
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. 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- Real property; restrictions on transfer; waiver
5 of restrictions. (a) The sale, assignment, deed, or lease of
6 reserved housing and workforce housing by the authority shall be
7 subject to the procedures set forth in section 201H-47.

8 (b) For the purposes of this section, all references to
9 "qualified resident" in section 201H-47 shall be understood as a
10 resident qualifying for workforce housing or reserved housing.

11 (c) For the purposes of this section:

12 "Reserved housing" has the same meaning as in section 206E-
13 101.

14 "Workforce housing" means housing designated for residents
15 in the low- or moderate-income ranges in residential projects in
16 which seventy-five per cent of residential units in each
17 separate project building are sold to low- or moderate-income
18 households, with at least 37.5 per cent of the residential units



1 in each separate project building set aside for low-income
2 households; provided that, as used in this definition:

3 (1) "Low-income" means household income no greater than
4 eighty per cent of the area median income for
5 Honolulu; and

6 (2) "Moderate-income" means household income no greater
7 than one hundred twenty per cent of the area median
8 income for Honolulu.

9 (d) The authority may adopt rules, pursuant to chapter 91,
10 to ensure the consistent compliance of this section with the
11 intent and procedures of 201H-47."

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

14 "(b) The authority shall consist of nine voting members
15 [~~for each community development district established in this~~
16 ~~chapter. The director of finance, the director of business,~~
17 ~~economic development, and tourism, the comptroller, and the~~
18 ~~director of transportation, or their respective designated~~
19 ~~representatives, shall serve as ex officio, voting members of~~
20 ~~the authority; provided that, in addition:~~

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



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

5 ~~(3) The chairperson of the Hawaiian homes commission or~~
6 ~~the chairperson's designee, shall serve as an ex~~
7 ~~officio, voting member for the Kalaeloa community~~
8 ~~development district only, shall be considered in~~
9 ~~determining quorum and majority only on issues~~
10 ~~relating to the Kalaeloa community development~~
11 ~~district, and shall vote only on issues relating to~~
12 ~~the Kalaeloa community development district.~~

13 ~~Three additional members, hereinafter referred to as county~~
14 ~~members, shall be selected by the governor from a list of ten~~
15 ~~prospective appointees recommended by the local governing body~~
16 ~~of the county in which each designated district is situated,~~
17 ~~provided that when vacancies occur in any of the three positions~~
18 ~~for which the members were selected from a list of county~~
19 ~~recommendations, the governor shall fill such vacancies on the~~
20 ~~basis of one from a list of four recommendations, two from a~~
21 ~~list of seven recommendations, or three from a list of ten~~
22 ~~recommendations. The list of recommendations shall be made by~~



~~1 the local governing body of the county. Of the three members
2 appointed as county members recommended by the local governing
3 body of the county in which each designated district is
4 situated, two members shall represent small businesses and shall
5 be designated as the small business representatives on the board
6 whose purpose, among other things, is to vote on matters before
7 the board that affect small businesses. The small business
8 representatives shall be owners or active managers of a small
9 business with its principal place of operation located within
10 the physical boundaries of each designated district.
11 Notwithstanding section 84-14(a), the small business
12 representatives may vote on any matter concerning any district
13 under the board's jurisdiction other than matters concerning the
14 Heeia community development district; provided that the matter
15 is not limited to solely benefiting the specific interest of
16 that member and the matter concerns broader interests within the
17 district. One of the county members shall be a resident of the
18 designated district; provided that for purposes of this section,
19 the county member who is a resident of the Kalaeloa community
20 development district shall be a resident of the Ewa zone (zone
21 9, sections 1 through 2), or the Waianae zone (zone 8, sections
22 1 through 9) of the first tax map key division. The county~~



~~1 members shall be considered in determining quorum and majority
2 only on issues not relating to the Heeia community development
3 district and may only vote on issues not related to the Heeia
4 community development district.~~

~~5 Three additional voting members shall be appointed to the
6 authority by the governor pursuant to section 26-34 to represent
7 the Heeia community development district. These three members
8 shall be considered in determining quorum and majority only on
9 issues relating to the Heeia community development district and
10 may vote only on issues related to the Heeia community
11 development district. The three members shall be residents of
12 the Heeia community development district or the Koolaupeke
13 district which consists of sections 1 through 9 of zone 4 of the
14 first tax map key division.~~

