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# A BILL FOR AN ACT

RELATING TO COMMUNITY PLANNING.

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

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

4           "§206E-A Designation of transit-oriented development  
5 zones; zone development plans. (a) The authority may designate  
6 an area as a transit-oriented development zone if it determines  
7 that there is need for replanning, renewal, or redevelopment of  
8 that area due to its future potential as a high density  
9 population area. The designation shall describe the boundaries  
10 of the zone.

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

16           (c) The authority may enter into cooperative agreements  
17 with qualified persons or public agencies, where the powers,  
18 services, and capabilities of such persons or agencies are



1 deemed necessary and appropriate for the development of the zone  
2 development plan.

3 (d) Whenever possible, planning activities of the  
4 authority shall be coordinated with federal, state, and county  
5 plans. Consideration shall be given to state goals and  
6 policies, adopted state plan or land use guidance policies,  
7 county general plans, development plans, and ordinances.

8 (e) The authority shall hold a public hearing on a  
9 proposed zone development plan pursuant to chapter 91 and, after  
10 consideration of comments received and appropriate revision,  
11 shall submit the zone development plan to the governor for the  
12 governor's approval.

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

21 (1) Plans, maps, narrative descriptions, and other  
22 appropriate materials on the:



1           (A) Locations and design of projects or public  
2           facilities proposed to be funded; and

3           (B) Phase of the zone development plans proposed to  
4           be implemented with the requested funds; and

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

11       (f) The authority may amend the zone development plan as  
12       may be necessary. Amendments shall be made in accordance with  
13       chapter 91.

14       §206E-B Business improvement districts. (a) The  
15       authority may authorize the creation of business improvement  
16       districts, and amend the district boundaries from time to time,  
17       for the purpose of providing and financing supplemental  
18       maintenance and security services and other improvements,  
19       services, and facilities within the business improvement  
20       district as the authority determines will restore or promote  
21       business activity in the business improvement district.



1        (b) The authority shall adopt rules pursuant to chapter 91  
2 to establish the criteria for creating and amending business  
3 improvement districts.

4        (c) The authority may levy and assess        per cent of  
5 the general excise tax as a special assessment on property  
6 located within the business improvement district to finance the  
7 maintenance and operation of the business improvement district  
8 and improvements within the business improvement district.

9 Notwithstanding any law to the contrary, in assessing property  
10 for a special assessment, the authority may implement a  
11 methodology as the authority deems appropriate. When all  
12 improvements have been fully executed within the business  
13 improvement district or the district ceases to exist, the  
14 special assessment shall no longer be assessed.

15        (d) The special assessments levied pursuant to the  
16 authorizing of the creation of business improvement districts  
17 and this section shall be a lien upon the property assessed.  
18 The lien shall have priority over all other liens except the  
19 lien of general real property taxes.

20        **§206E-C Conditions for the transfer of density rights.** In  
21 addition to any existing power, duty, and authority, the  
22 authority is hereby authorized to transfer and regulate the



1 transfer of density rights, subject to the conditions set forth  
2 under this part, as well other conditions the authority deems  
3 necessary and appropriate. The purpose of providing for  
4 transfer of density rights shall be to:

- 5       (1) Protect the natural, scenic, and agricultural  
6           qualities of open lands;
- 7       (2) Enhance sites and areas of special character or  
8           special historical, cultural, aesthetic, or economic  
9           interest or value;
- 10       (3) Provide an instrument whereby landowners who choose to  
11           participate in land preservation can share in the  
12           economic benefits created through development;
- 13       (4) Direct growth to areas suitable for urban development  
14           based on the capacity of existing infrastructure and  
15           public facility systems, the cost effectiveness of  
16           providing new infrastructure and public facility  
17           systems, the proximity to employment centers, and  
18           favorable conditions including topography and freedom  
19           from natural hazards and environmental constraints;  
20           and



1        (5) Enable and encourage flexibility of design and careful  
2                    management of land in recognition of land as a basic  
3                    and valuable natural resource.

