

JAN 25 2012

A BILL FOR AN ACT

RELATING TO COMMUNITY DEVELOPMENT.

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

1 PART I

2 SECTION 1. Chapter 206E, Hawaii Revised Statutes, is
3 amended by amending its title to read as follows:

4 "CHAPTER 206E

5 HAWAII COMMUNITY [~~DEVELOPMENT~~] PLANNING AUTHORITY"

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

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

15 The legislature further finds that there exists within the
16 State vast, unmet community development needs. These include,
17 but are not limited to, a lack of suitable affordable housing;
18 insufficient commercial and industrial facilities for rent;



1 residential areas which do not have facilities necessary for
2 basic liveability, such as parks and open space; and areas which
3 are planned for extensive land allocation to one, rather than
4 mixed uses.

5 It is further determined that the lack of planning and
6 coordination in such areas has given rise to these community
7 development needs and that existing laws and public and private
8 mechanisms have either proven incapable or inadequate to
9 facilitate timely redevelopment and renewal.

10 The legislature finds that a new and comprehensive
11 authority for community [~~development~~] planning must be created
12 to join the strengths of private enterprise, public development
13 and regulation into a new form capable of long-range planning
14 and implementation of improved [~~community development.~~]
15 communities. The purpose of this chapter is to establish such a
16 mechanism in the Hawaii community [~~development~~] planning
17 authority, a public entity which shall determine community
18 development programs and cooperate with private enterprise and
19 the various components of federal, state, and county governments
20 in bringing plans to fruition. For such areas designated as
21 community development districts[~~7~~] and transit-oriented
22 development zones, the legislature believes that the planning



1 and implementation program of the Hawaii community [~~development~~]
2 planning authority will result in communities which serve the
3 highest needs and aspirations of Hawaii's people.

4 The legislature further finds that successful planning for
5 growth requires increasing the density of existing and new
6 communities. Well-designed and well-integrated higher-density
7 development can significantly reduce dependency on cars, but
8 those benefits are even greater when jobs and retail are
9 incorporated with the housing. Mixed-use neighborhoods make it
10 easier for people to accomplish several tasks, which reduces the
11 number of car trips, overall parking needs, and our carbon
12 imprint.

13 The legislature finds that the creation of the Hawaii
14 community [~~development~~] planning authority, the establishment of
15 community development districts[7] and transit-oriented
16 development zones, facilitation of commercial and residential
17 development on land adjacent to public transportation
18 facilities, and the issuance of bonds pursuant to this chapter
19 to finance public facilities serve the public interest and are
20 matters of statewide concern."



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

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

11 "Development project" means the planning, financing, and
12 acquisition of real and personal property; demolition of
13 existing structures and clearance of real property;
14 construction, reconstruction, alteration, or repairing of
15 approaches, streets, sidewalks, utilities, and services, or
16 other site improvements; construction, reconstruction, repair,
17 remodeling, extension, equipment, or furnishing of buildings or
18 other structures; any combination of the foregoing with respect
19 to any residential or commercial project located wholly within a
20 transit-oriented development zone; and any and all undertakings
21 necessary for any of the foregoing. "Development project" shall
22 not include any of the foregoing activities with respect to any



1 residential or commercial project not located wholly within a
2 transit-oriented development zone.

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

6 "Planning agency" or "agency" means the planning agency of
7 a county to which a qualified developer submits an application
8 for a development project.

9 "Qualified developer" means a person, corporation,
10 organization, partnership, association, or other legal entity
11 that is:

- 12 (1) Licensed to do business in the State; and
13 (2) Bonded in an amount to be determined by the respective
14 legislative body of each county."

