

JAN 28 2009

A BILL FOR AN ACT

RELATING TO THE STRUCTURE OF STATE GOVERNMENT.

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

1 **PART I**

2 SECTION 1. The Hawaii Revised Statutes is amended by
3 adding a new chapter to be appropriately designated and to read
4 as follows:

5 **"CHAPTER**

6 **STATE RESOURCES PROTECTION AND DEVELOPMENT AGENCY**

7 **PART I. GENERAL PROVISIONS**

8 § -A **Purpose.** The purpose of this chapter is to create
9 a new agency having the functions and duties of the Aloha Tower
10 development corporation, office of planning, and Hawaii
11 community development authority, that existed prior to the
12 effective date of this Act.

13 § -B **Definitions.** As used in this chapter:

14 "Agency" means the state resources protection and
15 development agency.

16 "Department" means the department of business, economic
17 development, and tourism.



1 "Director" means the director of the state resources
2 protection and development agency.

3 **§ -C Establishment of the agency; director; rules. (a)**

4 There is established the state resources protection and
5 development agency, to be administratively placed under the
6 department.

7 (b) There shall be a director to be appointed by the
8 governor with the advice and consent of the senate, and subject
9 to the term of office as provided in section 26-34.

10 (c) The agency shall adopt rules pursuant to chapter 91
11 necessary for purposes of this chapter.

12 **§ -D Powers and duties of the agency.** The agency shall
13 have the powers, duties, and functions heretofore exercised by
14 the:

15 (1) Aloha Tower development corporation under chapter

16 206J;

17 (2) Office of planning under chapters 205A and 225M; and

18 (3) Hawaii community development authority under chapter

19 206E.

20 **§ -E State resources protection and development**

21 **revolving fund.** There is created the state resources protection
22 and development agency revolving fund into which all receipts



1 and revenues of the authority shall be deposited. Proceeds from
2 the fund shall be used for the purposes of this chapter.

3 **PART II. ALOHA TOWER**

4 **§ -F State resources Aloha Tower fund.** There is created
5 the Aloha Tower fund. All:

- 6 (1) Moneys;
- 7 (2) Rentals;
- 8 (3) Charges;
- 9 (4) Other revenues of the development corporation; and
- 10 (5) Moneys or charges received by the department of
11 business, economic development, and tourism;
12 including reimbursements for costs and staff services as a
13 result of planning, development, or redevelopment of the lands
14 located seaward of Nimitz Highway between Pier 4 and the
15 Honolulu International Airport shall be deposited into the fund.

16 **§ -G Aloha Tower.** (a) The agency shall be responsible
17 for the development, planning, construction, improvement,
18 repair, and reconstruction of projects within the Aloha Tower
19 complex as follows: the area bounded by Nimitz Highway
20 beginning at its intersection with the Diamond Head boundary of
21 tax map key 2-1-13:7 north along Nimitz Highway to its
22 intersection with the makai boundary of tax map key 1-7-1:6;



1 northeast along River Street to its intersection with King
2 Street; north along King Street to its intersection with Iwilei
3 Road west along Iwilei Road to its intersection with Nimitz
4 Highway at the Ewa makai corner of tax map key 1-5-08:1; south
5 along Nimitz Highway to its intersection with the boundary
6 between tax map key 1-5-8:1 and tax map key 1-5-8:9; west along
7 a line to the Diamond Head mauka corner of tax map key 1-5-40:4;
8 west along Nimitz Highway to its intersection with the Ewa
9 boundary of tax map key 1-5-38:4; south along the Ewa boundaries
10 of tax map key 1-5-38:4 and 1-5-38:5 to Honolulu Harbor; east
11 along the waterfront boundary of tax map key 1-5-38:5 to Pier
12 23; south along Pier 23 to the southwest end of Pier 22;
13 continuing along a line in the same direction to its
14 intersection with the Honolulu Harbor Federal Project Line;
15 northeast along the Honolulu Harbor Federal Project Line to a
16 point in Honolulu Harbor 475 feet perpendicular to Pier 11;
17 southwest along a line parallel to Piers 10 and 11 to its
18 intersection with a line extending from the southwest end of
19 Pier 22 to the point of intersection of the Honolulu Harbor
20 Federal Project Line and a line extending along Pier 8 into
21 Honolulu Harbor; southeast along a line to the point of
22 intersection of the Honolulu Federal Project Line and a line



1 extending along Pier 8 into Honolulu Harbor; southeast along the
2 Honolulu Harbor Federal Project Line to its intersection with a
3 line extending along Pier 4 into Honolulu Harbor; east along a
4 line from that intersection and along Pier 4 to its intersection
5 with Nimitz Highway; north along Nimitz Highway to its
6 intersection with Richards Street; southwest along Richards
7 Street to its intersection with Ala Moana Boulevard; northwest
8 along Ala Moana Boulevard to its intersection with the Ewa
9 boundary of tax map key 2-1-14:6; northeast along the Ewa
10 boundary of tax map key 2-1-14:6 to its Ewa mauka corner; and
11 northwest across Bishop Street to the point of beginning at the
12 intersection of the Diamond Head boundary of tax map key
13 2-1-13:7 and Nimitz Highway. The complex shall also include the
14 area bounded by Iwilei Road beginning with its intersection with
15 Nimitz Highway; west along Iwilei Road to its intersection with
16 Pacific Street; southeast along Pacific Street to its
17 intersection with the Ewa mauka corner of tax map key 1-5-38:4;
18 east along Nimitz Highway to its intersection with the Diamond
19 Head mauka corner of tax map key 1-50-40:4; east along a line to
20 the point of intersection at the boundary between tax map key
21 1-5-8:1 and tax map key 1-5-8:9; north along Nimitz Highway to
22 the point of beginning at the intersection of Nimitz Highway and



1 Iwilei Road; all fast and submerged lands contained within these
2 areas shall also be included.

3 (b) The agency, with the approval of the governor, may
4 issue bonds in such amounts as authorized from time to time by
5 law as deemed advisable for any of its purposes. Any bonds
6 issued by the Aloha Tower development corporation prior to
7 January 1, 2010, shall be deemed to be issued in the name of the
8 state resources protection and development agency on January 1,
9 2010.

10 **PART III. STATE PLANNING**

11 **§ -H State planning; responsibilities.** The agency shall
12 be responsible for:

13 (1) Planning, gathering , analyzing, and providing
14 information to the governor and the legislature to
15 assist in the overall analysis and formulation of
16 state policies and strategies to provide central
17 direction and cohesion in the allocation of resources
18 and effectuation of state activities and programs and
19 effectively address current or emerging issues and
20 opportunities;

21 (2) Formulating and articulating comprehensive statewide
22 goals, objectives, policies, and priorities, and



- 1 coordinating their implementation through the
2 statewide planning system established in part II of
3 chapter 226;
- 4 (3) Identifying and analyzing significant issues,
5 problems, and opportunities confronting the State, and
6 formulating strategies and alternative courses of
7 action in response to identified problems and
8 opportunities;
- 9 (4) Providing in-depth policy research, analysis, and
10 recommendations on existing or potential areas of
11 critical state concern;
- 12 (5) Examining and evaluating the effectiveness of state
13 programs in implementing state policies and
14 priorities;
- 15 (6) Monitoring through surveys, environmental scanning,
16 and other techniques--current social, economic, and
17 physical conditions and trends relating to the State;
- 18 (7) Developing, in collaboration with affected public or
19 private agencies and organizations, implementation
20 plans and schedules and, where appropriate, assisting
21 in the mobilization of resources to meet identified
22 needs of the State;