4        **§206E-D Transfer of density rights; general**

5        **authorizations.**    The authority may provide for the transfer of  
6        density rights by adopting rules, in accordance with chapter 91,  
7        to establish a procedure for the transfer. The rules shall  
8        provide, without limitation, for the following:

9            (1) The transfer of density rights to and from the  
10           authority;

11           (2) The transfer of density rights shall be established  
12           within the framework of the long-range, comprehensive  
13           general plan of the county;

14           (3) The receiving entity, to which transfer of density  
15           rights is authorized, shall be found by the authority,  
16           after evaluating the effects of the potential  
17           increased development, to contain adequate resources  
18           and public facilities to ensure that the increased  
19           density will be compatible with the development  
20           otherwise permitted by the county or authority;



- 1        (4) Sending entities and receiving entities shall be
- 2                    designated and mapped, and the procedure for the
- 3                    transfer of density rights shall be specified; and
- 4        (5) The density rights may be sold in the normal market or
- 5                    through a density rights bank established by the
- 6                    authority in which density rights may be retained and
- 7                    sold by the authority.

8            **§206E-E Transfer of density rights instruments.** The

9 authority shall establish a standard instrument to document

10 density rights that have been transferred to and from the

11 authority. A density right that is transferred is an interest

12 in real property evidenced by the transfer of a density right

13 instrument issued by the authority and recorded pursuant to

14 section 502-31."

15            SECTION 2. Section 46-142, Hawaii Revised Statutes, is

16 amended to read as follows:

17            **"§46-142 Authority to impose impact fees; enactment of**

18 **ordinances required[-]; exemption.** (a) Impact fees may be

19 assessed, imposed, levied, and collected by:

- 20            (1) Any county for any development, or portion thereof,
- 21                    not involving water supply or service; or







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

3 **"§206E-1 Findings and purpose.** The legislature finds that  
4 many areas of the State are substantially undeveloped, blighted,  
5 or economically depressed, and are or are potentially in need of  
6 renewal, renovation, or improvement to alleviate such conditions  
7 as dilapidation, deterioration, age, and other such factors or  
8 conditions which make such areas an economic or social  
9 liability.

10 The legislature further finds that there exists within the  
11 State vast, unmet community development needs. These include,  
12 but are not limited to, a lack of suitable affordable housing;  
13 insufficient commercial and industrial facilities for rent;  
14 residential areas which do not have facilities necessary for  
15 basic liveability, such as parks and open space; and areas which  
16 are planned for extensive land allocation to one, rather than  
17 mixed uses.

18 It is further determined that the lack of planning and  
19 coordination in such areas has given rise to these community  
20 development needs and that existing laws and public and private  
21 mechanisms have either proven incapable or inadequate to  
22 facilitate timely redevelopment and renewal.



1           The legislature finds that a new and comprehensive  
2 authority for community [~~development~~] planning must be created  
3 to join the strengths of private enterprise, public development  
4 and regulation into a new form capable of long-range planning  
5 and implementation of improved [~~community development~~]  
6 communities. The purpose of this chapter is to establish such a  
7 mechanism in the Hawaii community [~~development~~] planning  
8 authority, a public entity which shall determine community  
9 development programs and cooperate with private enterprise and  
10 the various components of federal, state, and county governments  
11 in bringing plans to fruition. For such areas designated as  
12 community development districts[7] and transit-oriented  
13 development zones, the legislature believes that the planning  
14 and implementation program of the Hawaii community [~~development~~]  
15 planning authority will result in communities which serve the  
16 highest needs and aspirations of Hawaii's people.

17           The legislature finds that the creation of the Hawaii  
18 community [~~development~~] planning authority, the establishment of  
19 community development districts[7] and transit-oriented  
20 development zones, and the issuance of bonds pursuant to this  
21 chapter to finance public facilities serve the public interest  
22 and are matters of statewide concern."



1 SECTION 5. Section 206E-2, Hawaii Revised Statutes, is  
2 amended by adding four new definitions to be appropriately  
3 inserted and to read as follows:

4 "Density rights" means the rights permitted under an  
5 ordinance, rule, or law relating to permitted uses of a  
6 property, the density or intensity of use, and the maximum  
7 height and size of improvements thereon. Density rights may be  
8 calculated and allocated using factors including but not limited  
9 to area or lot size, floor area, floor area ratios, density,  
10 height limitations, or any other criteria that will effectively  
11 quantify the value for the density right in a reasonable and  
12 uniform manner that will carry out the objectives of this part.

13 "Receiving entity" means the authority or any landowner to  
14 which density rights from sending entities may be transferred  
15 and in which increased development is permitted using  
16 transferred density rights.

17 "Sending entity" means the authority or any landowner in  
18 which density rights may be designated for use by receiving  
19 entities.

