
A BILL FOR AN ACT

RELATING TO THE HAWAII 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 community as a
2 whole.

3 The purpose of this Act is to establish the Banyan Drive
4 community development district where hotel, resort, commercial,
5 residential, and public uses may coexist compatibly within the
6 same area.

7 **§206E-B Banyan Drive community development board. (a)**

8 There is established a Banyan Drive community development board,
9 which shall be the designated agency of the State to implement
10 this part, notwithstanding any other provision in this chapter
11 to the contrary.

12 (b) The board shall be a policy-making board for the
13 Banyan Drive community development district and shall consist of
14 eleven members as follows:

15 (1) The director of finance, or a designated
16 representative, who shall be an ex-officio, voting
17 member;

18 (2) The director of business, economic development, and
19 tourism, or a designated representative, who shall be
20 an ex officio, voting member;

21 (3) The comptroller, or a designated representative, who
22 shall be an ex officio, voting member;



- 1 (4) The director of transportation, or a designated
2 representative, who shall be an ex officio, voting
3 member;
- 4 (5) The director of planning of the county of Hawaii, or a
5 designated representative, who shall be an ex officio,
6 voting member; and
- 7 (6) Six public, voting members appointed by the governor
8 pursuant to section 26-34 from a list of eighteen
9 names submitted for appointment by the mayor of the
10 county of Hawaii; provided that after the initial
11 appointment, if a vacancy occurs in any public, voting
12 position for which the member was selected from a list
13 of recommendations submitted by the mayor, the
14 governor shall fill the vacancy from a list of three
15 recommendations made by the mayor of the county of
16 Hawaii. The six public, voting members shall be
17 residents of east Hawaii and shall be selected on the
18 basis of their knowledge, experience, and expertise in
19 visitor industry management, small and large
20 businesses, economics, banking, real estate, finance,
21 marketing, and management; provided further that at
22 least one member shall be an owner or active manager



1 of a business located within the physical boundaries
2 of the Banyan Drive community development district.

3 (c) The board shall elect its chairperson from among its
4 public, voting members.

5 (d) The members of the board shall serve without
6 compensation but shall be reimbursed for expenses, including
7 travel expenses, incurred in the performance of their duties.

8 (e) The board shall appoint a district administrator who
9 shall be the chief executive officer for the district. The
10 board shall set the district administrator's duties,
11 responsibilities, holidays, vacations, leaves, hours of work,
12 and working conditions. The board shall set the salary of the
13 district administrator, who shall serve at the pleasure of the
14 board and shall be exempt from chapter 76.

15 (f) The board shall be responsible for the development of
16 community development policies, the district improvement
17 program, and the development guidelines for the Banyan Drive
18 community development district.

19 (g) As used in this part, "east Hawaii" means the
20 districts of Puna, south Hilo, north Hilo, and Hamakua, as
21 described by the tax key zones for the island of Hawaii.



1 §206E-C Powers and duties; generally. Notwithstanding any
2 provision of this chapter to the contrary, the board may:

- 3 (1) Sue and be sued;
- 4 (2) Have a seal and alter the same at pleasure;
- 5 (3) Make and execute contracts and all other instruments
6 necessary or convenient for the exercise of its powers
7 and functions under this part;
- 8 (4) Make and alter bylaws for its organization and
9 internal management;
- 10 (5) Make rules pursuant to chapter 91 with respect to its
11 projects, operations, properties, and facilities;
- 12 (6) Through its district administrator, appoint officers,
13 agents, and employees, prescribe their duties and
14 qualifications, and fix their salaries, without regard
15 to chapter 76;
- 16 (7) Prepare or cause to be prepared a community
17 development plan for the Banyan Drive community
18 development district;
- 19 (8) Through the authority, acquire, reacquire, or contract
20 to acquire or reacquire by grant or purchase real,
21 personal, or mixed property or any interest therein;
22 to own, hold, clear, improve, and rehabilitate, and to