- 1 (8) Collecting, integrating, analyzing, maintaining, and
2 disseminating various forms of data and information,
3 including geospatial data and information, to further
4 effective state planning, policy analysis and
5 development, and delivery of government services;
- 6 (9) Maintaining a centralized depository of state and
7 national planning references;
- 8 (10) Developing and presenting the position of the State in
9 all boundary change petitions and proceedings before
10 the land use commission, assisting state agencies in
11 the development and submittal of petitions for land
12 use district boundary amendments, and conducting
13 periodic reviews of the classification and districting
14 of all lands in the State;
- 15 (11) Carrying out the lead agency responsibilities for the
16 Hawaii coastal zone management program; developing and
17 maintaining an ocean and coastal resources
18 information, planning, and management system further
19 developing and coordinating implementation of the
20 ocean resources management plan, and formulating ocean
21 policies with respect to the exclusive economic zone,
22 coral reefs, and national marine sanctuaries; and



- 1 (12) Conducting plans and studies to determine:
- 2 (A) The capability of various regions within the
- 3 State to support projected increases in both
- 4 resident populations and visitors;
- 5 (B) The potential physical, social, economic, and
- 6 environmental impact on these regions resulting
- 7 from increases in both resident populations and
- 8 visitors; and
- 9 (C) The maximum annual visitor carrying capacity for
- 10 the State by region, county, and island.

11 **§ -I State goals for planning.** In order to guarantee,
12 for present and future generations, those elements of choice and
13 mobility that ensure that individuals and groups may approach
14 their desired levels of self-reliance and self-determination, it
15 shall be the goal of the State to achieve:

- 16 (1) A strong, viable economy, characterized by stability,
- 17 diversity, and growth, that enables the fulfillment of
- 18 the needs and expectations of Hawaii's present and
- 19 future generations;
- 20 (2) A desired physical environment, characterized by
- 21 beauty, cleanliness, quiet, stable natural systems,

1 and uniqueness, that enhances the mental and physical
2 well-being of the people; and

3 (3) Physical, social, and economic well-being, for
4 individuals and families in Hawaii, that nourishes a
5 sense of community responsibility, of caring, and of
6 participation in community life.

7 **§ -J Objectives of state planning.** (a) The policy
8 areas of state planning shall include, but is not limited to:

- 9 (1) Population;
- 10 (2) Economy;
- 11 (3) Agriculture;
- 12 (4) Visitor industry;
- 13 (5) Information industry and high technology;
- 14 (6) Land-based, shoreline, and marine resources;
- 15 (7) Scenic, natural beauty, and historic resources;
- 16 (8) Land, air, and water quality;
- 17 (9) Facility systems, including solid and liquid waste,
18 water, transportation, energy, and telecommunications;
- 19 and
- 20 (10) Socio-cultural advancement including, but not limited
21 to, housing, health, education, social services,



1 individual rights and personal well-being, and
2 culture.

3 (b) To facilitate the implementation of subsection (a),
4 the agency shall establish a statewide planning system to
5 coordinate and guide all major state and county activities and
6 to implement the overall theme, goals, objectives, policies, and
7 priority guidelines.

8 **PART IV. COASTAL ZONE MANAGEMENT**

9 **§ -K Coastal zone management; responsibilities.** The
10 agency shall:

11 (1) Administer a coastal zone management program, as the
12 comprehensive statement in words, maps, or other
13 permanent media of communication, prepared, approved
14 for submission, and amended by the State and approved
15 by the United States government pursuant to Public Law
16 No. 92-583, as amended, and the federal regulations
17 adopted pursuant thereto, which describes objectives,
18 policies, laws, standards, and procedures to guide and
19 regulate public and private uses in the coastal zone
20 management area, defined as all lands of the State and
21 the area extending seaward from the shoreline to the
22 limit of the State's police power and management



1 authority, including the United States territorial
2 sea; the coastal zone management program shall include
3 the following responsibilities;

4 (2) Provide coastal recreational opportunities accessible
5 to the public;

6 (3) Protect, preserve, and, where desirable, restore those
7 natural and manmade historic and prehistoric resources
8 in the coastal zone management area that are
9 significant in Hawaiian and American history and
10 culture;

11 (4) Protect, preserve, and, where desirable, restore or
12 improve the quality of coastal scenic and open space
13 resources;

14 (5) Protect valuable coastal ecosystems, including reefs,
15 from disruption and minimize adverse impacts on all
16 coastal ecosystems;

17 (6) Reduce hazard to life and property from tsunami, storm
18 waves, stream flooding, erosion, subsidence, and
19 pollution;

20 (7) Improve the development review process, communication,
21 and public participation in the management of coastal
22 resources and hazards;



- 1 (8) Stimulate public awareness, education, and
- 2 participation in coastal management;
- 3 (9) Protect beaches for public use and recreation;
- 4 (10) Promote the protection, use, and development of marine
- 5 and coastal resources to assure their sustainability;
- 6 (11) Improve coordination and funding of coastal
- 7 recreational planning and management;
- 8 (12) Provide adequate, accessible, and diverse recreational
- 9 opportunities in the coastal zone management area by:
- 10 (A) Protecting coastal resources uniquely suited for
- 11 recreational activities that cannot be provided
- 12 in other areas;
- 13 (B) Requiring replacement of coastal resources having
- 14 significant recreational value including, but not
- 15 limited to, surfing sites, fishponds, and sand
- 16 beaches, when the resources will be unavoidably
- 17 damaged by development; or requiring reasonable
- 18 monetary compensation to the State for recreation
- 19 when replacement is not feasible or desirable;
- 20 (C) Providing and managing adequate public access,
- 21 consistent with conservation of natural



- 1 resources, to and along shorelines with
2 recreational value;
- 3 (D) Providing an adequate supply of shoreline parks
4 and other recreational facilities suitable for
5 public recreation;
- 6 (E) Ensuring public recreational uses of county,
7 state, and federally owned or controlled
8 shoreline lands and waters having recreational
9 value consistent with public safety standards and
10 conservation of natural resources; and
- 11 (F) Adopting water quality standards and regulating
12 point and nonpoint sources of pollution to
13 protect, and where feasible, restore the
14 recreational value of coastal waters;
- 15 (13) Develop new shoreline recreational opportunities,
16 where appropriate, such as artificial lagoons,
17 artificial beaches, and artificial reefs for surfing
18 and fishing;
- 19 (14) Encourage reasonable dedication of shoreline areas
20 with recreational value for public use as part of
21 discretionary approvals or permits by the land use
22 commission, board of land and natural resources, and



- 1 county authorities; and crediting the dedication
2 against the requirements of section 46-6;
- 3 (15) Identify valued scenic resources in the coastal zone
4 management area;
- 5 (16) Ensure that new developments are compatible with their
6 visual environment by designing and locating the
7 developments to minimize the alteration of natural
8 landforms and existing public views to and along the
9 shoreline;
- 10 (17) Preserve, maintain, and, where desirable, improve and
11 restore shoreline open space and scenic resources;
- 12 (18) Encourage those developments that are not coastal
13 dependent to locate in inland areas;
- 14 (19) Exercise an overall conservation ethic, and practicing
15 stewardship in the protection, use, and development of
16 marine and coastal resources;
- 17 (20) Preserve valuable coastal ecosystems, including reefs,
18 of significant biological or economic importance;
- 19 (21) Minimize disruption or degradation of coastal water
20 ecosystems by effective regulation of stream
21 diversions, channelization, and similar land and water
22 uses, recognizing competing water needs;



