

JAN 26 2011

S.B. NO. 1445

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## A BILL FOR AN ACT

RELATING TO THE BANYAN DRIVE 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 . BANYAN DRIVE COMMUNITY DEVELOPMENT DISTRICT

5           §206E-A Banyan Drive community development district;

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

- 7           (1) The Banyan Drive area of the island of Hawaii contains  
8           about eighty-five per cent of the overnight visitor  
9           accommodations in east Hawaii;
- 10           (2) The State of Hawaii owns virtually the entire Banyan  
11           Drive area;
- 12           (3) There has been little incentive for the lessees of the  
13           properties in the area to make major investments in  
14           improvements to their infrastructure, resulting in the  
15           deterioration of the area's infrastructure and  
16           facilities; and
- 17           (4) The State has a responsibility to ensure that the  
18           Banyan Drive area does not deteriorate and have a



1 harmful impact on the economy of the east Hawaii  
2 community as a whole.

3 The authority shall plan a district where hotel and resort,  
4 commercial, residential, and public uses may coexist compatibly  
5 within the same area.

6 **§206E-B Advisory committee.** (a) There is established a  
7 Banyan Drive advisory committee consisting of five members who  
8 shall be voting members of the authority on issues relating to  
9 the Banyan Drive community development district.

10 (b) The members shall consist of:

11 (1) The planning director of the county of Hawaii;

12 (2) One member appointed by the governor from a list of  
13 three names submitted for appointment by the president  
14 of the senate, and one member appointed by the  
15 governor from a list of three names submitted for  
16 appointment by the speaker of the house of  
17 representatives; and

18 (3) Two members appointed by the governor as provided in  
19 section 26-34.

20 (c) The advisory committee shall be responsible for the  
21 development of community development policies, the district  
22 improvement program, and the development guidelines for the



1 Banyan Drive area and shall submit its recommendations to the  
2 authority.

3       **§206E-C Banyan Drive community development district;**  
4 **boundaries.** The Banyan Drive community development district is  
5 established. The district shall include the area bounded by the  
6 shoreline from the intersection of Lihiwai Street and Mamalahoa  
7 Highway; Mamalahoa Highway to where it becomes Kamehameha  
8 Avenue; Kamehameha Avenue to its intersection with Keaa Street;  
9 Keaa Street from its intersection with Kamehameha Avenue to its  
10 intersection with Kalanianaʻole Avenue; Kalanianaʻole Avenue to  
11 Kumai Street; Kumai Street to its intersection with Ocean View  
12 Drive; the north end of Ocean View Drive to the shoreline; and  
13 the shoreline from the north end of Ocean View Drive to the  
14 intersection of Lihiwai Street and Mamalahoa Highway.

15       **§206E-D Development guidance policies.** The following  
16 shall be the development guidance policies generally governing  
17 the authority's action in the Banyan Drive development district:

- 18       (1) The authority may engage in planning, design, and  
19           construction activities relating to infrastructure  
20           development and other activities the authority  
21           determines is necessary to carry out the redevelopment  
22           of the district;



1           (2) The authority may conduct studies in conjunction with  
2           county and state agencies necessary to determine the  
3           appropriate activities for the development in the  
4           district;

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           and

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

14          **§206E-E Banyan Drive community development revolving fund.**

15          (a) There is established in the state treasury the Banyan Drive  
16          community development revolving fund, into which shall be  
17          deposited:

18               (1) Notwithstanding section 206E-16, all revenues, income,  
19               and receipts of the authority for the Banyan Drive  
20               community development district; and

21               (2) Moneys appropriated to the fund by the legislature.



1 (b) Moneys in the Banyan Drive community development  
2 revolving fund shall be used solely for the purposes of this  
3 part.

4 (c) All interest accruing from the investment of the  
5 moneys in the fund shall be credited to the Banyan Drive  
6 community development revolving fund."

