

SECTION 1. Section 206J-3, Hawaii Revised Statutes, is amended by amending the boundaries of the Aloha Tower complex to read as follows:

“§206J-3 Aloha Tower complex; designated boundaries. The Aloha Tower complex is established. The complex shall include the area bounded by Nimitz Highway beginning at its intersection with the Diamond Head boundary of tax map key 2-1-13:7 north along Nimitz Highway to its intersection [with the makai boundary of tax map key 1-7-1:6; northeast along River Street to its intersection with King Street; north along King Street to its intersection with Iwilei Road west along Iwilei Road to its intersection with Nimitz Highway at the Ewa makai corner of tax map key 1-5-08:1; south along Nimitz Highway to its intersection with the boundary between tax map key 1-5-8:1 and tax map key 1-5-8:9; west along a line to the Diamond Head mauka corner of tax map key 1-5-40:4; west along Nimitz Highway to its intersection with the Ewa boundary of tax map key 1-5-38:4; south along the Ewa boundaries of tax map key 1-5-38:4 and 1-5-38:5 to Honolulu Harbor; east along the waterfront boundary of tax map key 1-5-38:5 to Pier 23; south along Pier 23 to the southwest end of Pier 22; continuing along a line in the same direction to its intersection with the Honolulu Harbor Federal Project Line; northeast along the Honolulu Harbor Federal Project Line to a point in Honolulu Harbor 475-foot perpendicular to Pier 11; southwest along a line parallel to Piers 10 and 11 to its intersection with a line extending from the southwest end of Pier 22 to the point of intersection of the Honolulu Harbor Federal Project Line and a line extending along Pier 8 into Honolulu Harbor; southeast along a line to the point of intersection of the Honolulu Harbor Federal Project Line and a line extending along Pier 8 into Honolulu Harbor; southeast along the Honolulu Harbor Federal Project Line to its intersection with a line extending along Pier 4 into Honolulu Harbor; east along a line from that intersection and along Pier 4 to its intersection with Nimitz Highway] at Pier 11 and Nimitz Highway; southwest along the face of Piers 10 and 11; southeast along the face of Pier 9; northeast along the face of Pier 8; southeast parallel along the revetment of Ala Moana Boulevard and to include Pier 7; southwest along Pier 6 and its shoreline and around to Pier 5 and its shoreline; northeast to Ala Moana Boulevard; north along Nimitz Highway to its intersection with Richards Street; southwest along Richards Street to its intersection with Ala Moana Boulevard; northwest along Ala Moana Boulevard to its intersection with the Ewa boundary of tax map key 2-1-14:6; northeast along the Ewa boundary of tax map key 2-1-14:6 to its Ewa mauka corner; and northwest across Bishop Street to the point of beginning at the intersection of the Diamond Head boundary of tax map key 2-1-13:7 and Nimitz Highway. The complex shall also include the area bounded by Iwilei Road beginning with its intersection with Nimitz Highway; west along Iwilei Road to its intersection with Pacific Street; southeast along Pacific Street to its intersection with the Ewa mauka corner of tax map key 1-5-38:4; east along Nimitz Highway to its intersection with the Diamond Head mauka corner of tax map key 1-50-40:4; east along a line to the point of intersection at the boundary between tax map key 1-5-8:1 and tax map key 1-5-8:9; north along Nimitz Highway to the point of beginning at the intersection of Nimitz Highway and Iwilei Road. All fast and submerged lands contained within these areas shall also be included.”

SECTION 2. Section 206J-4, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is established the Aloha Tower development corporation, which shall be a public body corporate and politic, a public instrumentality, and an agency of the State. The development corporation shall be placed within the department of [business, economic development, and tourism] transportation for administrative purposes, pursuant to section 26-35.

(b) [Except as provided in section 206J-5.5, the] The development corporation shall consist of a board of directors having [seven] three voting members: ;- The [director of business, economic development, and tourism, the] director of transportation, the [chairperson of the board of land and natural resources, and the mayor of the city and county of Honolulu, or their respective designated representatives, shall serve as ex officio voting members] deputy director of transportation, harbors division, and the director of the department of business, economic development, and tourism. [Three members from the public at large shall be appointed by the governor for staggered terms pursuant to section 26-34 and shall also serve as voting members; provided that no public member shall be an officer or employee of the State or its political subdivisions. All members shall continue in office until their respective successors have been appointed.] The board, by a majority vote, shall elect a chairperson from within its membership.