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

17 "**§206E-4 Powers; generally.** Except as otherwise limited
18 by this chapter, the authority may:

- 19 (1) Sue and be sued;
20 (2) Have a seal and alter the same at pleasure;



- 1 (3) Make and execute contracts and all other instruments
2 necessary or convenient for the exercise of its powers
3 and functions under this chapter;
- 4 (4) Make and alter bylaws for its organization and
5 internal management;
- 6 (5) Make rules with respect to its projects, operations,
7 properties, and facilities, which rules shall be in
8 conformance with chapter 91;
- 9 (6) Through its executive director appoint officers,
10 agents, and employees, prescribe their duties and
11 qualifications, and fix their salaries, without regard
12 to chapter 76;
- 13 (7) Prepare or cause to be prepared a community
14 development plan for all designated community
15 development districts[7] and transit-oriented
16 development zones;
- 17 (8) Acquire, reacquire, or contract to acquire or
18 reacquire by grant or purchase real, personal, or
19 mixed property or any interest therein; to own, hold,
20 clear, improve, and rehabilitate, and to sell, assign,
21 exchange, transfer, convey, lease, or otherwise
22 dispose of or encumber the same;



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



- 1 property or property rights or for the furnishing of
2 property or services in connection with a project;
- 3 (12) Grant options to purchase any project or to renew any
4 lease entered into by it in connection with any of its
5 projects, on such terms and conditions as it deems
6 advisable;
- 7 (13) Prepare or cause to be prepared plans, specifications,
8 designs, and estimates of costs for the construction,
9 reconstruction, rehabilitation, improvement,
10 alteration, or repair of any project, and from time to
11 time to modify such plans, specifications, designs, or
12 estimates;
- 13 (14) Provide advisory, consultative, training, and
14 educational services, technical assistance, and advice
15 to any person, partnership, or corporation, either
16 public or private, to carry out the purposes of this
17 chapter, and engage the services of consultants on a
18 contractual basis for rendering professional and
19 technical assistance and advice;
- 20 (15) Procure insurance against any loss in connection with
21 its property and other assets and operations in such
22 amounts and from such insurers as it deems desirable;



- 1 (16) Contract for and accept gifts or grants in any form
2 from any public agency or from any other source;
- 3 (17) Do any and all things necessary to carry out its
4 purposes and exercise the powers given and granted in
5 this chapter;
- 6 (18) Allow satisfaction of any affordable housing
7 requirements imposed by the authority upon any
8 proposed development project through the construction
9 of reserved housing, as defined in section 206E-101,
10 by a person on land located outside the geographic
11 boundaries of the authority's jurisdiction; provided
12 that the authority shall not permit any person to make
13 cash payments in lieu of providing reserved housing,
14 except to account for any fractional unit that results
15 after calculating the percentage requirement against
16 residential floor space or total number of units
17 developed. The substituted housing shall be located
18 on the same island as the development project and
19 shall be substantially equal in value to the required
20 reserved housing units that were to be developed on
21 site. The authority shall establish the following
22 priority in the development of reserved housing:



- 1 (A) Within the community development district;
- 2 (B) Within areas immediately surrounding the
- 3 community development district;
- 4 (C) Areas within the central urban core;
- 5 (D) In outlying areas within the same island as the
- 6 development project.

7 The Hawaii community [~~development~~] planning
8 authority shall adopt rules relating to the approval
9 of reserved housing that are developed outside of a
10 community development district. The rules shall
11 include, but are not limited to, the establishment of
12 guidelines to ensure compliance with the above
13 priorities; and

- 14 (19) Assist the public land development corporation
- 15 established by section 171C-3 in identifying public
- 16 lands that may be suitable for development, carrying
- 17 on marketing analysis to determine the best revenue-
- 18 generating programs for the public lands identified,
- 19 entering into public-private agreements to
- 20 appropriately develop the public lands identified, and
- 21 providing the leadership for the development,
- 22 financing, improvement, or enhancement of the selected



1 development opportunities; provided that no assistance
2 shall be provided unless the authority authorizes the
3 assistance."