~~15 If an additional district is designated by the legislature,
16 the governor shall appoint three county members as prescribed
17 above for each additional designated district.] to be appointed
18 by the governor, by and with the advice and consent of the
19 senate; provided that one member each shall be appointed by the
20 governor from a list of three nominees submitted by each of the
21 following:~~

22 (1) The president of the senate;



- 1 (2) The speaker of the house of representatives;
- 2 (3) The minority leader of the senate;
- 3 (4) The minority leader of the house of representatives;
- 4 (5) The chief justice of the Hawaii supreme court;
- 5 (6) The board of trustees of the office of Hawaiian
- 6 affairs; and
- 7 (7) The president of the University of Hawaii.

8 In the event of a vacancy, the governor shall appoint a member
9 to fill the vacancy within thirty days of the vacancy or within
10 thirty days of the submission of the list of nominees to the
11 governor, as applicable.

12 If the governor fails to make any appointment within the
13 thirty-day period specified in this subsection or within ten
14 days of the senate's rejection of any previous appointment, the
15 appointment shall be made by the applicable appointing authority
16 from the list with the advice and consent of the senate. The
17 same appointment and consent procedure shall be followed until a
18 valid appointment has been made.

19 The terms of the members shall be for four years,
20 commencing on July 1 and expiring on June 30; provided that the
21 governor may reduce the terms of those initially appointed so as
22 to provide, as nearly as can be, for the expiration of an equal



1 number of terms at intervals of one year. The governor may
2 remove or suspend for cause any member after due notice and
3 public hearing.

4 In addition to the members specified in this subsection,
5 the mayor or other designee of the governing body of each of the
6 counties may serve as an ex officio, nonvoting member of the
7 authority at the discretion of the governing bodies of the
8 respective counties.

9 Notwithstanding section 92-15, a two-thirds' majority of
10 all members shall constitute a quorum to do business, and the
11 concurrence of a majority of all members shall be necessary to
12 make any action of the authority valid; except as provided in
13 this subsection. All members shall continue in office until
14 their respective successors have been appointed and qualified.
15 Except as herein provided, no member appointed under this
16 subsection shall be an officer or employee of the State or its
17 political subdivisions.

18 ~~[For purposes of this section, "small business" means a~~
19 ~~business which is independently owned and which is not dominant~~
20 ~~in its field of operation.]"~~

21 SECTION 3. Section 206E-4, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§206E-4 Powers; generally.** Except as otherwise limited
2 by this chapter, the authority 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 chapter;
8 (4) Make and alter bylaws for its organization and
9 internal management;
10 (5) Make rules with respect to its projects, operations,
11 properties, and facilities, which rules shall be in
12 conformance with chapter 91;
13 (6) Through its executive director appoint officers,
14 agents, and employees, prescribe their duties and
15 qualifications, and fix their salaries, without regard
16 to chapter 76;
17 (7) Prepare or cause to be prepared a community
18 development plan for all designated community
19 development districts;
20 (8) Acquire, reacquire, or contract to acquire or
21 reacquire by grant or purchase real, personal, or
22 mixed property or any interest therein; to own, hold,

1 clear, improve, and rehabilitate, and to sell, assign,
2 exchange, transfer, convey, lease, or otherwise
3 dispose of or encumber the same;

4 (9) Acquire or reacquire by condemnation real, personal,
5 or mixed property or any interest therein for public
6 facilities, including but not limited to streets,
7 sidewalks, parks, schools, and other public
8 improvements;

9 (10) By itself, or in partnership with qualified persons,
10 acquire, reacquire, construct, reconstruct,
11 rehabilitate, improve, alter, or repair or provide for
12 the construction, reconstruction, improvement,
13 alteration, or repair of any project; own, hold, sell,
14 assign, transfer, convey, exchange, lease, or
15 otherwise dispose of or encumber any project, and in
16 the case of the sale of any project, accept a purchase
17 money mortgage in connection therewith; and repurchase
18 or otherwise acquire any project that the authority
19 has theretofore sold or otherwise conveyed,
20 transferred, or disposed of;

21 (11) Arrange or contract for the planning, replanning,
22 opening, grading, or closing of streets, roads,



