A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

SECTION 1. The legislature finds that the office of Hawaiian affairs was established under article XII, section 5 of the Hawaii State Constitution to "hold title to all the real and personal property now or hereafter set aside or conveyed to it which shall be held in trust for native Hawaiians and Hawaiians." The office of Hawaiian affairs' board of trustees is authorized by article XII, section 6 of the Hawaii State Constitution "to manage and administer the proceeds from the sale or other disposition of the lands . . . and income derived from whatever sources for native Hawaiians and Hawaiians, including all income and proceeds from that pro rata portion of the trust referred to in section 4 of this article [the public land trust] for native Hawaiians." The board of trustees is also authorized to exercise control over real and personal property set aside by state, federal or private sources and transferred to the board for native Hawaiians and Hawaiians."
In section 1 of Act 15, Session Laws of Hawaii 2012 (Act 15), the legislature found that a purpose of the Act was to:

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

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

Further, section 2 of Act 15 stated, "the fee simple interest to [nine] parcels of land [including parcels identified by tax map key (1) 2-1-58-129 (Lot A), tax map key (1) 2-1-58-6 (Lot E), tax map key (1) 2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I), and tax map key (1) 2-1-15-51 (Lot L), was] conveyed to the Office of Hawaiian Affairs as grantee, as of July 1, 2012, as is where is . . . ." In the same section of Act 15, however, the legislature specifically directed that, "[t]he [nine parcels] are and shall remain (even after
conveyance to the office) under the jurisdiction and authority of the Hawaii community development authority with respect to zoning, land use conditions[,] and all other matters over which the authority has jurisdiction and authority to act," and "shall be subject to all laws, except sections 206E-8, 206E-10, 206E-34, Hawaii Revised Statutes, and otherwise provided in this Act . . . ."

Particularly pertinent to the purpose of Act 15, in section 6, the legislature further declare that "[t]he [p]roperties conveyed by this Act shall be deemed income and proceeds from the public land trust, as if the [p]roperties had been paid out of the income and proceeds from the public land trust pursuant to article XII, section 6 of the State Constitution."

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

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

The legislature agrees that the residential development restriction to which all of the parcels transferred to the office of Hawaiian affairs by Act 15 were and continue to be subject should be lifted to the extent necessary to allow the office of Hawaiian affairs to realize the maximum income or proceeds that the parcels identified by tax map key (1) 2-1-58-129 (Lot A), tax map key (1) 2-1-58-6 (Lot E), tax map key (1)
2-1-60-26 (Lot F/G), tax map key (1) 2-1-15-61 (Lot I), and tax map key (1) 2-1-15-51 (Lot L) could generate if they were developed for residential use.

Finally, the legislature finds that inasmuch as this Act furthers one of the principle purposes for which the office of Hawaiian affairs was established as a state agency, its provisions should be deemed consistent with and not violative of article XI, section 5 of the Hawaii State Constitution.

The purpose of this Act is to enhance the revenue generating capacity of six parcels of land that were transferred to the office of Hawaiian affairs by Act 15. To accomplish this purpose, this Act raises the building height limit for two of the six parcels to four hundred feet and lifts the current restriction against residential development in Kakaako makai, to allow residential development by the office of Hawaiian affairs or by third parties to which the office of Hawaiian affairs conveys the parcels.

SECTION 2. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:
§206E—Limited residential development in Kakaako;

Public hearing prerequisite; height limit; association fee.  (a)

The authority may approve any plan or proposal for any
residential development in Kakaako on any parcels identified as
tax map key (1) 2-1-58-129, tax map key (1) 2-1-58-6, tax map
key (1) 2-1-60-26, tax map key (1) 2-1-15-61, and tax map key
(1) 2-1-15-51; provided that the authorization for residential
development pursuant to this section shall apply to each of
these parcels regardless of if a parcel's tax map key number is
amended; provided further that approval may be granted only
after the applicant seeking approval conducts a public hearing
held in accordance with subsection (b).

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

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

(2) A statement of the topic of the hearing; and
(3) A description of where, when, and how the residential
development proposal may be viewed by the public.
All interested persons may submit data or opinions, orally or in
writing, in conjunction with the hearing.
(c) Prior to submitting to the authority for approval any
plan or proposal for residential development pursuant to this
section, the applicant seeking approval shall fully address all
written and oral submissions permitted pursuant to subsection
(b) regarding the proposed residential development.
(d) Prior to the approval of any plan or proposal for
residential development pursuant to this section:
(1) The authority shall hold a public hearing in
accordance with subsection (b).
(2) The authority shall fully consider all written and
oral submissions received at the public hearings held
by the applicant and the authority.
(e) Any other law to the contrary notwithstanding, the
building height limit shall be four hundred feet for residential
development pursuant to this section on the parcels identified
by tax map key (1) 2-1-58-6 and tax map key (1) 2-1-15-61;
provided that the building height limit for residential
development pursuant to this section shall apply to each of
these land areas even in the event that a parcel's tax map key
number is amended."

SECTION 3. Section 206E-12, Hawaii Revised Statutes, is
amended to read as follows:

"§206E-12 Dedication for public facilities as condition to
development. (a) The authority shall establish rules requiring
dedication for public facilities of land or facilities, or cash
payments in lieu thereof, by developers as a condition of
developing real property pursuant to the community development
plan. Where state and county public facilities dedication laws,
ordinances, or rules differ, the provision for greater
dedication shall prevail.

(b) This section shall not apply to lands identified in
section 206E- (a), Hawaii Revised Statutes."

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

"§206E-31.5 Prohibitions. Anything contained in this
chapter to the contrary notwithstanding, and except as provided
in section 206E- (a), the authority is prohibited from:
(1) Selling or otherwise assigning the fee simple interest in any lands in the Kakaako community development district to which the authority in its corporate capacity holds title, except with respect to:

(A) Utility easements;

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

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

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

(E) Reserved housing as defined in section 206E-101;

or

(2) Approving any plan or proposal for any residential development in that portion of the Kakaako community development district makai of Ala Moana boulevard and between Kewalo Basin and the foreign trade zone."

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect on July 1, 2021.
Report Title:
Hawaii Community Development Authority; Office of Hawaiian Affairs; Residential Development; Kakaako

Description:
Allows the raising of the building height limit for two of the six parcels owned by the office of Hawaiian affairs in the Kakaako makai area to four hundred feet. Lifts the current restriction against residential development in Kakaako makai to allow residential development by the office of Hawaiian affairs or by third parties to which the office of Hawaiian affairs conveys the parcels.

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