- 1 (22) Promote water quantity and quality planning and
2 management practices that reflect the tolerance of
3 fresh water and marine ecosystems and maintain and
4 enhance water quality through the development and
5 implementation of point and nonpoint source water
6 pollution control measures;
- 7 (23) Concentrate coastal dependent development in
8 appropriate areas;
- 9 (24) Ensure that coastal dependent development such as
10 harbors and ports, and coastal related development
11 such as visitor industry facilities and energy
12 generating facilities, are located, designed, and
13 constructed to minimize adverse social, visual, and
14 environmental impacts in the coastal zone management
15 area;
- 16 (25) Direct the location and expansion of coastal dependent
17 developments to areas presently designated and used
18 for the developments and promote reasonable long-term
19 growth in those areas, and promote coastal dependent
20 development outside of presently designated areas
21 when:



- 1 (A) Use of presently designated locations is not
- 2 feasible;
- 3 (B) Adverse environmental effects are minimized; and
- 4 (C) The development is important to the State's
- 5 economy;
- 6 (26) Ensure that developments comply with requirements of
- 7 the Federal Flood Insurance Program;
- 8 (27) Prevent coastal flooding from inland projects;
- 9 (28) Use, implement, and enforce existing law effectively
- 10 to the maximum extent possible, in managing present
- 11 and future coastal zone development;
- 12 (29) Locate new structures inland from the shoreline
- 13 setback to conserve open space, minimize interference
- 14 with natural shoreline processes, and minimize loss of
- 15 improvements due to erosion;
- 16 (30) Prohibit construction of private erosion-protection
- 17 structures seaward of the shoreline, except when they
- 18 result in improved aesthetic and engineering solutions
- 19 to erosion at the sites and do not interfere with
- 20 existing recreational and waterline activities; and
- 21 minimize the construction of public erosion-protection
- 22 structures seaward of the shoreline;



1 (31) Ensure that the use and development of marine and
2 coastal resources are ecologically and environmentally
3 sound and economically beneficial;

4 (32) Coordinate the management of marine and coastal
5 resources and activities to improve effectiveness and
6 efficiency;

7 (33) Assert and articulate the interests of the State as a
8 partner with federal agencies in the sound management
9 of ocean resources within the United States exclusive
10 economic zone; and

11 (34) Promote research, study, and understanding of ocean
12 processes, marine life, and other ocean resources in
13 order to acquire and inventory information necessary
14 to understand how ocean development activities relate
15 to and impact upon ocean and coastal resources;
16 encourage research and development of new, innovative
17 technologies for exploring, using, or protecting
18 marine and coastal resources.

19 **PART V. COMMUNITY DEVELOPMENT**

20 **§ -L Hawaii community development.** (a) The agency
21 shall be responsible for long-range planning and implementation
22 of improved community development determine community



1 development programs. The agency shall cooperate with private
2 enterprise and the various components of federal, state, and
3 county governments in bringing development plans to fruition in
4 community development districts.

5 (b) The Kakaako community development district is
6 established. The district shall include that area bounded by
7 King Street; Piikoi Street from its intersection with King
8 Street to Ala Moana Boulevard; Ala Moana Boulevard, inclusive,
9 from Piikoi Street to its intersection with the Ewa boundary of
10 Ala Moana Park also identified as the Ewa boundary of tax map
11 key 2-3-37:01; the Ewa boundary of tax map key 2-3-37:01 from
12 its intersection with Ala Moana Boulevard to the shoreline; the
13 shoreline from its intersection with the property line
14 representing the Ewa boundary of property identified by tax map
15 key 2-3-37:01 to the property line between Pier 2 and Pier 4;
16 the property line between Pier 2 and Pier 4 from its
17 intersection with the shoreline to Ala Moana Boulevard; Ala
18 Moana Boulevard from its intersection with the property line
19 between lands identified by Pier 2 and Pier 4 to Punchbowl
20 Street; and Punchbowl Street to its intersection with King
21 Street; provided that the following parcels at Pier 1 and Pier 2
22 shall be deleted from the Kakaako community development district



1 boundaries and conveyed to the department of land and natural
2 resources to be set aside for the department of transportation
3 and the foreign-trade zone division of the department of
4 business, economic development, and tourism, to ensure continued
5 maritime and foreign commerce use: all of lot 3 and parcels 2,
6 3-A, A, and B of the Forrest Avenue subdivision, as shown on the
7 map filed with the bureau of conveyances of the State of Hawaii
8 as file plan 2335; and lots A-1 and A-2, as shown on map 2,
9 filed in the office of the assistant registrar of the land court
10 of the State of Hawaii with land court application 1328; and
11 provided further that all existing easements affecting and
12 appurtenant to the parcels to be deleted from the Kakaako
13 community development district boundaries shall not be affected
14 by this change.

15 The district shall also include that parcel of land
16 identified by tax map key 2-1-14:16, situated mauka of Pier 6
17 and Pier 7 and makai of Nimitz Highway, being the site for the
18 existing Hawaiian Electric power plant and related facilities.

19 (c) The Kalaeloa community development district is
20 established. The district shall include that area within the
21 boundaries described as follows: the eastern boundary begins at
22 Geiger Gate and runs along East Hansen Road to the intersection



1 with Essex Road until its termination at White Plains Beach
2 Park, where it follows the eastern boundary of parcel 9-1-13:74
3 to the shoreline at the mean high water mark; the northern
4 boundary begins at the eastern corner at the Geiger Road entry
5 gate where it becomes Roosevelt Road and continues westward
6 until its intersection with West Perimeter Road; the western
7 boundary follows the West Perimeter Road until its termination
8 and then follows the western border of parcel 9-1-13:30 to the
9 shoreline at the mean high water mark; two parcels (9-1-13:01
10 and 9-1-13:09) lying west of West Perimeter Road toward its
11 mauka end, and two parcels (9-1-31:28 and 9-1-31:47) lying west
12 of West Perimeter Road on its makai end, all of which are
13 physically separated from the western boundary by a storm water
14 drainage canal, are also included; the southern boundary follows
15 the shoreline at the mean high water mark from the western
16 boundary of parcel 9-1-13:30 to the eastern boundary of White
17 Plains Beach Park (9-1-13:74). All references to parcel numbers
18 contained herein indicate the areas identified by such tax map
19 key numbers as of March 18, 2002.

20 (d) The agency shall have jurisdiction within each
21 community development district over a project, residential



1 project, redevelopment project, and commercial project. For
2 purposes of this subsection:

3 "Commercial project" means an undertaking involving
4 commercial or light industrial development, which includes a
5 mixed use development where commercial or light industrial
6 facilities may be built into, adjacent to, under, or above
7 residential units.

8 "Community development district" means Kakaako community
9 development district and Kalaeloa community development
10 district.

11 "Project" means a specific work or improvement, including
12 real and personal properties, or any interest therein, acquired,
13 owned, constructed, reconstructed, rehabilitated, or improved by
14 the agency, including a residential project, a redevelopment
15 project, or a commercial project, all as defined herein, or any
16 combination thereof, which combination shall hereinafter be
17 called and known as a multipurpose project.

18 "Redevelopment project" means an undertaking for the
19 acquisition, clearance, replanning, reconstruction, and
20 rehabilitation or a combination of these and other methods, of
21 an area for a residential project, for an incidental commercial
22 project, and for other facilities incidental or appurtenant



1 thereto, pursuant to and in accordance with this chapter. The
2 terms "acquisition, clearance, replanning, reconstruction, and
3 rehabilitation" shall include renewal, redevelopment,
4 conservation, restoration, or improvement, or any combination
5 thereof.

6 "Residential project" means a project or that portion of a
7 multipurpose project, including residential dwelling units,
8 designed and intended for the purpose of providing housing and
9 facilities as may be incidental or appurtenant thereto.

