the requirements of this Act;
- 4 (3) A recommendation whether the reserved housing
- 5 requirements contained in this Act should be reduced,
- 6 remain unchanged, or increased; and
- 7 (4) Any other information that it deems relevant to its
- 8 reserved housing program in the Kakaako community
- 9 development district.

10 SECTION 12. This Act shall apply to the unbuilt portion of

11 a major development within the area of approval of an approved

12 master plan that was pending on the effective date of this Act;

13 provided that the developer shall have five years from the

14 effective date of this Act to obtain all necessary permits,

15 complete any required grading and infrastructure improvements

16 for the major development, and commence construction of the

17 unbuilt portion of the major development before this Act shall

18 apply.

19 SECTION 13. Statutory material to be repealed is bracketed

20 and stricken. New statutory material is underscored.

21 SECTION 14. This Act shall take effect upon its approval.



S.B. NO. 1350
S.D. 2
H.D. 1
C.D. 1

Report Title:

Kakaako Community Development District, Mauka Area; Reserved
Housing

Description:

Increases the reserved housing requirement for a development in
the Kakaako community development district, mauka area. (CD1)