4 SECTION 5. Section 206E-5.5, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) The authority shall adopt community and public notice
7 procedures pursuant to chapter 91 that shall include at a
8 minimum:

9 (1) A means to effectively engage the community in which
10 the authority is planning a development project to
11 ensure that community concerns are received and
12 considered by the authority;

13 (2) The posting of the authority's proposed plans for
14 development of community development districts^[7] and
15 transit-oriented development zones, public hearing
16 notices, and minutes of its proceedings on the
17 authority's website; and

18 (3) Any other information that the public may find useful
19 so that it may meaningfully participate in the
20 authority's decision-making processes."

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



1 "[+]§206E-7[+] Community development rules[-] and zone
2 development rules. The authority shall establish community
3 development rules and zone development rules under chapter 91 on
4 health, safety, building, planning, zoning, and land use which,
5 upon final adoption of a community development plan[-] or zone
6 development plan, as appropriate, shall supersede all other
7 inconsistent ordinances and rules relating to the use, zoning,
8 planning, and development of land and construction thereon.
9 Rules adopted under this section shall follow existing law,
10 rules, ordinances, and regulations as closely as is consistent
11 with standards meeting minimum requirements of good design,
12 pleasant amenities, health, safety, and coordinated development.
13 The authority may, in the community development plan or zone
14 development plan or by a community development rule[-] or zone
15 development rule provide that lands within a community
16 development district or transit-oriented development zone, as
17 appropriate, shall not be developed beyond existing uses or that
18 improvements thereon shall not be demolished or substantially
19 reconstructed, or provide other restrictions on the use of the
20 lands."

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



1 "(a) Any provision of chapter 171 to the contrary
2 notwithstanding, the governor may set aside public lands located
3 within community development districts or transit-oriented
4 development zones to the authority for its use."

5 SECTION 8. Section 206E-8.5, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Notwithstanding chapter 205A, all requests for
8 developments within a special management area and shoreline
9 setback variances for developments on any lands within a
10 community development district [7] or transit-oriented
11 development zone for which a community development plan or zone
12 development plan has been developed and approved in accordance
13 with section 206E-5, shall be submitted to and reviewed by the
14 lead agency as defined in chapter 205A. In community
15 development districts or transit-oriented development zones for
16 which a community development plan or zone development plan, as
17 appropriate, has not been developed and approved in accordance
18 with section 206E-5, parts II and III of chapter 205A shall
19 continue to be administered by the applicable county authority
20 until a community development plan or zone development plan, as
21 appropriate, for the district or zone takes effect."



1 SECTION 9. Section 206E-10, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~§~~206E-10] **Condemnation of real property.** The
4 authority upon making a finding that it is necessary to acquire
5 any real property for its immediate or future use for the
6 purposes of this chapter, may acquire the property by
7 condemnation pursuant to chapter 101, including property already
8 devoted to a public use. Such property shall not thereafter be
9 taken for any other public use without the consent of the
10 authority. No award of compensation shall be increased by
11 reason of any increase in the value of real property caused by
12 the designation of a community development district or transit-
13 oriented development zone or plan adopted pursuant to [a] either
14 designation, or the actual or proposed acquisition, use or
15 disposition of any other real property by the authority."

16 SECTION 10. Sections 26-18, 46-102, 171-2, 206E-2, 206E-3,
17 206E-15, 206E-34, 206E-101, 206E-191, and 514A-14.5, Hawaii
18 Revised Statutes, are amended by substituting the term "Hawaii
19 community planning authority" wherever the term "Hawaii
20 community development authority" appears, as the context
21 requires.



1 SECTION 11. Sections 206E-6, 206E-16, 206E-184, and
2 206E-185, Hawaii Revised Statutes, are amended by substituting
3 the term "Hawaii community planning revolving fund" wherever the
4 term "Hawaii community development revolving fund" appears, as
5 the context requires.

