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# A BILL FOR AN ACT

RELATING TO KAKAAKO.

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

1           SECTION 1. Chapter 206E, Hawaii Revised Statutes, is  
2 amended by adding a new section to part II to be appropriately  
3 designated and to read as follows:

4           "§206E-       Reserved housing requirement for Kakaako mauka  
5 area. (a) For the purpose of this section:

6           "Base zoning" means the use, lot area, building area,  
7 height, density, bulk, yard, setback, open space, on-site  
8 parking and loading, and other zoning standards or other such  
9 restrictions imposed upon a development on a particular lot.

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

11          (1) Nursing or convalescent home, nursing facility,  
12             assisted living administration, or ancillary assisted  
13             living amenities for the elderly or persons with  
14             disabilities;

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

16          (3) Nursery school or kindergarten;

17          (4) Church;

1        (5) Charitable institution or nonprofit organization;

2        (6) Public use; or

3        (7) Consulate.

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

7        (1) Community service use;

8        (2) Special facility use; or

9        (3) Industrial use.

10       "Floor area" means the area of the several floors of a  
11 building, including basement but not unroofed areas, measured  
12 from the exterior faces of the exterior walls or from the center  
13 line of party walls separating portions of a building. The  
14 floor area of a building or portion thereof not provided with  
15 surrounding exterior walls shall be the usable area under the  
16 horizontal projection of the roof or floor above, including but  
17 not limited to elevator shafts, corridors, and stairways.

18 "Floor area" shall not include the area for parking facilities  
19 and loading spaces, driveways and access ways, lanais or  
20 balconies of dwelling or lodging units that do not exceed  
21 fifteen per cent of the total floor area of the units to which  
22 they are appurtenant, attic areas with head room less than seven

1 feet, covered rooftop areas, and rooftop machinery equipment and  
2 elevator housings on the top of buildings.

3 "Industrial use" shall have the same meaning as in section  
4 171-131.

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

10 "Planned development" means a development for which the  
11 authority approves a greater density or any other difference  
12 from the base zoning applicable to the lot on which the  
13 development is situated in exchange for public facilities,  
14 amenities, and reserved housing units provided by the developer.

15 "Reserved housing unit" means a multi-family dwelling unit  
16 that is developed for the following:

17 (1) Purchase by a family that:

18 (A) Has an income of not more than one hundred forty  
19 per cent of the median income; and

20 (B) Complies with other eligibility requirements  
21 established by statute or rule; or

22 (2) Rent to a family that:

1           (A) Has an income of not more than one hundred per  
2           cent of the median income; and

3           (B) Complies with other eligibility requirements  
4           established by statute or rule.

5 A "reserved housing unit" shall be one of the following types of  
6 dwelling units: studio with one bathroom; one bedroom with one  
7 bathroom; two bedrooms with one and one-half bathrooms; two  
8 bedrooms with two bathrooms; three bedrooms with one and one-  
9 half bathrooms; three bedrooms with two bathrooms; and four  
10 bedrooms with two bathrooms.

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

13           (b) At least fifty per cent of the countable floor area of  
14 each planned development on a lot of at least 80,000 square feet  
15 shall be developed as and made available for reserved housing  
16 units; provided that after five years from the effective date of  
17 Act \_\_\_\_\_, Session Laws of Hawaii 2009, the percentage shall  
18 increase to at least sixty per cent. The developer of the  
19 planned development shall divide the floor area required for  
20 reserved housing into and construct the number, types, and sizes  
21 of reserved housing units set by the authority. The authority  
22 shall set the number, types, and sizes of reserved housing units

1 to establish sale prices or rents to be charged that are  
2 affordable to families intended to be served by the reserved  
3 housing units. The authority also shall set the number of  
4 parking stalls to be assigned to the reserved housing units.

5 The countable floor area upon which the reserved housing  
6 floor area requirement is calculated shall be the countable  
7 floor area in the plan approved by the authority in the planned  
8 development permit. The reserved housing floor area requirement  
9 shall not be changed if, subsequent to the planned development  
10 permit approval, the countable floor area is decreased. If,  
11 however, the countable floor area is increased before the  
12 issuance of a building permit for a building on the lot, the  
13 reserved housing floor area requirement shall be appropriately  
14 increased.

15 (c) For properties of one acre or less the reserved  
16 housing requirements shall not be applicable.

17 (d) As an alternative to requiring a developer to develop  
18 and make available any reserved housing floor area or unit, the  
19 authority may allow the developer to make an in lieu cash  
20 payment to the authority. The authority shall establish the  
21 amount of the cash payment, which may vary depending upon  
22 projected gross revenue of the developer from the planned

1 development, amount of reserved housing units to be provided for  
2 the planned development, affordability of non-reserved housing  
3 units to be provided in the planned development, estimated  
4 development cost of the reserved housing units if provided on  
5 the same lot as the planned development, or other factors deemed  
6 appropriate by the authority; provided that this subsection  
7 shall apply to properties less than 80,000 square feet.

8 (e) Subject to the rules of the authority, reserved  
9 housing units shall be built prior to or concurrent with the  
10 planned development. Any project that provides more reserved  
11 housing units than required under this section may transfer  
12 excess housing credits to another project in Kakaako toward  
13 satisfaction of the reserved housing unit requirement of that  
14 project as follows:

15 (1) \$60,000 for a studio with one bathroom of at least  
16 four hundred square feet;

17 (2) \$75,000 for a one bedroom with one bathroom of at  
18 least 500 square feet;

19 (3) \$105,000 for a two bedroom with one bathroom of at  
20 least 700 square feet;

21 (4) \$112,500 for a two bedroom with one and a half  
22 bathrooms of at least 750 square feet;

- 1        (5) \$120,000 for a two bedroom with two bathrooms of at  
2            least 800 square feet;
- 3        (6) \$135,000 for a three bedroom with two bathrooms of at  
4            least 900 square feet; and
- 5        (7) \$150,000 for a four bedroom with two bathrooms of at  
6            least 1,000 square feet.