20 "Transfer of density rights" means the process by which  
21 density rights are transferred from a property owned by any  
22 sending entity to another property owned by a receiving entity."



1 SECTION 6. Section 206E-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§206E-4 Powers; generally.** Except as otherwise limited  
4 by 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  
11 internal 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;
- 19 (7) Prepare or cause to be prepared a community  
20 development plan for all designated community  
21 development districts[7] and transit-oriented  
22 development zones;



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



- 1           has theretofore sold or otherwise conveyed,
- 2           transferred, or disposed of;
- 3       (11) Arrange or contract for the planning, replanning,
- 4           opening, grading, or closing of streets, roads,
- 5           roadways, alleys, or other places, or for the
- 6           furnishing of facilities or for the acquisition of
- 7           property or property rights or for the furnishing of
- 8           property or services in connection with a project;
- 9       (12) Grant options to purchase any project or to renew any
- 10          lease entered into by it in connection with any of its
- 11          projects, on such terms and conditions as it deems
- 12          advisable;
- 13       (13) Prepare or cause to be prepared plans, specifications,
- 14          designs, and estimates of costs for the construction,
- 15          reconstruction, rehabilitation, improvement,
- 16          alteration, or repair of any project, and from time to
- 17          time to modify such plans, specifications, designs, or
- 18          estimates;
- 19       (14) Provide advisory, consultative, training, and
- 20          educational services, technical assistance, and advice
- 21          to any person, partnership, or corporation, either
- 22          public or private, to carry out the purposes of this



- 1 chapter, and engage the services of consultants on a  
2 contractual basis for rendering professional and  
3 technical assistance and advice;
- 4 (15) Procure insurance against any loss in connection with  
5 its property and other assets and operations in such  
6 amounts and from such insurers as it deems desirable;
- 7 (16) Contract for and accept gifts or grants in any form  
8 from any public agency or from any other source;
- 9 (17) Do any and all things necessary to carry out its  
10 purposes and exercise the powers given and granted in  
11 this chapter;
- 12 (18) Allow satisfaction of any affordable housing  
13 requirements imposed by the authority upon any  
14 proposed development project through the construction  
15 of reserved housing, as defined in section 206E-101,  
16 by a person on land located outside the geographic  
17 boundaries of the authority's jurisdiction; provided  
18 that the authority shall not permit any person to make  
19 cash payments in lieu of providing reserved housing,  
20 except to account for any fractional unit that results  
21 after calculating the percentage requirement against  
22 residential floor space or total number of units



1 developed. The substituted housing shall be located  
 2 on the same island as the development project and  
 3 shall be substantially equal in value to the required  
 4 reserved housing units that were to be developed on  
 5 site. The authority shall establish the following  
 6 priority in the development of reserved housing:

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

13 The Hawaii community [~~development~~] planning  
 14 authority shall adopt rules relating to the approval  
 15 of reserved housing that are developed outside of a  
 16 community development district. The rules shall  
 17 include, but are not limited to, the establishment of  
 18 guidelines to ensure compliance with the above  
 19 priorities; and

- 20 (19) Assist the public land development corporation  
 21 established by section 171C-3 in identifying public  
 22 lands that may be suitable for development, carrying





1 on marketing analysis to determine the best revenue-  
2 generating programs for the public lands identified,  
3 entering into public-private agreements to  
4 appropriately develop the public lands identified, and  
5 providing the leadership for the development,  
6 financing, improvement, or enhancement of the selected  
7 development opportunities; provided that no assistance  
8 shall be provided unless the authority authorizes the  
9 assistance."

10 SECTION 7. Section 206E-5.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) The authority shall adopt community and public notice  
13 procedures pursuant to chapter 91 that shall include at a  
14 minimum:

15 (1) A means to effectively engage the community in which  
16 the authority is planning a development project to  
17 ensure that community concerns are received and  
18 considered by the authority;

19 (2) The posting of the authority's proposed plans for  
20 development of community development districts<sup>[7]</sup> and  
21 transit-oriented development zones, public hearing



1 notices, and minutes of its proceedings on the  
2 authority's website; and  
3 (3) Any other information that the public may find useful  
4 so that it may meaningfully participate in the  
5 authority's decision-making processes."

