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## A BILL FOR AN ACT

RELATING TO THE EAST HAWAII COMMUNITY DEVELOPMENT DISTRICT.

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

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

4           "PART       .    EAST HAWAII COMMUNITY DEVELOPMENT DISTRICT

5           §206E-A East Hawaii community development district;

6 **purpose.** The legislature finds that:

- 7           (1) There is an area in east Hawaii that is in need of  
8           renewal, renovation, or improvement to enhance the  
9           economic and social value of the area to the State;
- 10          (2) The Banyan Drive area contains about eighty-five per  
11          cent of the overnight visitor accommodations in east  
12          Hawaii;
- 13          (3) The Kanoelehua industrial area of east Hawaii is in  
14          need of improvement to alleviate conditions such as  
15          dilapidation, deterioration, and age;
- 16          (4) There has been little incentive for the lessees of the  
17          properties in the area to make major investments in  
18          improvements to their infrastructure, resulting in the



1 deterioration of the area's infrastructure and  
2 facilities; and

3 (5) The State has a responsibility to ensure that the east  
4 Hawaii area does not deteriorate and have a harmful  
5 impact on the economy of the east Hawaii community as  
6 a whole.

7 The authority, through the east Hawaii community  
8 development district board, shall plan a district where hotel  
9 and resort, industrial, commercial, residential, and public uses  
10 may coexist compatibly within the same area.

11 **§206E-B East Hawaii community development district board;**  
12 **established.** (a) There is established the east Hawaii  
13 community development district board which shall be a body  
14 corporate and a public instrumentality of the State for the  
15 purpose of implementing this part.

16 (b) The east Hawaii community development district board  
17 shall consist of eleven voting members; provided that:

18 (1) Ten public voting members shall be appointed by the  
19 governor for staggered terms pursuant to section 26-  
20 34;

21 (2) The director of planning of the county of Hawaii shall  
22 be an ex officio voting member;



1           (3) The members shall be residents of the county of Hawaii  
2           and have knowledge, experience, and expertise in land  
3           economics, development, real estate, business,  
4           finance, marketing, management, and the visitor  
5           industry. At least two members shall be  
6           representatives of businesses located within the  
7           boundaries of the designated district; and

8           (4) Three members shall be appointed by the governor from  
9           a list of three names submitted for each appointment  
10          by the president of the senate, and three members  
11          shall be appointed by the governor from a list of  
12          three names submitted for each appointment by the  
13          speaker of the house of representatives; provided that  
14          if fewer than three names are submitted for each  
15          appointment, the governor may disregard the list.

16          (c) The members of the board shall elect a chairperson  
17          from among its public members.

18          (d) Seven members shall constitute a quorum and a minimum  
19          of seven affirmative votes shall be necessary for all actions by  
20          the board. The members shall serve without compensation, but  
21          shall be reimbursed for expenses, including traveling expenses,  
22          necessary for the performance of their duties.



1 (e) The board shall appoint an executive director who  
2 shall be exempt from chapters 76 and 78.

3 (f) As used in this part, "board" means the east Hawaii  
4 community development district board.

5 **§206E-C Powers; generally.** Except as otherwise limited by  
6 this chapter, the board may:

7 (1) Sue and be sued;

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

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

12 (4) Adopt and amend bylaws for its organization and  
13 internal management;

14 (5) Adopt rules with respect to its projects, operations,  
15 properties, and facilities in accordance with chapter  
16 91;

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



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



1 the case of the sale of any project, accept a purchase  
2 money mortgage in connection therewith; and repurchase  
3 or otherwise acquire any project which the authority  
4 has theretofore sold or otherwise conveyed,  
5 transferred, or disposed of;

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

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

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



- 1       (15) Provide advisory, consultative, training, and  
2           educational services, technical assistance, and advice  
3           to any person, partnership, or corporation, either  
4           public or private, to carry out the purposes of this  
5           part, and engage the services of consultants on a  
6           contractual basis for rendering professional and  
7           technical assistance and advice;
- 8       (16) Procure insurance against any loss in connection with  
9           the board's property and other assets and operations  
10          in such amounts and from such insurers as it deems  
11          desirable;
- 12       (17) Contract for and accept gifts or grants in any form  
13          from any public agency or from any other source;
- 14       (18) Do any and all things necessary to carry out the  
15          board's purposes and exercise the powers given and  
16          granted in this part; and
- 17       (19) Authorize assistance and assist the public land  
18          development corporation established by section 171C-3  
19          in identifying public lands that may be suitable for  
20          development, carrying on marketing analysis to  
21          determine the best revenue-generating programs for the  
22          public lands identified, entering into public-private

1           agreements to appropriately develop the public lands  
2           identified, and providing leadership for the  
3           development, financing, improvement, or enhancement of  
4           the selected development opportunities.