6 PART II

7 SECTION 12. Chapter 206E, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§206E-A Designation of transit-oriented development
11 zones; zone development plans. (a) The authority may designate
12 an area as a transit-oriented development zone if it determines
13 that there is need for replanning, renewal, or redevelopment of
14 that area due to its future potential as a high density
15 population area. The designation shall describe the boundaries
16 of the zone, which the land use commission shall classify or
17 reclassify as an urban district under section 205-2. The
18 designations may include but not be limited to areas within a
19 one-half mile radius from a rail transit station or bus transit
20 center or the area between the two rail transit stations located
21 nearest to the Honolulu International Airport.



1 (b) After the designation of a transit-oriented
2 development zone, the authority shall develop a zone development
3 plan for the designated zone. The plan shall include but not be
4 limited to community development guidance policies, zone
5 improvement programs, and community development rules.

6 (c) The authority may enter into cooperative agreements
7 with qualified persons or public agencies, where the powers,
8 services, and capabilities of such persons or agencies are
9 deemed necessary and appropriate for the development of the zone
10 development plan.

11 (d) Whenever possible, planning activities of the
12 authority shall be coordinated with federal, state, and county
13 plans. Consideration shall be given to state goals and
14 policies, adopted state plan or land use guidance policies,
15 county general plans, development plans, and ordinances.

16 (e) The authority shall hold a public hearing on a
17 proposed zone development plan pursuant to chapter 91 and, after
18 consideration of comments received and appropriate revision,
19 shall submit the zone development plan to the governor for the
20 governor's approval.

21 After approval, the governor shall submit to the
22 legislature requests for appropriations, authorization to issue



1 bonds, or both, to implement the zone development plan in an
2 orderly, affordable, and feasible manner. The governor shall
3 submit the requests to the legislature as part of the executive
4 budget or supplemental budget, as appropriate. In addition to
5 the information, data, and materials required under chapter 37,
6 the requests shall be accompanied by:

7 (1) Plans, maps, narrative descriptions, and other
8 appropriate materials on the:

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

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

13 (2) Other information deemed by the governor of
14 significance to the legislature regarding the projects
15 or public facilities proposed to be funded, including
16 a discussion of the public benefits intended by, and
17 adverse effects which may result from, implementation
18 of the projects or public facilities.

19 (f) The authority may amend the zone development plan as
20 may be necessary. Amendments shall be made in accordance with
21 chapter 91.

22 **§206E-B Application by developer; review.** (a) A



1 qualified developer may submit to the planning agency an
2 application for approval of a commercial or residential
3 development project within a transit-oriented development zone.
4 The application shall include a transit ridership study that
5 shall demonstrate the need for development within the proposed
6 area due to population density standards. Upon receipt of the
7 application, the planning agency shall review the application
8 and secure any additional information that the agency deems
9 necessary for the purpose of approving, approving with
10 modification, or disapproving an application.

11 (b) If the planning agency disapproves an application, the
12 developer may appeal to the legislative body. The legislative
13 body shall have forty-five days from the date the qualified
14 developer submits the application to the planning agency to
15 disapprove an application by a resolution. If on the forty-
16 sixth day the application is not disapproved by a resolution, it
17 shall be deemed approved by the legislative body; provided that
18 no application shall be deemed approved if the development
19 project:

20 (1) Is not to be performed by contractors or
21 subcontractors licensed pursuant to chapter 444; or



1 (2) Contravenes any safety standards, tariffs, or rates
2 and fees approved by the public utilities commission
3 for public utilities or of any board of water supply
4 authorized under chapter 54.

5 (c) If an application is approved or approved with
6 modifications, the planning agency or the legislative body,
7 whichever makes the action, shall make a written finding that
8 the development project, with modifications if approved as such,
9 is consistent with the purpose and intent of zone development
10 plans pursuant to section 206E-A and meets minimum requirements
11 of health and safety.

12 **§206E-C Approval of final plans and project**

13 **specifications.** (a) No work on a development project shall
14 commence unless the developer submits final plans and project
15 specifications to the legislative body. The legislative body
16 shall have fifteen days from the date the qualified developer
17 submits final plans and project specifications to the
18 legislative body to disapprove the final plans and project
19 specifications by a resolution. If on the sixteenth day the
20 final plans and project specifications are not disapproved by a
21 resolution, they shall be deemed approved by the legislative
22 body.



