

---

---

## A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1           SECTION 1. The legislature established the Hawaii  
2 community development authority in 1976 as a public entity to  
3 determine community development programs and--in cooperation  
4 with private enterprise and federal, state, and county  
5 governments--to plan and implement programs that result in  
6 communities that serve the highest needs and aspirations of  
7 Hawaii's people. To ensure that a comprehensive and coordinated  
8 plan is executed with and for the community, the law that  
9 established the Hawaii community development authority  
10 explicitly requires community engagement in the community  
11 development plans and development projects.

12           However, the legislature finds that in the thirty-seven  
13 years since its creation, the authority has not met the  
14 standards for creating a mixed-use, mixed-income community. In  
15 fact, the authority has not followed the plan adopted by the  
16 community and has instead liberally interpreted the requirements  
17 and amended the plan and rules without accountability or  
18 transparency to the detriment of the community, thereby failing



1 to fulfill the mandate that the community development plan be  
2 implemented in an "orderly, affordable and feasible manner."

3 The legislature also finds that the authority is operating  
4 without accountability or transparency in failing to meet one of  
5 the authority's major objectives: to create housing for low- or  
6 moderate-income residents.

7 The purpose of this Act is to ensure that the authority  
8 follows the intent of chapter 206E, Hawaii Revised Statutes,  
9 along with the plans and rules adopted to achieve the law's  
10 objectives--to create a community development district that  
11 meets the minimum requirements of good design, pleasant  
12 amenities, and public health and safety, while staying within  
13 existing uses. More specifically, this Act:

- 14 (1) Ensures that adopted plans and rules are followed,  
15 particularly in regard to density, height,  
16 infrastructure, and low- and moderate-income housing;
- 17 (2) Provides for adequate community engagement in the  
18 authority's planning and decision-making on  
19 development projects; and
- 20 (3) Establishes a process for contesting the authority's  
21 decisions.



1 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4 "§206E- Contested case proceeding; judicial review. Any  
5 person adversely affected by an action or decision of the  
6 authority may file a petition for a contested case proceeding on  
7 the authority's action or decision. A public hearing shall be  
8 conducted in accordance with chapter 91."

9 SECTION 3. Section 206E-5, Hawaii Revised Statutes, is  
10 amended by amending subsection (f) to read as follows:

11 "(f) The authority may amend the community development  
12 plan as may be necessary. Amendments shall be made in  
13 accordance with chapter 91 [-]; provided that no amendment to the  
14 operative Kakaako community development district mauka and makai  
15 area plans, and their attendant rules, shall take effect without  
16 the prior approval of the legislature by a concurrent resolution  
17 submitted by the authority and adopted by each house by at least  
18 a two-thirds majority vote of the members to which that house is  
19 entitled.

20 The authority shall include in the concurrent resolution  
21 the proposed amendments and the justification therefor."



1 SECTION 4. Section 206E-5.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 " ~~[H]~~ §206E-5.5 ~~[H]~~ Community engagement and public notice  
4 requirements; posting on the authority's website; required. (a)  
5 The authority shall adopt community engagement and public notice  
6 procedures pursuant to chapter 91 that shall ~~[include],~~ at a  
7 minimum:

8 (1) ~~[A means to effectively]~~ Effectively engage the  
9 community in which the authority is planning a  
10 development project ~~[to ensure that community concerns~~  
11 ~~are received and considered by the authority;]~~ by  
12 working with residents and landowners residing within  
13 the community in which the project is located to  
14 ensure that the rules are followed and that proposed  
15 buildings do not adversely affect the community or its  
16 residents and businesses;

17 (2) ~~[The]~~ Include the posting of the authority's proposed  
18 plans for development of community development  
19 districts, including details of any new proposed  
20 developments; public hearing notices~~[,]~~; and minutes  
21 of its proceedings on the authority's website;  
22 provided that, if requested, a copy of notices shall



1 be mailed to property owners and residents in the  
2 affected community; and

3 (3) [~~Any~~] Include any other information that the public  
4 [~~may find useful~~] requests so that it may meaningfully  
5 participate in the authority's decision-making  
6 processes.

7 (b) The authority shall notify the president of the senate  
8 [~~and~~]; speaker of the house[-]; and the state senators, state  
9 representatives, and city councilmembers who represent the  
10 district in which the development project is to be located:

11 (1) Of any public hearing upon posting of the hearing  
12 notice; and

13 (2) With a report detailing the public's [~~reaction at the~~  
14 ~~public hearing,~~] comments and the authority's response  
15 to any concerns raised about the project, within one  
16 week after the public hearing."