10 (e) The agency shall be responsible for project cost,
11 public facilities, and real property. As used in this
12 subsection:

13 "Project cost" means the total of all costs incurred by the
14 agency in carrying out all undertakings which it deems
15 reasonable and necessary for the development of a project
16 including but not limited to: studies; surveys; plans;
17 specifications; architectural, engineering, or any other
18 development related services; acquisition of land and any
19 improvement thereon; site preparation and development;
20 construction; reconstruction; rehabilitation; the necessary
21 expenses in administering the chapter; the cost of financing the
22 project; and relocation costs.



1 "Public facilities" includes streets, utility and service
2 corridors, and utility lines where applicable, sufficient to
3 adequately service developable improvements in the district,
4 sites for schools, parks, parking garage, sidewalks, pedestrian
5 ways, and other community facilities. "Public facilities" shall
6 also include public highways, as defined by statute, storm
7 drainage systems, water systems, street lighting systems, off-
8 street parking facilities, and sanitary sewerage systems.

9 "Real property" means lands, structures, and interests in
10 land, including lands under water and riparian rights, space
11 rights, and air rights and any and all other things and rights
12 usually included within the term. Real property also means any
13 and all interests in the property of less than full title, such
14 as easements, incorporeal hereditaments and every estate,
15 interest, or right, legal or equitable, including terms for
16 years and liens thereon by way of judgments, mortgages, or
17 otherwise.

18 § -M Hawaii community development; agency powers. (a)

19 With respect to Hawaii community development duties, the agency
20 may:

21 (1) Sue and be sued;

22 (2) Have a seal and alter the same at pleasure;



- 1 (3) Make and execute contracts and all other instruments
2 necessary or convenient for the exercise of its powers
3 and functions under this chapter;
- 4 (4) Make and alter bylaws for its organization and
5 internal management;
- 6 (5) Make rules with respect to its projects, operations,
7 properties, and facilities, which rules shall be in
8 conformance with chapter 91;
- 9 (6) Appoint officers, agents, and employees, prescribe
10 their duties and qualifications, and fix their
11 salaries, without regard to chapter 76;
- 12 (7) Prepare or cause to be prepared a community
13 development plan for all designated community
14 development districts;
- 15 (8) Acquire, reacquire, or contract to acquire or
16 reacquire by grant or purchase real, personal, or
17 mixed property or any interest therein; to own, hold,
18 clear, improve, and rehabilitate, and to sell, assign,
19 exchange, transfer, convey, lease, or otherwise
20 dispose of or encumber the same;
- 21 (9) Acquire or reacquire by condemnation real, personal,
22 or mixed property or any interest therein for public



1 facilities, including but not limited to streets,
2 sidewalks, parks, schools, and other public
3 improvements;

4 (10) By itself, or in partnership with qualified persons,
5 acquire, reacquire, construct, reconstruct,
6 rehabilitate, improve, alter, or repair or provide for
7 the construction, reconstruction, improvement,
8 alteration, or repair of any project; own, hold, sell,
9 assign, transfer, convey, exchange, lease, or
10 otherwise dispose of or encumber any project, and in
11 the case of the sale of any project, accept a purchase
12 money mortgage in connection therewith; and repurchase
13 or otherwise acquire any project which the agency has
14 theretofore sold or otherwise conveyed, transferred,
15 or disposed of;

16 (11) Arrange or contract for the planning, replanning,
17 opening, grading, or closing of streets, roads,
18 roadways, alleys, or other places, or for the
19 furnishing of facilities or for the acquisition of
20 property or property rights or for the furnishing of
21 property or services in connection with a project;



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



1 (17) Do any and all things necessary to carry out its
2 purposes and exercise the powers given and granted in
3 this chapter, including but not limited to, issuance
4 of bonds to finance public facilities; and

5 (18) Allow satisfaction of any affordable housing
6 requirements imposed by the agency upon any proposed
7 development project through the construction of
8 reserved housing by a person on land located outside
9 the geographic boundaries of the agency's
10 jurisdiction. Substituted housing shall be located on
11 the same island as the development project and shall
12 be substantially equal in value to the required
13 reserved housing units that were to be developed on
14 site. The agency shall establish the following
15 priority in the development of reserved housing:

- 16 (A) Within the community 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.



1 For purposes of this section, "reserved housing" means
2 housing designated for residents in the low- or moderate-income
3 ranges who meet eligibility requirements as the agency may adopt
4 by rule.

5 (b) The agency shall adopt rules relating to the approval
6 of reserved housing that is developed outside of a community
7 development district. The rules shall include, but are not
8 limited to, the establishment of guidelines to ensure compliance
9 with the above priorities.

10 **§ -N District-wide improvement program.** (a) The agency
11 shall develop a district-wide improvement program to identify
12 necessary district-wide public facilities within a community
13 development district.

14 (b) Whenever the agency undertakes, or causes to be
15 undertaken, any public facility as part of the district-wide
16 improvement program, the cost of providing the public facilities
17 shall be assessed against the real property in the community
18 development district specially benefiting from the public
19 facilities. The agency shall determine the areas of the
20 community development district that will benefit from the public
21 facilities to be undertaken and, if less than the entire
22 community development district benefits, the agency may



1 establish assessment areas within the community development
2 district. The agency may issue and sell bonds in amounts as may
3 be authorized by the legislature to provide funds to finance
4 public facilities. The agency shall fix the assessments against
5 real property specially benefited. All assessments made
6 pursuant to this section shall be a statutory lien against each
7 lot or parcel of land assessed from the date of the notice
8 declaring the assessment until paid and the lien shall have
9 priority over all other liens except the lien of property taxes.
10 As between liens of assessments, the earlier lien shall be
11 superior to the later lien.

12 (c) Bonds issued to provide funds to finance public
13 facilities shall be secured solely by the real properties
14 benefited or improved, the assessments thereon, or by the
15 revenues derived from the program for which the bonds are
16 issued, including reserve accounts and earnings thereon,
17 insurance proceeds, and other revenues, or any combination
18 thereof. The bonds may be additionally secured by the pledge or
19 assignment of loans and other agreements or any note or other
20 undertaking, obligation, or property held by the agency. Bonds
21 issued pursuant to this section and the income therefrom shall
22 be exempt from all state and county taxation, except transfer



1 and estate taxes. The bonds shall be issued according and
2 subject to the provisions of the rules adopted by the agency.

3 (d) Any other law to the contrary notwithstanding, in
4 assessing real property for public facilities, the agency shall
5 assess the real property within an assessment area according to
6 the special benefits conferred upon the real property by the
7 public facilities. These methods may include assessment on a
8 frontage basis or according to the area of real property within
9 an assessment area or any other assessment method that assesses
10 the real property according to the special benefit conferred, or
11 any combination thereof. No assessment levied against real
12 property specially benefited as provided by this part shall
13 constitute a tax on real property within the meanings of any
14 constitutional or statutory provisions.

15 (e) The agency shall adopt rules pursuant to chapter 91,
16 and may amend the rules from time to time, providing for the
17 method of undertaking and financing public facilities in an
18 assessment area or an entire community development district.
19 The rules adopted pursuant to this section shall include, but
20 are not limited to, the following: methods by which the agency
21 shall establish assessment areas; the method of assessment of
22 real properties specially benefited; the costs to be borne by



1 the agency, the county in which the public facilities are
2 situated, and the property owners; the procedures before the
3 agency relating to the creation of the assessment areas by the
4 owners of real property therein, including provisions for
5 petitions, bids, contracts, bonds, and notices; provisions
6 relating to assessments; provisions relating to financing, such
7 as bonds, revolving funds, advances from available funds,
8 special funds for payment of bonds, payment of principal and
9 interest, and sale and use of bonds; provisions relating to
10 funds and refunding of outstanding debts; and provisions
11 relating to limitations on time to sue, and other related
12 provisions.