- 1 sell, assign, exchange, transfer, convey, lease, or
2 otherwise dispose of or encumber the same;
- 3 (9) Through the authority, acquire or reacquire by
4 condemnation real, personal, or mixed property or any
5 interest therein for public facilities;
- 6 (10) Through the authority, by itself, or in partnership
7 with qualified persons, acquire, reacquire, construct,
8 reconstruct, rehabilitate, improve, alter, or repair
9 or provide for the construction, reconstruction,
10 improvement, alteration, or repair of any project;
11 own, hold, sell, assign, transfer, convey, exchange,
12 lease, or otherwise dispose of or encumber any
13 project, and in the case of the sale of any project,
14 accept a purchase money mortgage in connection
15 therewith; and repurchase or otherwise acquire any
16 project which the authority has theretofore sold or
17 otherwise conveyed, transferred, or disposed of;
- 18 (11) Through the authority, develop and implement a
19 district-wide improvement program pursuant to section
20 206E-6 for necessary district-wide public facilities
21 within the Banyan Drive community development
22 district;



- 1 (12) Through the authority, notwithstanding chapter 171,
2 renew any lease in connection with any of its
3 projects, on such terms and conditions as it deems
4 advisable;
- 5 (13) Prepare or cause to be prepared plans, specifications,
6 designs, and estimates of costs for the construction,
7 reconstruction, rehabilitation, improvement,
8 alteration, or repair of any project in the Banyan
9 Drive community development district, and from time to
10 time to modify such plans, specifications, designs, or
11 estimates;
- 12 (14) Procure insurance against any loss in connection with
13 its property and other assets and operations in such
14 amounts and from such insurers as it deems desirable;
- 15 (15) Contract for and accept gifts or grants in any form
16 from any public agency or from any other source;
- 17 (16) Do any and all things necessary to carry out its
18 purposes and exercise the powers given and granted in
19 this chapter; and
- 20 (17) Assist the public land development corporation in
21 identifying public lands that may be suitable for
22 development, carrying on marketing analysis to



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

9 **§206E-D Banyan Drive community development district;**
10 **boundaries.** The Banyan Drive community development district is
11 established. The district shall include the area bounded by the
12 shoreline from the intersection of Lihiwai Street and Kamehameha
13 Avenue; Kamehameha Avenue to its intersection with Kalaniana'ole
14 Avenue; Kalaniana'ole Avenue to Huipu Street; Huipu Street to its
15 intersection with Ocean View Drive; the north end of Ocean View
16 Drive right to the end of Ocean View Drive; the end of Ocean
17 View Drive to the shoreline; and the shoreline to the
18 intersection of Lihiwai Street and Kamehameha Avenue.

19 **§206E-E Development guidance policies; plan.** (a) The
20 following shall be the development guidance policies generally
21 governing the board's action in the Banyan Drive development
22 district:



- 1 (1) Development shall result in a community which permits
2 an appropriate land mixture of hotel and resort,
3 commercial, residential, and public uses;
- 4 (2) The board may engage in planning, design, and
5 construction activities relating to infrastructure
6 development and other activities the board determines
7 is necessary to carry out the redevelopment of the
8 district;
- 9 (3) The board may conduct studies in conjunction with
10 county and state agencies necessary to determine the
11 appropriate activities for the development in the
12 district;
- 13 (4) Land use and redevelopment activities within the
14 district shall be coordinated with and, to the extent
15 possible, complement existing county and state
16 policies, plans, and programs affecting the district;
17 and
- 18 (5) Public facilities within the district shall be
19 planned, located, and developed to support the
20 redevelopment policies established by this part for
21 the district.



1 (b) The board shall develop and adopt a community
2 development plan, which shall supersede all other inconsistent
3 ordinances and rules relating to the use, planning, development,
4 and construction on the land in the Banyan Drive community
5 development district. The community development plan shall
6 follow existing laws, rules, ordinances, and regulations as
7 closely as is consistent with standards of good design, pleasant
8 amenities, health, safety, and coordinated development.

