

S.B. NO. 2677

JAN 25 2010

A BILL FOR AN ACT

RELATING TO HOUSING DEVELOPMENT.

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

1 SECTION 1. Section 206E-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§206E-4 Powers; generally.** Except as otherwise limited by
4 this chapter, the authority may:

5 (1) Sue and be sued;

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

7 (3) Make and execute contracts and all other instruments
8 necessary or convenient for the exercise of its powers
9 and functions under this chapter;

10 (4) Make and alter bylaws for its organization and internal
11 management;

12 (5) Make rules with respect to its projects, operations,
13 properties, and facilities, which rules shall be in
14 conformance with chapter 91;

15 (6) Through its executive director appoint officers,
16 agents, and employees, prescribe their duties and
17 qualifications, and fix their salaries, without regard
18 to chapter 76;

S.B. NO. 2677

- 1 (7) Prepare or cause to be prepared a community development
2 plan for all designated community development
3 districts;
- 4 (8) Acquire, reacquire, or contract to acquire or reacquire
5 by grant or purchase real, personal, or mixed property
6 or any interest therein; to own, hold, clear, improve,
7 and rehabilitate, and to sell, assign, exchange,
8 transfer, convey, lease, or otherwise dispose of or
9 encumber the same;
- 10 (9) Acquire or reacquire by condemnation real, personal, or
11 mixed property or any interest therein for public
12 facilities, including but not limited to streets,
13 sidewalks, parks, schools, and other public
14 improvements;
- 15 (10) By itself, or in partnership with qualified persons,
16 acquire, reacquire, construct, reconstruct,
17 rehabilitate, improve, alter, or repair or provide for
18 the construction, reconstruction, improvement,
19 alteration, or repair of any project; own, hold, sell,
20 assign, transfer, convey, exchange, lease, or otherwise
21 dispose of or encumber any project, and in the case of
22 the sale of any project, accept a purchase money

S.B. NO. 2677

1 mortgage in connection therewith; and repurchase or
2 otherwise acquire any project which the authority has
3 theretofore sold or otherwise conveyed, transferred, or
4 disposed of;

5 (11) Arrange or contract for the planning, replanning,
6 opening, grading, or closing of streets, roads,
7 roadways, alleys, or other places, or for the
8 furnishing of facilities or for the acquisition of
9 property or property rights or for the furnishing of
10 property or services in connection with a project;

11 (12) Grant options to purchase any project or to renew any
12 lease entered into by it in connection with any of its
13 projects, on such terms and conditions as it deems
14 advisable;

15 (13) Prepare or cause to be prepared plans, specifications,
16 designs, and estimates of costs for the construction,
17 reconstruction, rehabilitation, improvement,
18 alteration, or repair of any project, and from time to
19 time to modify such plans, specifications, designs, or
20 estimates;

21 (14) Provide advisory, consultative, training, and
22 educational services, technical assistance, and advice

S.B. NO. 2677

1 to any person, partnership, or corporation, either
2 public or private, to carry out the purposes of this
3 chapter, and engage the services of consultants on a
4 contractual basis for rendering professional and
5 technical assistance and advice;

6 (15) Procure insurance against any loss in connection with
7 its property and other assets and operations in such
8 amounts and from such insurers as it deems desirable;

9 (16) Contract for and accept gifts or grants in any form
10 from any public agency or from any other source;

11 (17) Do any and all things necessary to carry out its
12 purposes and exercise the powers given and granted in
13 this chapter; and

14 (18) Allow satisfaction of any affordable housing
15 requirements imposed by the authority upon any proposed
16 development project through the construction of
17 reserved housing, as defined in section 206E-101, by a
18 person on land located outside the geographic
19 boundaries of the authority's jurisdiction [~~; provided~~
20 ~~that the authority shall not permit any person to make~~
21 ~~cash payments in lieu of providing reserved housing,~~
22 ~~except to account for any fractional unit that results~~

S.B. NO. 2677

1 ~~after calculating the percentage requirement against~~
2 ~~residential floor space or total number of units~~
3 ~~developed].~~ The substituted housing shall be located
4 on the same island as the development project and shall
5 be substantially equal in value to the required
6 reserved housing units that were to be developed on
7 site. The authority shall establish the following
8 priority in the development of reserved housing:

- 9 (A) Within the community development district;
- 10 (B) Within areas immediately surrounding the community
11 development district;
- 12 (C) Areas within the central urban core;
- 13 (D) In outlying areas within the same island as the
14 development project.

15 The Hawaii community development authority shall
16 adopt rules relating to the approval of reserved
17 housing that are developed outside of a community
18 development district. The rules shall include, but are
19 not limited to, the establishment of guidelines to
20 ensure compliance with the above priorities."

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

S.B. NO. 2677

1 SECTION 3. This Act shall take effect upon its approval.

2

3

INTRODUCED BY:

~~_____~~

4

BY REQUEST

Report Title:

Cash-in-lieu; Hawaii Community Development Authority

Description:

Reinstates Hawaii Community Development Authority's cash-in-lieu option.

JUSTIFICATION SHEET

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO HOUSING DEVELOPMENT.

PURPOSE: Reinstates the Hawaii Community Development Authority's cash-in-lieu option.

MEANS: Amend section 206E-4, Hawaii Revised Statutes.

JUSTIFICATION: Act 18, Session Laws of Hawaii 2009, eliminated the Hawaii Community Development Authority's (HCDA) ability to accept cash in lieu of a developer's reserved housing construction requirement, except in cases where fractional units result from percentage requirement calculations.

The cash-in-lieu option has been a successful tool for the HCDA reserved housing program. By leveraging the cash-in-lieu option, HCDA gained the needed flexibility and control to develop a supply of housing units for those who cannot afford market-rate housing. For example, moneys collected through the option have been used to time construction to periods when bids are more competitive and prices are lower. Cash-in-lieu payments are also leveraged with other public and private resources, such as rental housing trust funds or Hula-Mae bonds, to build a larger number or different types of affordable housing units than the developer might be required or able to provide with only private funds.

Since its enactment in 1990, the cash-in-lieu option successfully allowed HCDA to partner with other state agencies to develop and build over 700 rental housing units in Kakaako through projects such as Kamakee Vista, Kauhale Kakaako, and Pohulani. As a result, the cash-in-lieu option must be

reinstated in order to ensure that a variety of tools are available to encourage the development of affordable housing.

Impact on the public: Restoring the cash-in-lieu option will give HCDA an additional alternative to finance and build affordable housing units for those in need.

Impact on the department and other agencies: The cash-in-lieu option allows HCDA to partner with agencies, such as the Hawaii Housing Finance and Development Corporation, to leverage all available financing options for the construction of affordable housing units.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Hawaii Housing Finance and Development Corporation.

EFFECTIVE DATE: Upon approval.