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



- 1 (15) Procure insurance against any loss in connection with
2 its property and other assets and operations in
3 amounts and from insurers as it deems desirable;
- 4 (16) Contract for and accept gifts or grants in any form
5 from any public agency or from any other source;
- 6 (17) Do any and all things necessary to carry out its
7 purposes and exercise the powers given and granted in
8 this chapter; and
- 9 (18) Allow satisfaction of any affordable housing
10 requirements imposed by the authority upon any
11 proposed development project through the construction
12 of reserved housing, as defined in section 206E-101,
13 by a person on land located [~~outside~~] inside the
14 geographic boundaries of the [~~authority's~~
15 ~~jurisdiction;~~] same community development district as
16 the proposal development project; provided that the
17 authority shall [~~not~~] permit any person to make cash
18 payments in lieu of providing reserved housing[~~,~~
19 ~~except to account for any fractional unit that results~~
20 ~~after calculating the percentage requirement against~~
21 ~~residential floor space or total number of units~~
22 ~~developed. The substituted housing shall be located~~



1 ~~on the same island as the development project and~~
2 ~~shall be substantially equal in value to the required~~
3 ~~reserved housing units that were to be developed on~~
4 ~~site. The authority shall establish the following~~
5 ~~priority in the development of reserved housing:~~

- 6 ~~(A) Within the community development district;~~
7 ~~(B) Within areas immediately surrounding the~~
8 ~~community development district;~~
9 ~~(C) Areas within the central urban core;~~
10 ~~(D) In outlying areas within the same island as the~~
11 ~~development project.~~

12 ~~The Hawaii community development authority shall~~
13 ~~adopt rules relating to the approval of reserved~~
14 ~~housing that are developed outside of a community~~
15 ~~development district. The rules shall include, but~~
16 ~~are not limited to, the establishment of guidelines to~~
17 ~~ensure compliance with the above priorities]."~~

18 SECTION 4. Section 206E-7, Hawaii Revised Statutes, is
19 amended to read as follows:

20 " **[+]§206E-7[+]** **Community development rules.** The authority
21 shall establish community development rules under chapter 91 on
22 health, safety, building, planning, zoning, and land use, which,



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

15 SECTION 5. Section 206E-8, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "~~[+]~~**\$206E-8**~~[+]~~ **Use of public lands; acquisition of state**
18 **lands.** (a) Any provision of chapter 171 to the contrary
19 notwithstanding, the governor may set aside public lands located
20 within community development districts to the authority for its
21 use~~[-]~~, subject to prior approval by the legislature by
22 concurrent resolution adopted by each house by at least a two-



1 thirds majority vote of the members to which that house is
2 entitled.

3 (b) If state lands under the control and management of
4 other public agencies are required by the authority for its
5 purposes, the agency having the control and management of those
6 required lands shall, upon request by the authority and with the
7 approval of the governor, convey[7] or lease such lands to the
8 authority upon such terms and conditions as may be agreed to by
9 the parties.

10 (c) Notwithstanding the foregoing, no public lands shall
11 be set aside, conveyed, or leased to the authority as above
12 provided if such setting aside, conveyance, or lease would
13 impair any covenant between the State or any county or any
14 department or board thereof and the holders of bonds issued by
15 the State or such county, department, or board."

16 SECTION 6. Section 206E-16.5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[~~+~~§206E-16.5~~+~~] **Expenditures of revolving funds under**
19 **the authority not exempt from appropriation and allotment.**

20 [~~Except as to administrative expenditures, and except as~~
21 ~~otherwise provided by law, expenditures]~~ Expenditures from any
22 revolving fund administered by the authority [~~may~~] shall be made



1 by the authority [~~without~~] pursuant to appropriation [~~or~~] and
2 allotment of the legislature [~~, provided that no expenditure~~
3 ~~shall be made from and no obligation shall be incurred against~~
4 ~~any revolving fund in excess of the amount standing to the~~
5 ~~credit of the fund or for any purpose for which the fund may not~~
6 ~~lawfully be expended. Nothing in sections 37-31 to 37-41 shall~~
7 ~~require the proceeds of any revolving fund administered by the~~
8 ~~authority to be reappropriated annually]."~~

9 SECTION 7. Section 206E-182, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§206E-182 Powers.** In addition and supplemental to the
12 powers granted to the authority by law, the authority may:

13 (1) With the approval of the governor, enter into a
14 special facility lease or an amendment or supplement
15 thereto whereby the authority agrees to construct,
16 acquire, or remodel and furnish or equip a special
17 facility solely for the use by another person to a
18 special facility lease;