17 SECTION 5. Section 206E-5.6, Hawaii Revised Statutes, is  
18 amended by amending subsection (c) to read as follows:

19 "(c) The authority shall notify the president of the  
20 senate [~~and~~]; speaker of the house[-]; and the state senators,  
21 state representatives, and city councilmembers who represent the  
22 district in which the development project is to be located:



- 1 (1) Of any public hearing upon posting of the hearing
- 2 notice; and
- 3 (2) With a report detailing the public's [~~reaction at the~~
- 4 ~~public hearing,~~] comments and the authority's response
- 5 to any concerns raised about the project, within one
- 6 week after the public hearing."

7 SECTION 6. Section 206E-33, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§206E-33 Kakaako community development district;  
10 development guidance policies. The following shall be the  
11 development guidance policies generally governing the  
12 authority's action in the Kakaako community development  
13 district:

- 14 (1) Development shall result in a community which permits
- 15 an appropriate land mixture of residential,
- 16 commercial, industrial, and other uses. In view of
- 17 the innovative nature of the mixed use approach, urban
- 18 design policies should be established to provide
- 19 guidelines for the public and private sectors in the
- 20 proper development of this district; while the
- 21 authority's development responsibilities apply only to
- 22 the area within the district, the authority may engage



1 in any studies or coordinative activities permitted in  
2 this chapter which affect areas lying outside the  
3 district, where the authority in its discretion  
4 decides that those activities are necessary to  
5 implement the intent of this chapter. The studies or  
6 coordinative activities shall be limited to facility  
7 systems, resident and industrial relocation, and other  
8 activities with the counties and appropriate state  
9 agencies. The authority may engage in construction  
10 activities outside of the district; provided that such  
11 construction relates to infrastructure development or  
12 residential or business relocation activities;  
13 provided further, notwithstanding section 206E-7, that  
14 such construction shall comply with the general plan,  
15 development plan, ordinances, and rules of the county  
16 in which the district is located;

- 17 (2) Existing and future industrial uses shall be permitted  
18 and encouraged in appropriate locations within the  
19 district. No plan or implementation strategy shall  
20 prevent continued activity or redevelopment of  
21 industrial and commercial uses which meet reasonable  
22 performance standards;



- 1           (3) Activities shall be located so as to provide primary  
2           reliance on public transportation and pedestrian  
3           facilities for internal circulation within the  
4           district or designated subareas;
- 5           (4) Major view planes, view corridors, and other  
6           environmental elements such as natural light and  
7           prevailing winds, shall be preserved through necessary  
8           regulation and design review;
- 9           (5) Redevelopment of the district shall be compatible with  
10          plans and special districts established for the Hawaii  
11          Capital District, and other areas surrounding the  
12          Kakaako district;
- 13          (6) Historic sites and culturally significant facilities,  
14          settings, or locations shall be preserved;
- 15          (7) Land use activities within the district, where  
16          compatible, shall to the greatest possible extent be  
17          mixed horizontally, that is, within blocks or other  
18          land areas, and vertically, as integral units of  
19          multi-purpose structures;
- 20          (8) Residential development [~~may~~] shall require a mixture  
21          of densities [~~7~~] not to exceed a maximum of 3.5 with  
22          respect to the floor area ratio; building types [~~7~~] of





1           no more than four hundred feet in height; and  
2           configurations in accordance with appropriate urban  
3           design guidelines; integration both vertically and  
4           horizontally of residents of varying incomes, ages,  
5           and family groups; and an increased supply of housing  
6           for residents of low- or moderate-income may be  
7           required as a condition of redevelopment in  
8           residential use. Residential development shall  
9           provide necessary community facilities, such as open  
10          space, parks, community meeting places, child care  
11          centers, and other services, within and adjacent to  
12          residential development;

13          (9) Public facilities within the district shall be  
14          planned, located, and developed so as to support the  
15          redevelopment policies for the district established by  
16          this chapter and plans and rules adopted pursuant to  
17          it [-]; and

18          (10) Before approving development projects, the authority  
19          shall require comprehensive studies of and plans for  
20          the infrastructure capacity of the sewers, roads,  
21          utilities including water and electricity, schools,  
22          parks, and other requirements to ensure that they meet



1           the needs generated by the additional number of  
2           anticipated residents and, where improvements are  
3           needed, the authority shall accordingly impose the  
4           necessary impact fees upon the developer."

5           SECTION 7. This Act does not affect rights and duties that  
6 matured, penalties that were incurred, and proceedings that were  
7 begun before its effective date.

8           SECTION 8. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10          SECTION 9. This Act shall take effect upon its approval.

11

INTRODUCED BY:           *PCover. Am*          

JAN 17 2014

# H.B. NO. 1860

**Report Title:**

Hawaii Community Development Authority

**Description:**

Amends HCDA public notice requirements and requirements for project approval. Creates an administrative appeal process with available judicial review for HCDA decisions or actions.

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