13 (f) Any provisions to the contrary notwithstanding, the
14 agency, in its discretion, may enter into any agreement with the
15 county in which the public facilities are located, to implement
16 all or part of the purposes of this section.

17 (g) All sums collected under this section shall be
18 deposited in the Hawaii community development revolving fund;
19 provided that all moneys collected on account of assessments and
20 interest thereon for any specific public facilities financed by
21 the issuance of bonds shall be set apart in a separate special
22 fund and applied solely to the payment of the principal and



1 interest on these bonds, the cost of administering, operating,
2 and maintaining the program, the establishment of reserves, and
3 other purposes as may be authorized in the proceedings providing
4 for the issuance of the bonds. If any surplus remains in any
5 special fund after the payment of the bonds chargeable against
6 the fund, it shall be credited to and become a part of the
7 Hawaii community development revolving fund. Moneys in the
8 Hawaii community development revolving fund may be used to make
9 up any deficiencies in the special fund.

10 (h) If the public facilities to be financed through bonds
11 issued by the agency may be dedicated to the county in which the
12 public facilities are to be located, the agency shall ensure
13 that the public facilities are designed and constructed to meet
14 county requirements.

15 (i) Notwithstanding any law to the contrary, whenever as
16 part of a district-wide improvement program it becomes necessary
17 to remove, relocate, replace, or reconstruct public utility
18 facilities, the agency shall establish by rule the allocation of
19 cost between the agency, the affected public utilities, and
20 properties that may specially benefit from the improvement, if
21 any. In determining the allocation of cost, the agency shall
22 consider the cost allocation policies for improvement districts



1 established by the county in which the removal, relocation,
2 replacement, or reconstruction is to take place.

3 **§ -O Hawaii community development revolving fund.** There
4 is created the Hawaii community development revolving fund into
5 which all receipts and revenues of the agency shall be
6 deposited. Proceeds from the fund shall be used for the
7 purposes of this chapter.

8 **§ -P Kalaeloa community development revolving fund.** (a)
9 There is established in the state treasury the Kalaeloa
10 community development revolving fund, into which shall be
11 deposited:

12 (1) All revenues, income, and receipts of the agency for
13 the Kalaeloa community development district,
14 notwithstanding any other law to the contrary;

15 (2) Moneys directed, allocated, or disbursed to the
16 Kalaeloa community development district from
17 government agencies or private individuals or
18 organizations, including grants, gifts, awards,
19 donations, and assessments of landowners for costs to
20 administer and operate the Kalaeloa community
21 development district; and

22 (3) Moneys appropriated to the fund by the legislature.



1 (b) Moneys in the Kalaeloa community development revolving
2 fund shall be expended by the agency for purposes of the
3 Kalaeloa community development district.

4 (c) Investment earnings credited to the assets of the fund
5 shall become part of the assets of the fund.

6 **§ -Q Expenditures of revolving funds under the agency**
7 **exempt from appropriation and allotment.** Except as to
8 administrative expenditures, and except as otherwise provided by
9 law, expenditures from any revolving fund administered by the
10 agency may be made by the agency without appropriation or
11 allotment of the legislature; provided that no expenditure shall
12 be made from and no obligation shall be incurred against any
13 revolving fund in excess of the amount standing to the credit of
14 the fund or for any purpose for which the fund may not lawfully
15 be expended. Nothing in sections 37-31 to 37-41 shall require
16 the proceeds of any revolving fund administered by the agency be
17 reappropriated annually.

18 **§ -R Exemption from taxation.** The agency shall not be
19 required to pay assessments levied by any county, nor shall the
20 agency be required to pay state taxes of any kind.

21 **§ -S Issuance of bonds.** The director of finance may,
22 from time to time, issue general obligation bonds pursuant to



1 chapter 39 in amounts as may be authorized by the legislature,
2 for the purposes of the Hawaii community development
3 responsibilities of the agency.

4 **§ -T Assessment for operating costs.** (a) The agency
5 shall have the power to assess all land users, except the
6 federal government, for their fair share of the costs required
7 to administer and operate a particular community development
8 district assessed, which may include costs associated with
9 staffing. Assessments shall be based on each landowner's
10 proportionate share of the total acreage of the particular
11 community development district assessed.

12 (b) The assessment shall be set by the agency annually,
13 based upon the operating budget for the district, and adjusted
14 for any actual expenditures made in the prior year in excess of
15 the prior approved budget. The assessments shall be paid to the
16 agency in semiannual payments commencing thirty days after the
17 beginning of the fiscal year.

18 (c) The agency may charge interest or other fees on
19 assessment amounts not paid on a timely basis, and may withhold
20 services or approval of governmental permits for land users
21 delinquent in payments.



1 (d) For the purposes of this section, "land user" includes
2 the owner of land; provided that the landowner may assign the
3 responsibility for payment of assessments to the lessee or
4 licensee of the land.

5 **§ -U Designation of community development districts;**
6 **community development plans.** (a) The legislature, by statute,
7 may designate an area as a community development district if it
8 determines that there is need for replanning, renewal, or
9 redevelopment of that area. The designation shall describe the
10 boundaries of the district.

11 (b) After designation, the agency shall develop a
12 community development plan for the designated district. The
13 plan shall include but not be limited to community development
14 guidance policies, district-wide improvement programs, and
15 community development rules.

16 (c) The agency may enter into cooperative agreements with
17 qualified persons or public agencies, where the powers,
18 services, and capabilities of the persons or agencies are deemed
19 necessary and appropriate for the development of the community
20 development plan.

21 (d) Whenever possible, planning activities of the agency
22 shall be coordinated with federal, state, and county plans.



1 Consideration shall be given to state goals and policies,
2 adopted state plan or land use guidance policies, county general
3 plans, development plans, and ordinances.

4 (e) The agency shall hold a public hearing on a proposed
5 community development plan pursuant to chapter 91 and, after
6 consideration of comments received and appropriate revision,
7 shall submit the community development plan to the governor for
8 the governor's approval.

9 After approval, the governor shall submit to the
10 legislature requests for appropriations, authorization to issue
11 bonds, or both, to implement the community development plan in
12 an orderly, affordable, and feasible manner. The governor shall
13 submit the requests to the legislature as part of the executive
14 budget or supplemental budget, as appropriate. In addition to
15 the information, data, and materials required under chapter 37,
16 the requests shall be accompanied by:

- 17 (1) Plans, maps, narrative descriptions, and other
18 appropriate materials on the:
- 19 (A) Locations and design of projects or public
20 facilities proposed to be funded; and
 - 21 (B) Phase of the community development plans proposed
22 to be implemented with the requested funds; and



1 (2) Other information deemed by the governor of
2 significance to the legislature regarding the projects
3 or public facilities proposed to be funded, including
4 a discussion of the public benefits intended by, and
5 adverse effects which may result from, implementation
6 of the projects or public facilities.

7 (f) The agency may amend the community development plan as
8 may be necessary. Amendments shall be made in accordance with
9 chapter 91.

10 § -V **District-wide improvement program.** (a) The agency
11 shall develop a district-wide improvement program to identify
12 necessary district-wide public facilities within a community
13 development district.