9 **§206E-F Banyan Drive community development revolving fund.**

10 (a) There is established in the state treasury the Banyan Drive
11 community development revolving fund, into which shall be
12 deposited:

13 (1) Notwithstanding section 206E-16, all revenue, income,
14 and receipts of the authority for the Banyan Drive
15 community development district; and

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

17 (b) Moneys in the Banyan Drive community development
18 revolving fund shall be used solely for the purposes of this
19 part.

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



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

3 "(b) The authority shall consist of [~~nine~~] thirteen voting
4 members [~~for each community development district established in~~
5 ~~this chapter~~]. The director of finance, the director of
6 business, economic development, and tourism, the comptroller,
7 and the director of transportation, or their respective
8 designated representatives, shall serve as ex officio, voting
9 members [~~of the authority; provided that, in addition:~~

10 (1) ~~A cultural expert shall be appointed by the governor~~
11 ~~pursuant to section 26-34 as a voting member;~~

12 (2) ~~One member shall be appointed by the governor pursuant~~
13 ~~to section 26-34 as a voting member; provided further~~
14 ~~that this paragraph shall not apply to the Kalaeloa~~
15 ~~community development district; and~~

16 (3) ~~The chairperson of the Hawaiian homes commission or~~
17 ~~the chairperson's designee, shall serve as an ex~~
18 ~~officio, voting member for the Kalaeloa community~~
19 ~~development district only, shall be considered in~~
20 ~~determining quorum and majority only on issues~~
21 ~~relating to the Kalaeloa community development~~



1 ~~district, and shall vote only on issues relating to~~
2 ~~the Kalaeloa community development district.~~

3 ~~Three additional]~~. One member shall be appointed by the
4 governor from a list of not less than three prospective
5 appointees submitted by the president of the senate, and one
6 member shall be appointed by the governor from a list of not
7 less than three prospective appointees submitted by the speaker
8 of the house of representatives.

9 Seven members shall be appointed by the governor for
10 staggered terms pursuant to section 26-34; provided that four
11 members shall be appointed at large and, initially, three
12 members, hereinafter referred to as county members, shall be
13 selected [~~by the governor~~] from a list of ten prospective
14 appointees recommended by the local governing body of the county
15 in which [~~each~~] the initial designated district is situated;
16 provided further that when vacancies occur in any of the three
17 positions for which the members were selected from a list of
18 county recommendations, the governor shall fill such vacancies
19 on the basis of one from a list of four recommendations, two
20 from a list of seven recommendations, or three from a list of
21 ten recommendations. The list of recommendations shall be made
22 by the local governing body of the county.



1 Of the [~~three~~] nine members appointed by the governor from
2 the lists provided by the president of the senate and speaker of
3 the house of representatives, at large by the governor, or as
4 county members recommended by the local governing body of the
5 county in which [~~each~~] the initial designated district is
6 situated, at least two members shall represent small businesses
7 and shall be designated as the small business representatives on
8 the board whose purpose, among other things, is to vote on
9 matters before the board that affect small businesses. The
10 small business representatives shall be owners or active
11 managers of a small business with its principal place of
12 operation located within the physical boundaries of [~~each~~] the
13 initial designated district. Notwithstanding section 84-14(a),
14 the small business representatives [~~may vote on any matter~~
15 ~~concerning any district under the board's jurisdiction other~~
16 ~~than matters concerning the Heeia community development~~
17 ~~district;~~] shall not be prohibited from voting on any matter
18 concerning any district under the board's jurisdiction; provided
19 that the matter is not limited to solely benefiting the specific
20 interest of that member and the matter concerns broader
21 interests within the district. [~~One of the county members shall~~
22 ~~be a resident of the designated district; provided that for~~



1 ~~purposes of this section, the county member who is a resident of~~
 2 ~~the Kalaeloa community development district shall be a resident~~
 3 ~~of the Ewa zone (zone 9, sections 1 through 2), or the Waianae~~
 4 ~~zone (zone 8, sections 1 through 9) of the first tax map key~~
 5 ~~division. The county members shall be considered in determining~~
 6 ~~quorum and majority only on issues not relating to the Heeia~~
 7 ~~community development district and may only vote on issues not~~
 8 ~~related to the Heeia community development district.~~