6 SECTION 8. Section 206E-7, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§206E-7[+] **Community development rules[-] and zone**  
9 **development rules.** The authority shall establish community  
10 development rules and zone development rules under chapter 91 on  
11 health, safety, building, planning, zoning, and land use which,  
12 upon final adoption of a community development plan[-] or zone  
13 development plan, as appropriate, shall supersede all other  
14 inconsistent ordinances and rules relating to the use, zoning,  
15 planning, and development of land and construction thereon.  
16 Rules adopted under this section shall follow existing law,  
17 rules, ordinances, and regulations as closely as is consistent  
18 with standards meeting minimum requirements of good design,  
19 pleasant amenities, health, safety, and coordinated development.  
20 The authority may, in the community development plan or zone  
21 development plan or by a community development rule[-] or zone  
22 development rule provide that lands within a community



1 development district or transit-oriented development zone, as  
2 appropriate, shall not be developed beyond existing uses or that  
3 improvements thereon shall not be demolished or substantially  
4 reconstructed, or provide other restrictions on the use of the  
5 lands."

6 SECTION 9. Section 206E-8, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

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 or transit-oriented  
11 development zones to the authority for its use."

12 SECTION 10. Section 206E-8.5, Hawaii Revised Statutes, is  
13 amended by amending subsection (a) to read as follows:

14 "(a) Notwithstanding chapter 205A, all requests for  
15 developments within a special management area and shoreline  
16 setback variances for developments on any lands within a  
17 community development district[~~7~~] or transit-oriented  
18 development zone for which a community development plan or zone  
19 development plan has been developed and approved in accordance  
20 with section 206E-5, shall be submitted to and reviewed by the  
21 lead agency as defined in chapter 205A. In community  
22 development districts or transit-oriented development zones for



1 which a community development plan or zone development plan, as  
2 appropriate, has not been developed and approved in accordance  
3 with section 206E-5, parts II and III of chapter 205A shall  
4 continue to be administered by the applicable county authority  
5 until a community development plan or zone development plan, as  
6 appropriate, for the district or zone takes effect."

7 SECTION 11. Section 206E-10, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "~~§~~**206E-10** **Condemnation of real property.** The  
10 authority upon making a finding that it is necessary to acquire  
11 any real property for its immediate or future use for the  
12 purposes of this chapter, may acquire the property by  
13 condemnation pursuant to chapter 101, including property already  
14 devoted to a public use. Such property shall not thereafter be  
15 taken for any other public use without the consent of the  
16 authority. No award of compensation shall be increased by  
17 reason of any increase in the value of real property caused by  
18 the designation of a community development district or transit-  
19 oriented development zone or plan adopted pursuant to [a] either  
20 designation, or the actual or proposed acquisition, use or  
21 disposition of any other real property by the authority."



1 SECTION 12. Sections 26-18, 46-102, 171-2, 206E-2, 206E-3,  
 2 206E-15, 206E-34, 206E-101, 206E-191, and 514A-14.5, Hawaii  
 3 Revised Statutes, are amended by substituting the term "Hawaii  
 4 community planning authority" wherever the term "Hawaii  
 5 community development authority" appears, as the context  
 6 requires.

7 SECTION 13. Sections 206E-6, 206E-16, 206E-184, and  
 8 206E-185, Hawaii Revised Statutes, are amended by substituting  
 9 the term "Hawaii community planning revolving fund" wherever the  
 10 term "Hawaii community development revolving fund" appears, as  
 11 the context requires.

12 SECTION 14. In codifying the new sections added by section  
 13 1 of this Act, the revisor of statutes shall substitute  
 14 appropriate section numbers for the letters used in designating  
 15 the new sections in this Act.

16 SECTION 15. Statutory material to be repealed is bracketed  
 17 and stricken. New statutory material is underscored.

18 SECTION 16. This Act shall take effect upon its approval.

19

INTRODUCED BY: Calvin L. Day  
 By Request

JAN 25 2012



# H.B. NO. 2747

**Report Title:**

Hawaii Community Development Authority; State-wide Planning

**Description:**

Changes the Hawaii community development authority to the Hawaii community planning authority. Allows the authority to create transit-oriented development zones. Allows the authority to waive impact fees. Authorizes the authority to create business improvement districts and assess a special assessment to fund the improvements within the district. Authorizes the authority to act as a density rights bank and transfer a property's density rights to a receiving entity or from a sending authority to increase development in that area as authorized by the authority.

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

