

JAN 20 2012

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# A BILL FOR AN ACT

RELATING TO COMMUNITY DEVELOPMENT.

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

1           SECTION 1. Chapter 46, Hawaii Revised Statutes, is amended  
2 by adding a new part to be appropriately designated and to read  
3 as follows:

4           **"PART . TRANSIT-RELATED DEVELOPMENT PROGRAM**

5           **"§46-A Short title.** This part shall be known and may be  
6 cited as the Transit-Related Development Act.

7           **§46-B Findings and purpose.** The legislature finds that  
8 successful planning for growth requires increasing the density  
9 of existing and new communities. Well-designed and well-  
10 integrated higher-density development can significantly reduce  
11 dependency on cars, but those benefits are even greater when  
12 jobs and retail are incorporated with the housing. Mixed-use  
13 neighborhoods make it easier for people to park their car in one  
14 place and accomplish several tasks, which not only reduces the  
15 number of car trips required but also reduces overall parking  
16 needs for the community and our carbon imprint. The purpose of  
17 this part is to facilitate commercial and residential



1 development on land adjacent to public transportation  
2 facilities.

3 **§46-C Definitions.** As used in this part, unless the  
4 context requires otherwise:

5 "Application" means the preliminary plans and  
6 specifications for a development project and includes materials,  
7 such as plans, information, or specifications, submitted to a  
8 planning agency at the request of, and within the time provided  
9 by, the agency, for the purpose of supplementing an existing  
10 application. A planning agency may adopt rules pursuant to  
11 chapter 91 to further specify materials that shall be deemed  
12 part of an application for purposes of this part.

13 "Action" or "action taken" means approval, approval with  
14 modification, or disapproval.

15 "Development project" means the planning, financing, and  
16 acquisition of real and personal property; demolition of  
17 existing structures and clearance of real property;  
18 construction, reconstruction, alteration, or repairing of  
19 approaches, streets, sidewalks, utilities, and services, or  
20 other site improvements; construction, reconstruction, repair,  
21 remodeling, extension, equipment, or furnishing of buildings or  
22 other structures; any combination of the foregoing with respect



1 to any residential or commercial project located wholly within a  
2 transit-related development zone; and any and all undertakings  
3 necessary for any of the foregoing. "Development project" shall  
4 not include any of the foregoing activities with respect to any  
5 residential or commercial project not located wholly within a  
6 transit-related development zone.

7 "Legislative body" means the legislative body of the county  
8 to which a qualified developer submits an application or final  
9 plans and specifications for a development project.

10 "Planning agency" or "agency" means the planning agency of  
11 a county to which a qualified developer submits an application  
12 for a development project.

13 "Program" refers to the transit-related development program  
14 set forth in this part, as made applicable to a county through  
15 adoption by the county.

16 "Qualified developer" means a person, corporation,  
17 organization, partnership, association, or other legal entity  
18 that is:

- 19 (1) Licensed to do business in the State; and  
20 (2) Bonded in an amount to be determined by the respective  
21 legislative body of each county.

22 "Transit-related development zone" means:



- 1 (1) Areas within a one-half-mile radius from a rail
- 2 transit station;
- 3 (2) Areas within a one-quarter-mile radius from a bus
- 4 transit center; and
- 5 (3) The area between the two rail transit stations located
- 6 nearest to the Honolulu International Airport.

7 **§46-D Applicability.** (a) Notwithstanding any law to the  
8 contrary, any county may adopt the transit-related development  
9 program set forth in this part. Any county that adopts the  
10 program shall accord to qualified developers fair and equal  
11 treatment with respect to the availability of the procedures  
12 under the program.

13 (b) This part shall apply only to development projects  
14 located wholly within a transit-related development zone.

15 **§46-E Application by developer; review by county.** (a) A  
16 qualified developer may submit to the planning agency an  
17 application for approval of a commercial or residential  
18 development project. Upon receipt of the application, the  
19 planning agency shall review the application and secure any  
20 additional information that the agency deems necessary for the  
21 purpose of taking action. The planning agency shall take action  
22 within forty-five days of receipt of the application; provided



1 that the time to take action may be extended for good cause.  
2 Within ten days, the planning agency shall notify the developer  
3 of the action taken.

4 (b) If the action of the planning agency is disapproval,  
5 the developer shall have fifteen days from the date the notice  
6 of the disapproval is issued to appeal to the legislative body.  
7 The legislative body shall have forty-five days from the date  
8 the qualified developer submits the application to the  
9 legislative body to disapprove an application by a resolution.  
10 If on the forty-sixth day the application is not disapproved by  
11 a resolution, it shall be deemed approved by the legislative  
12 body; provided that no application shall be deemed approved if  
13 the development project:

- 14 (1) Is not to be performed by contractors or  
15 subcontractors licensed pursuant to chapter 444; or
- 16 (2) Contravenes any safety standards, tariffs, or rates  
17 and fees approved by the public utilities commission  
18 for public utilities or of any board of water supply  
19 authorized under chapter 54.

20 (c) If an application is approved or approved with  
21 modifications, the planning agency or the legislative body,  
22 whichever makes the action, shall make a written finding that



1 the development project, with modifications if approved as such,  
2 is consistent with the purpose and intent of the long-range,  
3 comprehensive general plan prepared pursuant to section 46-4(a)  
4 and meets minimum requirements of health and safety.