1 (b) For purposes of sections 501-85 and 502-17, the
2 qualified developer or responsible county official may certify
3 maps and plans of lands connected with the development project
4 as having complied with applicable laws and ordinances relating
5 to consolidation and subdivision of lands, and the maps and
6 plans shall be accepted for registration or recordation by the
7 land court and registrar.

8 §206E-D Exemption from statutes, ordinances, charter
9 provisions, and rules. Development projects approved pursuant
10 to section 206E-B shall be exempt from all statutes, ordinances,
11 charter provisions, and rules of any state or county government
12 agency relating to planning, zoning, construction standards for
13 subdivisions, development and improvement of land, and the
14 construction of dwelling units; provided that the final plans
15 and specifications for a development project, as approved or
16 modified by the legislative body, shall constitute the zoning,
17 building, construction, and subdivision standards for that
18 project; provided further that, upon the adoption by any county
19 of a form-based zoning code, the exemptions previously available
20 under this section shall no longer apply, and the provisions of
21 the form-based zoning code shall apply.



1 §206E-E Indemnity. No action shall be prosecuted or
2 maintained against the authority, any county, its officials, or
3 employees on account of actions taken by them in reviewing,
4 approving, modifying, or disapproving the application or plans
5 and specifications of a development project.

6 §206E-F Use of unlicensed contractor or subcontractor;
7 penalty. (a) No unlicensed contractor or subcontractor shall
8 work on any development project authorized under this part. A
9 developer shall be fined not more than \$10,000 for each separate
10 offense under this section. Each date of violation shall
11 constitute a separate offense. The attorney general and the
12 director of labor and industrial relations may bring an action
13 pursuant to this section.

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

17 §206E-G Adoption of rules. A planning agency may adopt
18 rules pursuant to chapter 91 that are necessary to effectuate
19 the purposes of this section."

20 SECTION 13. Section 46-142, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§46-142 Authority to impose impact fees; enactment of
2 ordinances required[-]; exemption. (a) Impact fees may be
3 assessed, imposed, levied, and collected by:

4 (1) Any county for any development, or portion thereof,
5 not involving water supply or service; or

6 (2) Any board for any development, or portion thereof,
7 involving water supply or service;

8 provided that the county enacts appropriate impact fee
9 ordinances or the board adopts rules to effectuate the
10 imposition and collection of the fees within their respective
11 jurisdictions.

12 (b) Except for any ordinance governing impact fees enacted
13 before July 1, 1993, impact fees may be imposed only for those
14 types of public facility capital improvements specifically
15 identified in a county comprehensive plan or a facility needs
16 assessment study. The plan or study shall specify the service
17 standards for each type of facility subject to an impact fee;
18 provided that the standards shall apply equally to existing and
19 new public facilities.

20 (c) The Hawaii community planning authority may grant an
21 exemption from this part if it so finds that there is sufficient
22 justification by rules established pursuant to section 206E-4."



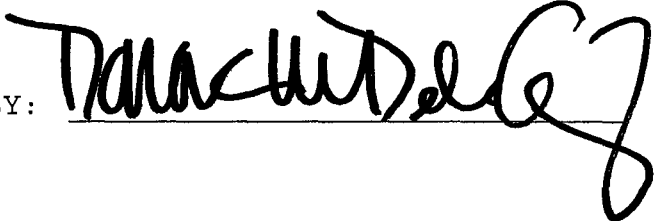
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PART III

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

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

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

INTRODUCED BY: 

S.B. NO. 3066

Report Title:

Hawaii Community Development Authority; Community Development;
Urban Planning

Description:

Changes the Hawaii community development authority to the Hawaii community planning authority. Allows the authority to designate transit-oriented development zones. Allows the authority to waive impact fees. Creates a process for developers to apply for residential and commercial development projects in transit-oriented development zones.

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