5           **§206E-D Prohibitions.** Notwithstanding any provision of  
6 this chapter to the contrary, the board is prohibited from  
7 selling or otherwise assigning the fee simple interest in any  
8 lands in the east Hawaii community development district to which  
9 the board in its corporate capacity holds title, except with  
10 respect to:

- 11           (1) Utility easements;
- 12           (2) Remnants as defined in section 171-52;
- 13           (3) Grants to any state or county department or agency; or
- 14           (4) Private entities for purposes of any easement,  
15           roadway, or infrastructure improvements.

16           **§206E-E East Hawaii community development district;**  
17 **boundaries.** The east Hawaii community development district  
18 shall include the area bounded by the shoreline from the  
19 intersection of Lihwai Street and Mamalahoa Highway; Mamalahoa  
20 Highway to where it becomes Kamehameha Avenue; Kamehameha Avenue  
21 to its intersection with Keaa Street; Keaa Street from its  
22 intersection with Kamehameha Avenue to its intersection with





1 Kalaniana'ole Avenue; Kalaniana'ole Avenue to Kumai Street; Kumai  
 2 Street to its intersection with Ocean View Drive; the north end  
 3 of Ocean View Drive to the shoreline; and the shoreline from the  
 4 north end of Ocean View Drive to the intersection of Lihikai  
 5 Street and Mamalahoa Highway.

6 §206E-F Development guidance policies. The following  
 7 shall be the development guidance policies generally governing  
 8 any board action in the east Hawaii community development  
 9 district:

- 10 (1) The board may engage in planning, design, and  
 11 construction activities relating to infrastructure  
 12 development and other activities the board determines  
 13 to be necessary to carry out a mixed use approach  
 14 according to policies that provide guidelines for  
 15 public and private development in the district. The  
 16 board may also engage in any studies or activities  
 17 that affect areas outside the district where the board  
 18 in its discretion decides that those activities are  
 19 necessary to implement the intent of this part;
- 20 (2) Existing and future commercial, industrial, resort,  
 21 hotel, and business uses shall be permitted and  
 22 encouraged in appropriate locations within the



1 district. No plan or implementation strategy shall  
2 prevent continued activity or redevelopment of  
3 existing uses which meet reasonable performance  
4 standards;

5 (3) Land use and redevelopment activities within the  
6 district shall be coordinated with and, to the extent  
7 possible, complement existing county and state  
8 policies, plans, and programs affecting the district;

9 (4) Public facilities within the district shall be  
10 planned, located, and developed to support the  
11 redevelopment policies established by this part for  
12 the district; and

13 (5) Historic sites and culturally significant facilities,  
14 settings, or locations shall be preserved.

15 **§206E-G East Hawaii community development revolving fund.**

16 (a) There is established in the state treasury the east Hawaii  
17 community development revolving fund, into which shall be  
18 deposited:

19 (1) Notwithstanding section 206E-16, all revenues, income,  
20 and receipts for the east Hawaii community development  
21 district;



1 (2) Moneys directed, allocated, or disbursed to the east  
 2 Hawaii community development district from government  
 3 agencies, private individuals, or organizations,  
 4 including grants, gifts, awards, donations, and  
 5 assessments of landowners for costs to administer and  
 6 operate the district; and

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

8 (b) Moneys in the east Hawaii community development  
 9 revolving fund shall be used solely for the purposes of this  
 10 part.

11 (c) All interest accruing from the investment of the  
 12 moneys in the fund shall be credited to the east Hawaii  
 13 community development revolving fund."

14 SECTION 2. Section 206E-3, Hawaii Revised Statutes, is  
 15 amended by amending subsection (b) to read as follows:

16 "(b) The authority shall consist of thirteen voting  
 17 members. The director of finance, the director of business,  
 18 economic development, and tourism, the comptroller, and the  
 19 director of transportation, or their respective designated  
 20 representatives shall serve as ex officio, voting members. One  
 21 member shall be appointed by the governor from a list of not  
 22 less than three prospective appointees submitted by the



1 president of the senate, and one member shall be appointed by  
2 the governor from a list of not less than three prospective  
3 appointees submitted by the speaker of the house of  
4 representatives. Seven members shall be appointed by the  
5 governor for staggered terms pursuant to section 26-34; provided  
6 that four members shall be appointed at large and, initially,  
7 three members, hereinafter referred to as county members, shall  
8 be selected from a list of ten prospective appointees  
9 recommended by the local governing body of the county in which  
10 the initial designated district is situated; and provided  
11 further that when vacancies occur in any of the three positions  
12 for which the members were selected from a list of county  
13 recommendations, the governor shall fill such vacancies on the  
14 basis of one from a list of four recommendations, two from a  
15 list of seven recommendations, or three from a list of ten  
16 recommendations. The list of recommendations shall be made by  
17 the local governing body of the county.