19 (2) With the approval of the governor, and subject to
20 prior approval by the legislature by concurrent
21 resolution adopted by each house by at least a two-
22 thirds majority vote of the members to which that



- 1 house is entitled, issue special facility revenue
2 bonds in principal amounts, not to exceed the total
3 amount of bonds authorized by the legislature, that
4 may be necessary to yield all or a portion of the cost
5 of any construction, acquisition, remodeling,
6 furnishing, and equipping of any special facility;
- 7 (3) With the approval of the governor, issue refunding
8 special facility revenue bonds, in principal amounts
9 not to exceed the total amount of bonds authorized by
10 the legislature, with which to provide for the payment
11 of outstanding special facility revenue bonds
12 (including any special facility revenue bonds
13 theretofore issued for this purpose) or any part
14 thereof; provided any issuance of refunding special
15 facility revenue bonds shall not reduce the principal
16 amount of the bonds which may be issued as provided in
17 paragraph (2);
- 18 (4) Perform and carry out the terms and provisions of any
19 special facility lease;
- 20 (5) Notwithstanding section 103-7 or any other law to the
21 contrary, acquire, construct, or remodel and furnish
22 or equip any special facility, or accept the



- 1 assignment of any contract therefor entered into by
2 the other person to the special facility lease;
- 3 (6) Construct any special facility on land owned by the
4 State; provided that no funds derived herein will be
5 expended for land acquisition; and
- 6 (7) Agree with the other person to the special facility
7 lease whereby any acquisition, construction,
8 remodeling, furnishing, or equipping of the special
9 facility and the expenditure of moneys therefor shall
10 be undertaken or supervised by another person."

11 SECTION 8. Section 206E-185, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~f~~]**§206E-185**[~~}]~~ **Special facility revenue bonds.** All
14 special facility revenue bonds authorized to be issued, in
15 principal amounts not to exceed the total amount of bonds
16 authorized by the legislature, shall be issued pursuant to part
17 III of chapter 39, except as follows:

- 18 (1) No revenue bonds shall be issued unless at the time of
19 issuance the authority shall have entered into a
20 special facility lease with respect to the special
21 facility for which the revenue bonds are to be issued;



- 1 (2) The revenue bonds shall be issued in the name of the
2 authority, and not in the name of the State;
- 3 (3) The revenue bonds shall be payable solely from and
4 secured solely by the revenues derived by the
5 authority from the special facility for which they are
6 issued;
- 7 (4) The final maturity date of the revenue bonds shall not
8 be later than either the estimated life of the special
9 facility for which they are issued or the initial term
10 of the special facility lease;
- 11 (5) If deemed necessary or advisable by the authority, or
12 to permit the obligations of the other person to the
13 special facility lease to be registered under the U.S.
14 Securities Act of 1933, the authority, with the
15 approval of the director of finance, may appoint a
16 national or state bank within or without the State to
17 serve as trustee for the holders of the revenue bonds
18 and may enter into a trust indenture or trust
19 agreement with the trustee. The trustee may be
20 authorized by the authority to collect, hold, and
21 administer the revenues derived from the special
22 facility for which the revenue bonds are issued and to



1 apply the revenues to the payment of the principal and
2 interest on the revenue bonds. If any trustee shall
3 be appointed, any trust indenture or agreement entered
4 into by the authority with the trustee may contain the
5 covenants and provisions authorized by part III of
6 chapter 39 to be inserted in a resolution adopted or
7 certificate issued, as though the words "resolution"
8 or "certificate" as used in that part read "trust
9 indenture or agreement". The covenants and provisions
10 shall not be required to be included in the resolution
11 or certificate authorizing the issuance of the revenue
12 bonds if included in the trust agreement or indenture.
13 Any resolution or certificate, trust indenture, or
14 trust agreement adopted, issued, or entered into by
15 the authority pursuant to this part may also contain
16 any provisions required for the qualification thereof
17 under the U.S. Trust Indenture Act of 1939. The
18 authority may pledge and assign to the trustee the
19 special facility lease and the rights of the authority
20 including the revenues thereunder;

21 (6) If the authority, with the approval of the director of
22 finance, shall have appointed or shall appoint a