9 ~~Three additional voting members shall be appointed to the~~
 10 ~~authority by the governor pursuant to section 26 34 to represent~~
 11 ~~the Heeia community development district. These three members~~
 12 ~~shall be considered in determining quorum and majority only on~~
 13 ~~issues relating to the Heeia community development district and~~
 14 ~~may vote only on issues related to the Heeia community~~
 15 ~~development district. The three members shall be residents of~~
 16 ~~the Heeia community development district or the Koolaupeke~~
 17 ~~district which consists of sections 1 through 9 of zone 4 of the~~
 18 ~~first tax map key division.]~~

19 If an additional district is designated by the legislature,
 20 [the governor shall appoint three county members as prescribed
 21 above for each additional designated district.] the total
 22 membership of the authority shall be increased by three



1 additional members, who shall be selected from a list of ten
2 prospective appointees recommended by the local governing body
3 of the county in which the initial designated district is
4 situated, except as provided for in sections 206E-191 and
5 206E-B.

6 Notwithstanding section 92-15, a majority of all members
7 shall constitute a quorum to do business, and the concurrence of
8 a majority of all members shall be necessary to make any action
9 of the authority valid; [~~except as provided in this subsection.~~]
10 provided that, on any matter relating solely to a specific
11 community development district, the members representing
12 districts other than that specific community development
13 district shall neither vote, nor shall they be counted to
14 constitute a quorum, and concurrence shall be required of a
15 majority of that portion of the authority made up of all ex
16 officio voting members, members at large, and county and
17 district members representing the district for which action is
18 being proposed for such action to be valid. All members shall
19 continue in office until their respective successors have been
20 appointed and qualified. Except as herein provided, no member
21 appointed under this subsection shall be an officer or employee
22 of the State or its political subdivisions.



1 For purposes of this section, "small business" means a
2 business which is independently owned and which is not dominant
3 in its field of operation."

4 SECTION 3. To implement this Act, the department of land
5 and natural resources is directed to deed over to the Hawaii
6 community development authority the public lands covered by
7 leases in the Banyan Drive community development district
8 described in section 206E-D.

9 SECTION 4. (a) The powers, functions, and duties of the
10 department of land and natural resources relating to the leases
11 in the Banyan Drive community development district are hereby
12 transferred to the Hawaii community development authority.

13 (b) All deeds, leases, contracts, loans, agreements,
14 permits, or other documents executed or entered into by or on
15 behalf of the department of land and natural resources pursuant
16 to the provisions of the Hawaii Revised Statutes, that are
17 reenacted or made applicable to the Hawaii community development
18 authority by this Act shall remain in full force and effect;
19 provided that effective July 1, 2013, every reference to the
20 department of land and natural resources or the board of land
21 and natural resources therein shall be construed as a reference
22 to the Hawaii community development authority.



1 SECTION 5. In codifying the new sections added by section
 2 1 of this Act, the revisor of statutes shall substitute
 3 appropriate section numbers for the letters used in designating
 4 the new sections in this Act.

5 SECTION 6. There is appropriated out of the general
 6 revenues of the State of Hawaii the sum of \$ or so
 7 much thereof as may be necessary for fiscal year 2013-2014 to
 8 carry out the purposes of this Act.

9 The sum appropriated shall be expended by the Hawaii
 10 community development authority for the purposes of this Act.

11 SECTION 7. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 8. This Act shall take effect on July 1, 2013.
 14

INTRODUCED BY:

[Handwritten signatures: Denny Coffman, J. K. Iwamoto, Royce Hanaka, R. D. ...]

JAN 24 2013



Report Title:

Hawaii Community Development Authority; Banyan Drive Community Development District; Appropriation

Description:

Establishes a new community development district located in the Banyan Drive area in Hawaii county and places it under the jurisdiction of the Banyan Drive community development board. Establishes the Banyan Drive community development board. Requires the department of land and natural resources to deed over all leases it holds within the new district to the Hawaii community development authority. Amends the composition, selection, and replacement of the members of the Hawaii community development authority. Makes an appropriation to the Hawaii community development authority to carry out the purposes of this Act.

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