14 (b) Whenever the agency shall determine to undertake, or
15 cause to be undertaken, any public facility as part of the
16 district-wide improvement program, the cost of providing the
17 public facilities shall be assessed against the real property in
18 the community development district specially benefiting from the
19 public facilities. The agency shall determine the areas of the
20 community development district that will benefit from the public
21 facilities to be undertaken and, if less than the entire
22 community development district benefits, the agency may



1 establish assessment areas within the community development
2 district. The agency may issue and sell bonds in amounts as may
3 be authorized by the legislature to provide funds to finance
4 public facilities. The agency shall fix the assessments against
5 real property specially benefited. All assessments made
6 pursuant to this section shall be a statutory lien against each
7 lot or parcel of land assessed from the date of the notice
8 declaring the assessment until paid and the lien shall have
9 priority over all other liens except the lien of property taxes.
10 As between liens of assessments, the earlier lien shall be
11 superior to the later lien.

12 (c) Bonds issued to provide funds to finance public
13 facilities shall be secured solely by the real properties
14 benefited or improved, the assessments thereon, or by the
15 revenues derived from the program for which the bonds are
16 issued, including reserve accounts and earnings thereon,
17 insurance proceeds, and other revenues, or any combination
18 thereof. The bonds may be additionally secured by the pledge or
19 assignment of loans and other agreements or any note or other
20 undertaking, obligation, or property held by the agency. Bonds
21 issued pursuant to this section and the income therefrom shall
22 be exempt from all state and county taxation, except transfer



1 and estate taxes. The bonds shall be issued according and
2 subject to rules adopted pursuant to this section.

3 (d) Any other law to the contrary notwithstanding, in
4 assessing real property for public facilities, the agency shall
5 assess the real property within an assessment area according to
6 the special benefits conferred upon the real property by the
7 public facilities. These methods may include assessment on a
8 frontage basis or according to the area of real property within
9 an assessment area or any other assessment method that assesses
10 the real property according to the special benefit conferred, or
11 any combination thereof. No assessment levied against real
12 property specially benefited as provided by this part shall
13 constitute a tax on real property within the meanings of any
14 constitutional or statutory provisions.

15 (e) The agency shall adopt rules pursuant to chapter 91,
16 and may amend the rules from time to time, providing for the
17 method of undertaking and financing public facilities in an
18 assessment area or an entire community development district.
19 The rules adopted pursuant to this section shall include, but
20 are not limited to, the following: methods by which the agency
21 shall establish assessment areas; the method of assessment of
22 real properties specially benefited; the costs to be borne by



1 the agency, the county in which the public facilities are
2 situated, and the property owners; the procedures before the
3 agency relating to the creation of the assessment areas by the
4 owners of real property therein, including provisions for
5 petitions, bids, contracts, bonds, and notices; provisions
6 relating to assessments; provisions relating to financing, such
7 as bonds, revolving funds, advances from available funds,
8 special funds for payment of bonds, payment of principal and
9 interest, and sale and use of bonds; provisions relating to
10 funds and refunding of outstanding debts; and provisions
11 relating to limitations on time to sue, and other related
12 provisions.

13 (f) Any provisions to the contrary notwithstanding, the
14 agency may enter into any agreement with the county in which the
15 public facilities are located, to implement all or part of the
16 purposes of this section.

17 (g) All sums collected under this section shall be
18 deposited in the Hawaii community development revolving fund or
19 the Kalaeloa community development revolving fund, as
20 applicable; except that all moneys collected on account of
21 assessments and interest thereon for any specific public
22 facilities financed by the issuance of bonds shall be set apart



1 in a separate special fund and applied solely to the payment of
2 the principal and interest on these bonds, the cost of
3 administering, operating, and maintaining the program, the
4 establishment of reserves, and other purposes as may be
5 authorized in the proceedings providing for the issuance of the
6 bonds. If any surplus remains in any special fund after the
7 payment of the bonds chargeable against the fund, it shall be
8 credited to and become a part of the Hawaii community
9 development revolving fund or the Kalaeloa community development
10 revolving fund, as applicable. Moneys in the Hawaii community
11 development revolving fund or Kalaeloa community development
12 revolving fund may be used to make up any deficiencies in the
13 special fund.

14 (h) If the public facilities to be financed through bonds
15 issued by the agency may be dedicated to the county in which the
16 public facilities are to be located, the agency shall ensure
17 that the public facilities are designed and constructed to meet
18 county requirements.

19 (i) Notwithstanding any law to the contrary, whenever as
20 part of a district-wide improvement program it becomes necessary
21 to remove, relocate, replace, or reconstruct public utility
22 facilities, the agency shall establish by rule the allocation of



1 cost between the agency, the affected public utilities, and
2 properties that may specially benefit from the improvement, if
3 any. In determining the allocation of cost, the agency shall
4 consider the cost allocation policies for improvement districts
5 established by the county in which the removal, relocation,
6 replacement, or reconstruction is to take place.

7 **§ -W Use of public lands; acquisition of state lands.**

8 (a) Any provision of chapter 171 to the contrary
9 notwithstanding, the governor may set aside public lands located
10 within community development districts to the agency for its
11 use.

12 (b) If state lands under the control and management of
13 other public agencies are required by the agency for its
14 purposes, the agency having the control and management of those
15 required lands shall, upon request by the agency and with the
16 approval of the governor, convey, or lease the lands to the
17 agency upon terms and conditions as may be agreed to by the
18 parties.

19 (c) Notwithstanding the foregoing, no public lands shall
20 be set aside, conveyed, or leased to the agency as above
21 provided if the setting aside, conveyance, or lease would impair
22 any covenant between the State or any county or any department



1 or board thereof and the holders of bonds issued by the State or
2 county department or board.

3 § -X **Developments within special management areas and**
4 **shoreline setback.** (a) Notwithstanding part IV, all requests
5 for developments within a special management area and shoreline
6 setback variances for developments on any lands within a
7 community development district, for which a community
8 development plan has been developed and approved in accordance
9 with this part, shall be submitted to and reviewed by the
10 agency. Community development districts for which a community
11 development plan has not been developed and approved in
12 accordance with section -T or part IV shall continue to be
13 administered by the applicable county agency until a community
14 development plan for the district takes effect.

15 (b) In the review of the requests, the agency shall
16 conform to applicable county rules relating to the review of
17 developments within a special management area and shoreline
18 setback.

19 (c) With the approval of the agency, the developments may
20 be allowed without a special management area permit or shoreline
21 setback variance as required by chapter 205A.



1 **§ -Y Acquisition of real property from a county.**

2 Notwithstanding the provision of any law or charter, any county,
3 by resolution of its local governing body, may, without public
4 auction, sealed bids, or public notice, sell, lease for a term
5 not exceeding sixty-five years, grant or convey to the agency
6 any real property owned by it which the agency certifies to be
7 necessary for its purposes. The sale, lease, grant, or
8 conveyance shall be made with or without consideration and upon
9 terms and conditions as may be agreed upon by the county and the
10 agency. Certification shall be evidenced by a formal request
11 from the agency. Before the sale, lease, grant, or conveyance
12 may be made to the agency, a public hearing shall be held by the
13 local governing body to consider the same. Notice of the
14 hearing shall be published at least ten days before the date set
15 for the hearing in the publication and in a manner as may be
16 designated by the local governing body.

17 **§ -Z Condemnation of real property.** The agency upon
18 making a finding that it is necessary to acquire any real
19 property for its immediate or future use for the purposes of
20 this chapter, may acquire the property by condemnation pursuant
21 to chapter 101, including property already devoted to a public
22 use. The property shall not thereafter be taken for any other



1 public use without the consent of the agency. No award of
2 compensation shall be increased by reason of any increase in the
3 value of real property caused by the designation of a community
4 development district or plan adopted pursuant to a designation,
5 or the actual or proposed acquisition, use or disposition of any
6 other real property by the agency.

