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# A BILL FOR AN ACT

RELATING TO EMINENT DOMAIN.

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

1           SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended  
2 by adding a new section to be appropriately designated and to  
3 read as follows:

4           "§46-       Judicial review of eminent domain action.    A  
5 property owner or an individual with an interest in the property  
6 to be condemned shall be entitled to an immediate trial pursuant  
7 to section 101-34 to determine if the condemnation action by a  
8 county is for public use. If the condemnation action under  
9 chapter 101 has not commenced, the property owner or an  
10 individual with an interest in the property to be condemned may  
11 file a suit in circuit court for a declaratory ruling to  
12 determine if the condemnation action by a county is for public  
13 use.

14           This subsection shall not be construed to limit any other  
15 rights the owner of or individual with an interest in the  
16 property to be condemned may have to administrative or judicial  
17 review, or relief under applicable provisions of law."



1 SECTION 2. Chapter 101, Hawaii Revised Statutes, is  
2 amended by adding two new sections to be appropriately  
3 designated and to read as follows:

4 **§101- Judicial review of eminent domain action. A**  
5 property owner or an individual with an interest in the property  
6 to be condemned shall be entitled to an immediate trial pursuant  
7 to section 101-34 to determine if the condemnation action by the  
8 State is for public use. If the condemnation action under  
9 chapter 101 has not commenced, the property owner or an  
10 individual with an interest in the property to be condemned may  
11 file a suit in circuit court for a declaratory ruling to  
12 determine if the condemnation action by the State is for public  
13 use.

14 **§101- Right of reacquisition under certain**  
15 **circumstances.** (a) When five years have elapsed and real  
16 property taken under the power of eminent domain is not used for  
17 the purpose stated in the condemnation resolution or other  
18 legislation or declaration authorizing the condemnation, or if  
19 the real property ceases to be used for the purpose stated in  
20 the condemnation resolution or other legislation or declaration  
21 authorizing the condemnation, the plaintiff shall offer the



1 property for sale to the defendant in the condemnation action as  
2 provided in this section.

3 (b) The plaintiff shall notify the defendant in writing of  
4 the current appraised value of the real property and of the  
5 defendant's right to purchase the real property, within sixty  
6 days of the date the notice is served, at a price equal to:

7 (1) The current appraised value of the real property; or

8 (2) The compensation paid to the defendant at the time the  
9 property was acquired by the plaintiff, plus any  
10 cleanup or environmental remediation costs or other  
11 amounts expended by the plaintiff to improve the  
12 property after the date the plaintiff obtained title;  
13 whichever is less."

14 SECTION 3. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun, before its effective date.

17 SECTION 4. New statutory material is underscored.

18 SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

Eminent Domain

**Description:**

Allows plaintiff to seek a judicial review of the taking prior to a condemnation action. Requires plaintiff to offer to resell property to defendant for current appraised value or condemnation price plus and cost of environmental remediation or cleanup or other improvements if property taken in eminent domain is not used for the purpose for which it was condemned.  
(SD1)