5 **§46-F Approval of final plans and project specifications.**

6 (a) No work on a development project shall commence unless the  
7 developer submits final plans and project specifications to the  
8 legislative body. The legislative body shall have fifteen days  
9 from the date the qualified developer submits final plans and  
10 project specifications to the legislative body to disapprove the  
11 final plans and project specifications by a resolution. If on  
12 the sixteenth day the final plans and project specifications are  
13 not disapproved by a resolution, they shall be deemed approved  
14 by the legislative body.

15 (b) For purposes of sections 501-85 and 502-17, the  
16 qualified developer or responsible county official may certify  
17 maps and plans of lands connected with the development project  
18 as having complied with applicable laws and ordinances relating  
19 to consolidation and subdivision of lands, and the maps and  
20 plans shall be accepted for registration or recordation by the  
21 land court and registrar.



1           **§46-G Final plans and specifications to constitute zoning,**  
2 **building, construction, and subdivision standards for the**  
3 **development project.** The final plans and specifications for a  
4 development project, as approved or modified by the legislative  
5 body, shall constitute the zoning, building, construction, and  
6 subdivision standards for that project.

7           **§46-H Exemption from statutes, ordinances, charter**  
8 **provisions, and rules.** Development projects shall be exempt  
9 from all statutes, ordinances, charter provisions, and rules of  
10 any state or county government agency relating to planning,  
11 zoning, construction standards for subdivisions, development and  
12 improvement of land, and the construction of dwelling units;  
13 provided that the final plans and specifications for a  
14 development project, as approved or modified by the legislative  
15 body, shall constitute the zoning, building, construction, and  
16 subdivision standards for that project; and provided further  
17 that, upon the adoption by any county of a form-based zoning  
18 code, the exemptions previously available under this section  
19 shall no longer apply, and the provisions of the form-based  
20 zoning code shall apply.

21           **§46-I Indemnity.** No action shall be prosecuted or  
22 maintained against any county, its officials, or employees on



1 account of actions taken by them in reviewing, approving,  
2 modifying, or disapproving the application or plans and  
3 specifications of a development project.

4 **§46-J Use of unlicensed contractor or subcontractor;**

5 **penalty.** (a) No unlicensed contractor or subcontractor shall  
6 work on any development project authorized under this part. A  
7 developer shall be fined not more than \$10,000 for each separate  
8 offense under this section. Each date of violation shall  
9 constitute a separate offense. The attorney general and the  
10 director of labor and industrial relations may bring an action  
11 pursuant to this section.

12 (b) The penalties provided in this section shall be  
13 cumulative to the remedies or penalties available under all laws  
14 of this State.

15 **§46-K Adoption of rules.** A planning agency may adopt  
16 rules pursuant to chapter 91 that are necessary to effectuate  
17 the purposes of this part."

18 SECTION 2. Section 343-6, Hawaii Revised Statutes, is  
19 amended by amending subsection (a) to read as follows:

20 "(a) After consultation with the affected agencies, the  
21 council shall adopt, amend, or repeal [~~necessary~~] rules for the





- 1 purposes of this chapter in accordance with chapter 91  
2 including, but not limited to, rules that shall:
- 3 (1) Prescribe the procedures whereby a group of proposed  
4 actions may be treated by a single environmental  
5 assessment or statement;
  - 6 (2) Establish procedures whereby specific types of  
7 actions, because they will probably have minimal or no  
8 significant effects on the environment, are declared  
9 exempt from the preparation of an environmental  
10 assessment;
  - 11 (3) Prescribe procedures for the preparation of an  
12 environmental assessment;
  - 13 (4) Prescribe the contents of an environmental  
14 ~~[assessment;]~~ assessment, including a ridership impact  
15 analysis report for development projects approved  
16 pursuant to part , chapter 46;
  - 17 (5) Prescribe procedures for informing the public of  
18 determinations that a statement is either required or  
19 not required, for informing the public of the  
20 availability of draft environmental impact statements  
21 for review and comments, and for informing the public



- 1 of the acceptance or nonacceptance of the final  
2 environmental statement;
- 3 (6) Prescribe the contents of an environmental impact  
4 [~~statement,~~] statement, including a ridership impact  
5 analysis report for development projects approved  
6 pursuant to part , chapter 46;
- 7 (7) Prescribe procedures for the submission, distribution,  
8 review, acceptance or nonacceptance, and withdrawal of  
9 an environmental impact statement;
- 10 (8) Establish criteria to determine whether an  
11 environmental impact statement is acceptable or not;  
12 and
- 13 (9) Prescribe procedures to appeal the nonacceptance of an  
14 environmental impact statement to the environmental  
15 council."

16 SECTION 3. In codifying the new sections added by section  
17 1 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 the new sections in this Act.

20 SECTION 4. Statutory material to be repealed is bracketed  
21 and stricken. New statutory material is underscored.



# S.B. NO. 2370

1 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:

*[Handwritten Signature]*  
*[Handwritten Signature]*



# S.B. NO. 2370

**Report Title:**

Community Development; Urban Planning

**Description:**

Authorizes counties to adopt a program to facilitate residential and commercial development in specified areas, and to expedite approval of development projects within those areas. Exempts certain development projects from all statutes, ordinances, charter provisions, and rules of any state or county government agency relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units. Requires the environmental council to adopt rules relating to ridership impact analysis for environmental assessments or impact statements relating to certain development projects.

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