7 **§ -AA Relocation.** (a) Any provision of law to the
8 contrary notwithstanding, the agency shall adopt rules pursuant
9 to chapter 91 to ensure the appropriate relocation within or
10 outside the district of persons, families, and businesses
11 displaced by governmental action within the district. The rules
12 may include, but are not limited to, the establishment and
13 operation of a central relocation office; relocation payments
14 for actual moving costs; fixed payments for losses suffered;
15 payments for replacement housing or business locations;
16 relocation payments and loans to displaced businesses for
17 certain costs related to the re-establishment of their business
18 operations; and other similar relocation matters.

19 (b) The agency shall provide relocation assistance to
20 persons, families, and businesses within the district that are
21 displaced by private action; provided that the assistance shall
22 not include any form of direct monetary payments except that the



1 agency may make relocation loans to displaced businesses in
2 accordance with rules adopted by the agency for the purposes of
3 this section. Temporary relocation facilities within or outside
4 the district may be made available to displacees; provided that
5 those displaced by government action shall be afforded priority
6 to the facilities.

7 **§ -BB Dedication for public facilities as condition to**
8 **development.** The agency shall establish rules requiring
9 dedication for public facilities of land or facilities, or cash
10 payments in lieu thereof, by developers as a condition of
11 developing real property pursuant to the community development
12 plan. Where state and county public facilities dedication laws,
13 ordinances, or rules differ, the provision for greater
14 dedication shall prevail.

15 **§ -CC Public projects.** Any project or activity of any
16 county or agency of the State in a designated district shall be
17 constructed, renovated, or improved in consultation with the
18 agency.

19 **§ -DD Sale or lease of redevelopment projects.** (a) The
20 agency, without recourse to public auction, may sell, or lease
21 for a term not exceeding sixty-five years, all or any portion of
22 the real or personal property constituting a redevelopment



1 project to any person, upon such terms and conditions as may be
2 approved by the agency, if the agency finds that the sale or
3 lease is in conformity with the community development plan.

4 (b) In the case of residential projects or redevelopment
5 projects, the terms of the sale shall provide for the repurchase
6 of the property by the agency at its option, if the purchaser,
7 if other than a state agency, desires to sell the property
8 within ten years, provided that this requirement may be waived
9 by the agency if the agency determines that a waiver will not be
10 contrary to the community development plan. The agency shall
11 establish at the time of original sale a formula setting forth a
12 basis for a repurchase price based on market considerations
13 including but not limited to interest rates, land values,
14 construction costs, and federal tax laws.

15 If the purchaser in a residential project is a state
16 agency, the agency may include as a term of the sale a provision
17 for the repurchase of the property in conformance with this
18 section.

19 **§ -EE Residential projects; cooperative agreements. (a)**
20 If the agency deems it desirable to develop a residential
21 project, it may enter into an agreement with qualified persons
22 to construct, maintain, operate, or otherwise dispose of the



1 residential project. Sale, lease, or rental of dwelling units
2 in the project shall be as provided by the rules established by
3 the agency. The agency may enter into cooperative agreements
4 with the Hawaii housing finance and development corporation for
5 the financing, development, construction, sale, lease, or rental
6 of dwelling units and projects.

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

20 **PART VI. RESERVED HOUSING LOAN PROGRAMS**

21 **§ -FF Reserved housing loan programs; eligible loans;**
22 **bonds.** (a) The agency shall establish requirements for



1 reserved housing units financed by an eligible loan, and may
2 consider, but not be limited to the location, age, condition,
3 and other characteristics of the reserved housing units.

4 (b) The agency shall establish restrictions on the terms,
5 maturities, interest rates, collateral, and other requirements
6 for eligible loans.

7 (c) All eligible loans made shall comply with applicable
8 state and federal laws.

9 (d) The agency, with the approval of the governor, may
10 issue from time to time revenue bonds in amounts not exceeding
11 the total amount of bonds authorized by the legislature for the
12 purpose of undertaking and maintaining any of the reserved
13 housing loan programs.

14 (e) All revenue bonds shall be issued pursuant to part III
15 of chapter 39.

16 (f) The revenue bonds shall be issued in the name of the
17 agency, and not in the name of the State. The final maturity
18 date of the revenue bonds may be any date not exceeding forty
19 years from the date of issuance.

20 (g) The revenue bonds shall be payable from and secured by
21 the revenues derived from the benefits of the reserved housing
22 loan programs for which the revenue bonds are issued, including:



1 (1) Any payment made for eligible loans or eligible
2 project loans or other agreements entered into for the
3 reserved housing loan programs;

4 (2) Revenues derived from insurance proceeds;

5 (3) Reserve accounts and earnings thereon; and

6 (4) Revenues resulting from loans to mortgage lenders or
7 from the payment on account of principal of and
8 interest on loans purchased from mortgage lenders.

9 (h) The agency may pledge any revenue derived from the
10 reserved housing loan programs financed from the proceeds of the
11 revenue bonds to the punctual payment of the principal,
12 interest, and redemption premiums, if any, on the revenue bonds.

13 (i) The revenue bonds may be additionally secured by the
14 pledge or assignment of the loans and other agreements or any
15 note or other undertaking, obligation, or property held by the
16 agency to secure the loans.

17 (j) Any pledge made by the agency shall create a perfected
18 security interest in the revenues, moneys, or property so
19 pledged and thereafter received by the agency from and after the
20 time that a financing statement with respect to the revenues,
21 moneys, or property so pledged and thereafter received shall be
22 filed with the bureau of conveyances. Upon the filing, the



1 revenues, moneys, or property so pledged and thereafter received
2 by the agency shall immediately be subject to the lien of the
3 pledge without any physical delivery thereof or further act, and
4 the lien of any pledge shall be prior to the lien of all parties
5 having claims of any kind in tort, contract, or otherwise
6 against the agency, irrespective of whether the parties have
7 notice thereof.

8 (k) The revenue bonds shall bear interest at a rate or
9 rates payable monthly, quarterly, or semi-annually. The agency
10 shall include the costs of undertaking and maintaining the
11 reserved housing loan programs for which the revenue bonds are
12 issued in determining the cost of undertaking and maintaining
13 the reserved housing loan programs, the agency may include the
14 cost of purchasing or funding loans or other agreements entered
15 into for the reserved housing loan programs; the costs of
16 studies and surveys; insurance premiums; underwriting fees;
17 financial consultant, legal, accounting, and marketing services
18 incurred; reserve account, trustee, custodian, and rating agency
19 fees; and interest on the bonds for a period not to exceed one
20 year from the date of issuance. The revenue bonds may be sold
21 at public or private sale, and for a price as may be determined
22 by the agency to be in the best interest of the State.



1 Section 39-65 shall not apply to revenue bonds issued for
2 the purpose of undertaking and maintaining any of the reserved
3 housing loan programs. The legislature consents to the taxation
4 by the United States of interest on revenue bonds issued for the
5 purpose of undertaking and maintaining any of the reserved
6 housing loan programs.

7 (1) Subject to any agreement with the holders of its
8 revenue bonds, the agency may:

9 (1) Notwithstanding any other law to the contrary, invest
10 its moneys not required for immediate use, including
11 proceeds from the sale of any revenue bonds, in any
12 investment in accordance with procedures prescribed in
13 a trust indenture;

14 (2) Purchase its revenue bonds out of any fund or money of
15 the agency available therefor, and hold, cancel, or
16 resell the revenue bonds.