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

9 "(b) The authority shall consist of thirteen voting  
10 members. The director of finance, the director of business,  
11 economic development, and tourism, the comptroller, and the  
12 director of transportation, or their respective designated  
13 representatives shall serve as ex officio, voting members. One  
14 member shall be appointed by the governor from a list of not  
15 less than three prospective appointees submitted by the  
16 president of the senate, and one member shall be appointed by  
17 the governor from a list of not less than three prospective  
18 appointees submitted by the speaker of the house of  
19 representatives. Seven members shall be appointed by the  
20 governor for staggered terms pursuant to section 26-34; provided  
21 that four members shall be appointed at large and, initially,  
22 three members, hereinafter referred to as county members, shall



1 be selected from a list of ten prospective appointees  
2 recommended by the local governing body of the county in which  
3 the initial designated district is situated; and provided  
4 further that when vacancies occur in any of the three positions  
5 for which the members were selected from a list of county  
6 recommendations, the governor shall fill such vacancies on the  
7 basis of one from a list of four recommendations, two from a  
8 list of seven recommendations, or three from a list of ten  
9 recommendations. The list of recommendations shall be made by  
10 the local governing body of the county. Of the nine members  
11 appointed either by the governor from the lists provided by the  
12 president of the senate and speaker of the house, at-large by  
13 the governor, or as county members recommended by the local  
14 governing body of the county in which the initial designated  
15 district is situated, at least two members shall represent small  
16 businesses and shall be designated as the small business  
17 representatives on the board whose purpose, among other things,  
18 is to vote on matters before the board that affect small  
19 businesses. The small business representatives shall be owners  
20 or active managers of a small business with its principal place  
21 of operation located within the physical boundaries of the  
22 initial designated district. Notwithstanding section 84-14(a),



1 the small business representatives shall not be prohibited from  
2 voting on any matter concerning any district under the board's  
3 jurisdiction; provided that the matter is not limited to solely  
4 benefiting the specific interest of that member and the matter  
5 concerns broader interests within the district. If an  
6 additional district is designated by the legislature, the total  
7 membership of the authority shall be increased as prescribed  
8 above by the appointment of three additional members, except as  
9 provided for in [~~section~~] sections 206E-191[-] and 206E-B.

10 Notwithstanding section 92-15, a majority of all members shall  
11 constitute a quorum to do business, and the concurrence of a  
12 majority of all members shall be necessary to make any action of  
13 the authority valid; except that, on any matter relating solely  
14 to a specific community development district, the members  
15 representing districts other than that specific community  
16 development district shall neither vote, nor shall they be  
17 counted to constitute a quorum, and concurrence shall be  
18 required of a majority of that portion of the authority made up  
19 of all ex officio voting members, members at large, and county  
20 and district members representing the district for which action  
21 is being proposed for such action to be valid. All members  
22 shall continue in office until their respective successors have



1 been appointed and qualified. Except as herein provided, no  
2 member appointed under this subsection shall be an officer or  
3 employee of the State or its political subdivisions.

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

7 SECTION 3. To implement this Act, the department of land  
8 and natural resources is directed to deed over to the Hawaii  
9 community development authority the lands covered by the fifteen  
10 leases in the Banyan Drive resort area, including the ten leases  
11 covering three resort facilities (Nanihoa Volcanoes Resort, Hilo  
12 Bay Hotel, and Hilo Hawaiian Hotel), three leases for each of  
13 three apartment or condominium facilities (Country Club Hawaii  
14 Condo Hotel, Bayview Banyan, and Reed's Bay Resort Hotel), one  
15 golf course lease, and one restaurant lease.

16 SECTION 4. (a) The powers, functions, and duties of the  
17 department of land and natural resources relating to the fifteen  
18 leases in the Banyan Drive resort area are transferred to the  
19 Hawaii community development authority.

20 (b) All deeds, leases, contracts, loans, agreements,  
21 permits, or other documents executed or entered into by on  
22 behalf of the department of land and natural resources pursuant





1 to the provisions of the Hawaii Revised Statutes, which are  
 2 reenacted or made applicable to the Hawaii community development  
 3 authority by this Act shall remain in full force and effect.  
 4 Effective July 1, 2011, every reference to the department of  
 5 land and natural resources or the board of land and natural  
 6 resources shall be construed as a reference to the Hawaii  
 7 community development authority.

8 SECTION 5. In codifying the new sections added by section  
 9 1 of this Act, the revisor of statutes shall substitute  
 10 appropriate section numbers for the letters used in designating  
 11 the new sections in this Act.

12 SECTION 6. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2011.

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INTRODUCED BY:

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**Report Title:**

Banyan Drive Development District; HCDA

**Description:**

Establishes a new community development district located in the Banyan Drive area in Hawaii county and places it under the jurisdiction of the Hawaii community development authority. Requires the department of land and natural resources and the board of land and natural resources to deed over all fee simple interests and leases within the new district to the Hawaii community development authority.

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