SECTION 3. Section 206J-5.5, Hawaii Revised Statutes, is repealed in its entirety.

~~“[§206J-5.5 Partnership with department of transportation for the implementation of the commercial harbors modernization plan and the establishment of the harbors modernization group. (a) Consistent with its general powers under this chapter, the development corporation shall establish a subgroup called the harbors modernization group to undertake projects for the commercial harbors modernization plan in subsection (b), which are under the jurisdiction of the department of transportation. Notwithstanding any provision in section 206J-17 to the contrary, payments to the development corporation for its administrative and operational expenses shall be made by the department of transportation and deposited into the Aloha Tower fund in a subaccount designated for commercial harbors modernization plan projects. The department of transportation shall delegate to the development corporation the implementation of commercial harbors modernization plan projects. All projects, prior to implementation by the development corporation, shall be approved by the director of transportation and the governor. After approval by the director of transportation and the governor, the expending authority for the approved projects shall be delegated to the development corporation.~~

~~—(b) The harbors modernization group shall have jurisdiction over harbors projects that shall collectively be known as the commercial harbors modernization plan. These harbor projects shall be as follows:~~

~~—(1) Honolulu harbor. Development of infrastructure, expansion of facilities, and tenant relocations, including the development of the new Kapalama container terminal;~~

~~— (2) Kahului harbor. Development of infrastructure, expansion of facilities, tenant relocations, and acquisition of lands, including the West harbor barge or ferry slip or both, West harbor dredging and breakwater, West harbor cruise terminal, Pier 1 fuel line replacement and upgrade, East harbor breakwater, and Pier 2B strengthening;~~

~~— (3) Hana Harbor. Development of infrastructure, demolition, as necessary, and expansion of facilities and acquisition of lands;~~

~~— (4) Hilo harbor. Development of infrastructure, expansion of facilities, tenant relocations, and acquisition of lands, including the Pier 4 interisland cargo terminal;~~

~~— (5) Kawaihae harbor. Development of infrastructure, expansion of facilities, tenant relocations, acquisition of lands, including the Pier 2 terminal and barge improvements, Pier 2 extension and terminal, and Pier 4 and liquid bulk terminals;~~

~~— (6) Kalaheo harbor. Development of infrastructure, expansion of facilities, tenant relocations, and acquisition of lands, including the West harbor infrastructure, Pier 4 dedicated fuel pier, and extension of the fuel line; and~~

~~— (7) Nawiliwili harbor. Development of infrastructure, expansion of facilities, tenant relocations, and acquisition of lands, including the new multi use pier.~~

~~— (c) For the purposes of this section, the chief executive officer shall have the power to appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapter 76.~~

~~— (d) Land disposition matters in projects identified in the commercial harbors modernization plan, including land acquisition, leasing, and conveyance, and acquisition of easements or right of ways, shall continue to be under the jurisdiction of the board of land and natural resources pursuant to chapter 171.~~

~~— (e) The harbors modernization group, when acting pursuant to subsection (f), shall retain all the powers of the development corporation under sections 206J-5 to 206J-21.~~

~~— (f) Except as otherwise provided in this subsection, the harbors modernization group shall be comprised of six voting members appointed by the governor to the development corporation in addition to those members appointed under section 206J-4(b), and pursuant to section 26-34.~~

~~— The harbors modernization group shall consist of:~~

~~— (1) The director of budget and finance, or a designated representative, who shall serve as an ex officio voting member;~~

~~— (2) Two public members from the maritime industry who shall be directly involved with a harbor or offshore mooring facility that is primarily for the movement of commercial cargo, passenger, and fishing vessels entering, leaving, or traveling within the state harbor system, or directly involved with an activity that requires and is directly related to the loading, offloading, storage, or distribution of goods and services by means of seaborne transportation; and~~

~~— (3) The mayors of the counties of Hawaii, Maui, and Kauai, or their designated representatives, who shall serve as ex officio voting members.~~

~~— The members of the harbors modernization group shall serve for four year terms and shall continue in office until their respective successors have been appointed. The chairperson of the corporation board shall serve as the chairperson of the harbors modernization group.~~

~~— The members of the harbors modernization group shall act and be counted in determining quorum and majority for development corporation actions only with respect~~