7        In the alternative, the developer of a planned development may  
8        sell a credit to another developer of a planned development in  
9        Kakaako at a price mutually agreed upon. The developer who  
10       purchases the credit may deduct the credit from the reserved  
11       housing square footage or units required for the developer's  
12       planned development.

13       The authority shall annually review the amount and price  
14       for the transfer of the excess credits and may increase the  
15       amount as deemed necessary. The terms of the reserved housing  
16       credits transfer shall be subject to the approval of the  
17       authority.

18       (f) The authority shall adopt rules in accordance with  
19       chapter 91 to implement this section."

20       SECTION 2. Section 206E, Hawaii Revised Statutes, is  
21       amended by amending section 206E-31.5 to read as follows:

1           "~~§206E-31.5~~ **Prohibitions.** Anything contained in  
2 this chapter to the contrary notwithstanding, the authority is  
3 prohibited from:

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

8           (A) Utility easements;

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

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

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

14           (2) Approving any plan or proposal for any residential  
15           development or substitute housing in that portion of  
16           the Kakaako community development district makai of  
17           Ala Moana boulevard and between Kewalo basin and the  
18           foreign trade zone."

19           SECTION 3. Section 206E-33, Hawaii Revised Statutes, is  
20 amended to read as follows:

21           "**§206E-33 Kakaako community development district;**

22 **development guidance policies.** The following shall be the



1 development guidance policies generally governing the  
2 authority's action in the Kakaako community development  
3 district:

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

- 1           ~~[such]~~ the construction relates to infrastructure  
2           development or residential or business relocation  
3           activities; provided further, notwithstanding section  
4           206E-7, that such construction shall comply with the  
5           general plan, development plan, ordinances, and rules  
6           of the county in which the district is located;
- 7           (2) Existing and future industrial uses shall be permitted  
8           and encouraged in appropriate locations within the  
9           district. No plan or implementation strategy shall  
10          prevent continued activity or redevelopment of  
11          industrial and commercial uses ~~[which]~~ that meet  
12          reasonable performance standards;
- 13          (3) Activities shall be located ~~[so as]~~ to provide primary  
14          reliance on public transportation and pedestrian  
15          facilities for internal circulation within the  
16          district or designated subareas;
- 17          (4) Major view planes, view corridors, and other  
18          environmental elements such as natural light and  
19          prevailing winds, shall be preserved through necessary  
20          regulation and design review;
- 21          (5) Redevelopment of the district shall be compatible with  
22          plans and special districts established for the Hawaii

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

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

8 SECTION 4. Section 206E-101, Hawaii Revised Statutes, is  
9 amended by amending the definition of "reserved housing" to read  
10 as follows:

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

18 SECTION 5. The Hawaii community development authority  
19 shall adopt new or amended rules to implement this Act without  
20 regard to the public notice and public hearing requirements of  
21 section 91-3, Hawaii Revised Statutes, or the small business  
22 impact review requirements of chapter 201M, Hawaii Revised

1 Statutes. The authority shall adopt the rules before January 1,  
2 2010. Any subsequent amendment of the rules adopted pursuant to  
3 this section shall be subject to all applicable provisions of  
4 chapter 91 and chapter 201M, Hawaii Revised Statutes.

5 SECTION 6. (a) From the effective date of this Act until  
6 the effective date of the new or amendatory rules adopted  
7 pursuant to section 5, the Hawaii community development  
8 authority shall not accept any planned development permit  
9 application for a planned development on a lot of at least  
10 80,000 square feet.

11 (b) From the effective date of the new or amendatory rules  
12 adopted pursuant to section 5, the Hawaii community development  
13 may accept any planned development permit application for a  
14 planned development on a lot of at least 80,000 square feet.

15 SECTION 7. From the effective date of this Act until the  
16 effective date of the new or amended rules adopted pursuant to  
17 section 5, the Hawaii community development authority may accept  
18 any planned development permit application for a planned  
19 development with multi-family dwelling units on a lot less than  
20 one acre. The reserved housing unit requirement for this type  
21 of planned development shall be subject to the statutes and  
22 rules in effect on the date of the permit application.

1 SECTION 8. Any major development subject to this Act for  
2 which the building permit application is pending on the  
3 effective date of this Act, shall not be subject to this Act or  
4 rules adopted pursuant to section 5 of this Act. Such a major  
5 development shall be subject to the statutes and rules in effect  
6 on the date of the building permit application.

7 SECTION 9. This Act shall apply to the unbuilt portion of  
8 a major development within the area of approval of an approved  
9 master plan which was pending on the effective date of this Act;  
10 provided that the developer shall have five years from the  
11 effective date of this Act to build before this Act shall apply.

12 SECTION 10. Statutory material to be repealed is bracketed  
13 and stricken. New statutory material is underscored.

14 SECTION 11. This Act shall take effect on July 1, 2050.

**Report Title:**

Kakaako Community Development District, Mauka Area; Reserved Housing

**Description:**

Increases the reserved housing requirement for a planned development on a lot of at least 80,000 square feet in the Kakaako community development district, mauka area. (SD2)