18       Of the nine members appointed either by the governor from  
19 the lists provided by the president of the senate and speaker of  
20 the house, at-large by the governor, or as county members  
21 recommended by the local governing body of the county in which  
22 the initial designated district is situated, at least two



1 members shall represent small businesses and shall be designated  
2 as the small business representatives on the board whose  
3 purpose, among other things, is to vote on matters before the  
4 board that affect small businesses. The small business  
5 representatives shall be owners or active managers of a small  
6 business with its principal place of operation located within  
7 the physical boundaries of the initial designated district.  
8 Notwithstanding section 84-14(a), the small business  
9 representatives shall not be prohibited from voting on any  
10 matter concerning any district under the board's jurisdiction;  
11 provided that the matter is not limited to solely benefiting the  
12 specific interest of that member and the matter concerns broader  
13 interests within the district.

14 If an additional district is designated by the legislature,  
15 the total membership of the authority shall be increased as  
16 prescribed above by the appointment of three additional members,  
17 except as provided for in [~~section~~] sections 206E-191[~~7~~] and  
18 206E-B. Notwithstanding section 92-15, a majority of all  
19 members shall constitute a quorum to do business, and the  
20 concurrence of a majority of all members shall be necessary to  
21 make any action of the authority valid; except that, on any  
22 matter relating solely to a specific community development



1 district, the members representing districts other than that  
2 specific community development district shall neither vote, nor  
3 shall they be counted to constitute a quorum, and concurrence  
4 shall be required of a majority of that portion of the authority  
5 made up of all ex officio voting members, members at large, and  
6 county and district members representing the district for which  
7 action is being proposed for such action to be valid. All  
8 members shall continue in office until their respective  
9 successors have been appointed and qualified. Except as herein  
10 provided, no member appointed under this subsection shall be an  
11 officer or employee of the State or its political subdivisions.

12 For [+]purposes[+] of this section, "small business" means  
13 a business which is independently owned and which is not  
14 dominant in its field of operation."

15 SECTION 3. The department of land and natural resources  
16 shall deed to the east Hawaii community development district  
17 board the leases for the public lands within the east Hawaii  
18 community development district, including lands covered by the  
19 fifteen leases in the Banyan Drive resort area, the ten leases  
20 covering three resort facilities (Nanihoa Volcanoes Resort, Hilo  
21 Bay Hotel, and Hilo Hawaiian Hotel), the three leases for each  
22 of three apartment or condominium facilities (Country Club



1 Hawaii Condo Hotel, Bayview Banyan, and Reed's Bay Resort  
2 Hotel), one golf course lease, and one restaurant lease.

3 SECTION 4. (a) The powers, functions, and duties of the  
4 department of land and natural resources relating to the leases  
5 in the east Hawaii community development district are  
6 transferred to the east Hawaii community development district  
7 board.

8 (b) All deeds, leases, contracts, loans, agreements,  
9 permits, or other documents executed or entered into by or on  
10 behalf of the department of land and natural resources which are  
11 reenacted or made applicable to the east Hawaii community  
12 development district board by this Act shall remain in full  
13 force and effect. Effective July 1, 2012, every reference to  
14 the department of land and natural resources or the board of  
15 land and natural resources in the documents that pertain to the  
16 east Hawaii community development district board shall be  
17 construed as a reference to the east Hawaii community  
18 development district board.

19 SECTION 5. In codifying the new sections added by section  
20 1 of this Act, the revisor of statutes shall substitute  
21 appropriate section numbers for the letters used in designating  
22 the new sections in this Act.



1 SECTION 6. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 7. This Act shall take effect on July 1, 2012.  
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INTRODUCED BY:

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JAN 23 2012





# H.B. NO. 2366

**Report Title:**

East Hawaii Community Development District; Established

**Description:**

Establishes the east Hawaii community development district and board. Requires DLNR to deed certain leases to the board. Effective 07/01/12.

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