~~to directing the planning, design, construction, and financing of the harbor projects identified in the commercial harbors modernization plan. A majority of members of the development corporation and four of the six members of the harbor modernization group shall constitute quorum for matters relating to directing the planning, design, construction, and financing of the harbor projects identified in the commercial harbors modernization plan. A majority of the voting members of the quorum shall be required to validate any act relating to the harbor projects. These members shall serve without compensation, but each member shall be reimbursed for expenses, including travel expenses, incurred in the performance of their duties.~~

~~—(g) Subject to existing contractual and statutory commitments to the department of transportation for any losses in revenue under this chapter, the development corporation may apply any revenues derived from commercial development projects in the Aloha Tower project area to defray the cost of harbor infrastructure improvements incurred within the State.]”~~

SECTION 4. Section 206J-17, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) There is created the Aloha Tower fund. All:

- (1) Moneys;
- (2) Rentals;
- (3) Charges;
- (4) Other revenues of the development corporation; and
- (5) Moneys or charges received by the department of ~~[business, economic~~

~~development, and tourism]~~ transportation;

including reimbursements for costs and staff services as a result of planning, development, or redevelopment of the lands located seaward of Nimitz Highway between Pier 4 and ~~[the Honolulu International Airport]~~ Pier 11 shall be deposited into the fund.

(b) The development corporation may establish a separate account with respect to each issue of bonds issued under this chapter and direct that the moneys, rentals, charges, and other revenues pledged to the payment of the bond issue be credited to that account and, as permitted by section 206J-12(g)(7), designate a trustee to receive and receipt for, hold, and administer the moneys in the account. Moneys credited to a separate account held by a trustee may be paid directly to the trustee; provided that appropriate entries are made for purposes of accounting.

(c) The moneys on deposit in the fund shall be used for the purposes of this chapter, lease payments to the department of transportation, and for the development, redevelopment, or improvement of the Honolulu Waterfront located seaward of Nimitz Highway between Pier 4 and ~~[the Honolulu International Airport]~~ Pier 11.

SECTION 5. There is appropriated out of the Aloha Tower fund the sum of \$ _____ or so much thereof as may be necessary for fiscal year 2011-2012 for operating expenses for the Aloha Tower development corporation.

The sum appropriated shall be expended by the department of transportation for the purposes of this Act.

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



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2011**

ON THE FOLLOWING MEASURE:

S.B. NO. 1247, S.D. 2, H.D. 1, RELATING TO THE ALOHA TOWER
DEVELOPMENT CORPORATION.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

LATE TESTIMONY

DATE: Thursday, March 31, 2011 TIME: 3:00 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): David M. Louie, Attorney General, or
Lori N. Tanigawa, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General provides the following comments:

In section 1, on page 1, starting at line 5, the bill proposes to add a new section to chapter 206E, Hawaii Revised Statutes (HRS), which will place the Aloha Tower complex in "the district." Because there are multiple community development districts established under chapter 206E, HRS, the bill should specify which community development district will include the Aloha Tower complex. Given that the original version of the bill contemplated the inclusion of the Aloha Tower complex in the Kakaako community development district, and Kakaako is the closest community development district to the Aloha Tower complex, we recommend that section 206E-32, Hawaii Revised Statutes, the section establishing the boundaries for the Kakaako community development district, be amended to include the description of the Aloha Tower complex set forth in section 1 of this bill.

Starting at line 21 on page 2, section 4 of this bill purports to transfer "all rights, powers, functions, and duties

of the Aloha Tower development corporation" to the Hawaii Community Development Authority (HCDA). Section 7 of the bill on page 3, however, repeals chapter 206J, HRS, the enabling statute for the Aloha Tower Development Corporation (ATDC). The repeal of chapter 206J, HRS, precludes any purported transfer of ATDC's rights, powers, functions, and duties to HCDA. This is because the repeal of chapter 206J, HRS, will effectively vacate all provisions relating to ATDC's rights, powers, functions, and duties. Once vacated, ATDC will no longer have any rights, powers, functions, and duties to transfer to HCDA.

In order to ensure that HCDA is vested with the appropriate rights, powers, functions, and duties, we recommend that section 4 of the bill be amended to enumerate all of the rights, powers, duties, and functions HCDA will be vested with by passage of this bill. This will eliminate any ambiguity as to the rights, powers, duties, and functions to be vested in HCDA and will codify such rights, powers, duties, and functions in a bill that can be easily referenced by the public. Absent a statutory enumeration, ascertaining the rights, powers, duties, and functions that were purportedly transferred to HCDA by passage of this bill would be difficult and cumbersome.

We respectfully suggest that if the Committee passes this bill, that it do so with the foregoing recommended changes.