17 (m) The agency shall designate a trustee for each issue of
18 revenue bonds secured under the same trust indenture; provided
19 that the trustee shall be approved by the director of finance.
20 The trustee shall be authorized by the agency to receive and
21 receipt for, hold, and administer the proceeds of the revenue
22 bonds, and to apply the proceeds to the purposes for which the



1 bonds are issued. The trustee shall also be authorized by the
2 agency to receive and receipt for, hold, and administer the
3 revenues derived by the agency from the benefits of the reserved
4 housing loan program for which the revenue bonds are issued and
5 to apply these revenues to the payment of the cost of
6 administering, operating, and maintaining the reserved housing
7 loan programs, to pay the principal of and interest on these
8 bonds, to the establishment of reserves, and to other purposes
9 as may be authorized in the proceedings providing for the
10 issuance of the revenue bonds.

11 Notwithstanding section 39-68, the director of finance may
12 appoint the trustee to serve as fiscal agent for:

13 (1) The payment of the principal of and interest on the
14 revenue bonds; and

15 (2) The purchase, registration, transfer, exchange, and
16 redemption of the bonds.

17 The trustee shall perform additional functions with respect
18 to the payment, purchase, registration, transfer, exchange, and
19 redemption, as the director of finance may deem necessary,
20 advisable, or expeditious, including the holding of the revenue
21 bonds and coupons which have been paid and the supervision of
22 the destruction thereof in accordance with law.



1 No provision of law shall limit or be construed to limit
2 the powers granted to the director of finance in sections 36-3
3 and 39-13, and the third sentence of section 39-68, to appoint
4 the trustee or others as fiscal agents, paying agents and
5 registrars for the revenue bonds or to authorize and empower
6 those fiscal agents and registrars to perform the functions
7 referred to in those sections.

8 **§ -GG Trust indenture.** (a) A trust indenture may
9 contain covenants and provisions authorized by part III of
10 chapter 39, and as deemed necessary or convenient by the agency.

11 (b) A trust indenture may allow the agency to pledge and
12 assign to the trustee loans and other agreements related to the
13 reserved housing loan programs, and the rights of the agency
14 thereunder, including the right to receive revenues thereunder
15 and to enforce the provision thereof.

16 (c) Where a trust indenture provides that any revenue bond
17 issued under that trust indenture is not valid or obligatory for
18 any purpose unless certified or authenticated by the trustee,
19 all signatures of the officers of the State upon the revenue
20 bonds required by section 39-56 may be facsimiles of their
21 signatures.

22 (d) A trust indenture shall also contain provisions as to:



1 (1) The investment of the proceeds of the revenue bonds,
2 the investment of any reserve for the bonds, the
3 investment of the revenues of the reserved housing
4 loan programs, and the use and application of the
5 earnings from investments; and

6 (2) The terms and conditions upon which the holders of the
7 revenue bonds or any portion of them or any trustee
8 thereof may institute proceedings for the foreclosure
9 of any loan or other agreement or any note or other
10 undertaking, obligation or property securing the
11 payment of the bonds, and the use and application of
12 the moneys derived from the foreclosure.

13 (e) A trust indenture may also contain provisions deemed
14 necessary or desirable by the agency to obtain or permit, by
15 grant, interest subsidy, or otherwise, the participation of the
16 federal government in the reserved housing loan programs or in
17 the financing of the costs of administering, operating, or
18 maintaining the reserved housing loan programs.

19 **§ -HH Reserved housing loan programs; self supporting.**

20 The interest rate, fees, charges, premiums, and other terms of
21 the loans made under the reserved housing loan programs shall be
22 at least sufficient to pay the cost of administering and



1 maintaining the portion of the specific reserved housing loan
2 programs for which the revenue bonds have been issued, and to
3 assure payment of the principal of and interest on the revenue
4 bonds as they become due.

5 **§ -II Reserved housing loan programs; fees.** The agency
6 may establish, revise, charge, and collect fees, premiums, and
7 charges as necessary, reasonable, or convenient, for its
8 reserved housing loan programs.

9 The fees, premiums, and charges shall be deposited into the
10 reserved housing loan program revenue bond special fund
11 established for the particular reserved housing loan program or
12 part thereof from which the fees, premiums and charges are
13 derived as determined by the agency.

14 **§ -JJ Revenue bonds for public facility projects.** (a)
15 The agency with the approval of the governor, may issue from
16 time to time revenue bonds in amounts not exceeding the total
17 amount of bonds authorized to be issued by the legislature for
18 the purpose of constructing, acquiring, remodeling, furnishing,
19 and equipping any public facility, including acquisition of the
20 site thereof.

21 (b) All revenue bonds shall be issued pursuant to part III
22 of chapter 39, except as provided in this part.



1 No officer or employee of the State having tenure shall
2 suffer any loss of salary, seniority, prior service credit,
3 vacation, sick leave, or other employee benefit or privilege as
4 a consequence of this Act, and the officer or employee may be
5 transferred or appointed to a civil service position without the
6 necessity of examination; provided that the officer or employee
7 possesses the minimum qualifications for the position to which
8 transferred or appointed; and provided that subsequent changes
9 in status may be made pursuant to applicable civil service and
10 compensation laws.

11 An officer or employee of the State who does not have
12 tenure and who may be transferred or appointed to a civil
13 service position as a consequence of this Act shall become a
14 civil service employee without the loss of salary, seniority,
15 prior service credit, vacation, sick leave, or other employee
16 benefits or privileges and without the necessity of examination;
17 provided that the officer or employee possesses the minimum
18 qualifications for the position to which transferred or
19 appointed.

20 If an office or position held by an officer or employee
21 having tenure is abolished, the officer or employee shall not
22 thereby be separated from public employment, but shall remain in



1 the employment of the State with the same pay and classification
2 and shall be transferred to some other office or position for
3 which the officer or employee is eligible under the personnel
4 laws of the State as determined by the head of the department or
5 the governor.

6 SECTION 3. All appropriations, records, equipment,
7 machines, files, supplies, contracts, books, papers, documents,
8 maps, and other personal property heretofore made, used,
9 acquired, or held by the Aloha Tower development corporation,
10 office of planning, coastal zone management program under
11 chapter 205A, Hawaii Revised Statutes, and the Hawaii community
12 development corporation shall be transferred with the functions
13 to which they relate.

14 SECTION 4. (a) The balance remaining in the Hawaii
15 community development revolving fund under section 206E-16,
16 Hawaii Revised Statutes, and the Kalaeloa community development
17 revolving fund under section 206E-195, Hawaii Revised Statutes,
18 as of the effective date of this Act shall be transferred into
19 separate accounts of the state resources protection and
20 development revolving fund created under section 1 of this Act.

21 (b) The balance remaining in the Aloha Tower fund under
22 section 206J-17, Hawaii Revised Statutes, shall be transferred



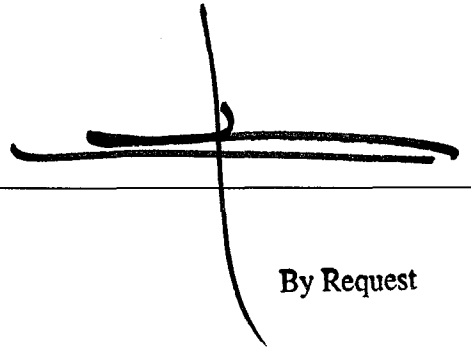
1 to the state resources Aloha Tower fund created under section 1
2 of this Act.

3 SECTION 5. In codifying this Act, the revisor shall
4 substitute appropriate section numbers for the letter references
5 used in section 1 of this Act.

6 SECTION 6. This Act, upon its approval, shall take effect
7 on January 1, 2010.

8

INTRODUCED BY: _____

A handwritten signature in black ink, consisting of a vertical line on the right, a horizontal line across the middle, and a horizontal line below it, with a small loop at the top of the vertical line.

By Request



Report Title:

State Resources Protection and Development Agency

Description:

Creates the state resources protection and development agency to house functions currently under Aloha Tower development corporation, state planning office, and Hawaii community development corporation.