1 trustee for the holders of the revenue bonds, then
2 notwithstanding the provisions of the second sentence
3 of section 39-68, the director of finance may elect
4 not to serve as fiscal agent for the payment of the
5 principal and interest, and for the purchase,
6 registration, transfer, exchange, and redemption, of
7 the revenue bonds, or may elect to limit the functions
8 the director of finance shall perform as the fiscal
9 agent. The authority, with the approval of the
10 director of finance, may appoint the trustee to serve
11 as the fiscal agent, and may authorize and empower the
12 trustee to perform the functions with respect to
13 payment, purchase, registration, transfer, exchange,
14 and redemption, that the authority may deem necessary,
15 advisable, or expedient, including, without
16 limitation, the holding of the revenue bonds and
17 coupons which have been paid and the supervision and
18 conduction of the destruction thereof in accordance
19 with sections 40-10 and 40-11. Nothing in this
20 paragraph shall be a limitation upon or construed as a
21 limitation upon the powers granted in the preceding
22 paragraph to the authority, with the approval of the



1 director of finance, to appoint the trustee, or
2 granted in sections 36-3 and 39-13 and the third
3 sentence of section 39-68 to the director of finance
4 to appoint the trustee or others, as fiscal agents,
5 paying agents, and registrars for the revenue bonds or
6 to authorize and empower the fiscal agents, paying
7 agents, and registrars to perform the functions
8 referred to in that paragraph and sections, it being
9 the intent of this paragraph to confirm that the
10 director of finance as aforesaid may elect not to
11 serve as fiscal agent for the revenue bonds or may
12 elect to limit the functions the director of finance
13 shall perform as the fiscal agent, that the director
14 of finance may deem necessary, advisable, or
15 expedient;

16 (7) The authority may sell the revenue bonds either at
17 public or private sale;

18 (8) If no trustee shall be appointed to collect, hold, and
19 administer the revenues derived from the special
20 facility for which the revenue bonds are issued, the
21 revenues shall be held in a separate account in the
22 treasury of the State, separate and apart from the



- 1 Hawaii community development revolving fund, to be
2 applied solely to the carrying out of the resolution,
3 certificate, trust indenture, or trust agreement
4 authorizing or securing the revenue bonds;
- 5 (9) If the resolution, certificate, trust indenture, or
6 trust agreement shall provide that no revenue bonds
7 issued thereunder shall be valid or obligatory for any
8 purpose unless certified or authenticated by the
9 trustee for the holders of the revenue bonds,
10 signatures of the officers of the State upon the bonds
11 required by section 39-56 may be facsimiles of their
12 signatures;
- 13 (10) Proceeds of the revenue bonds may be used and applied
14 by the authority to reimburse the other person to the
15 special facility lease for all preliminary costs and
16 expenses, including architectural and legal costs; and
- 17 (11) If the special facility lease shall require the other
18 person to operate, maintain, and repair the special
19 facility which is the subject of the lease, at the
20 other person's expense, the requirement shall
21 constitute compliance by the authority with section
22 39-61(a)(2), and none of the revenues derived by the



1 authority from the special facility shall be required
 2 to be applied to the purposes of section 39-62(2).
 3 Sections 39-62(4), 39-62(5), and 39-62(6) shall not
 4 apply to the revenues derived from a special facility
 5 lease."

6 SECTION 9. Act 134, Session Laws of Hawaii 2013, is
 7 amended by amending section 3, program heading A (economic
 8 development), item No. 23, program ID BED150 Hawaii community
 9 development authority, to read as follows:

10	"23. BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY			
11			2.00*	[2.00*] <u>0*</u>
12	OPERATING	BED	1,086,818W	[1,086,818W] <u>0</u>
13	INVESTMENT CAPITAL	BED	2,155,000C	[2,555,000C] <u>0</u> "

14 SECTION 10. All existing members of the Hawaii community
 15 development authority in office as of the effective date of this
 16 Act shall be removed immediately, and new members shall be
 17 appointed pursuant to section 206E-3, Hawaii Revised Statutes.

18 SECTION 11. This Act does not affect rights and duties
 19 that matured, penalties that were incurred, and proceedings that
 20 were begun before its effective date.

21 SECTION 12. Statutory material to be repealed is bracketed
 22 and stricken. New statutory material is underscored.

23 SECTION 13. This Act shall take effect on July 1, 2020.



Report Title:

Hawaii Community Development Authority

Description:

Amends the manner in which members are appointed to the Hawaii Community Development Authority. Enhances legislative oversight of the Authority. Establishes restrictions on transfers, sales, and deeds of property owned by the Hawaii Community Development Authority. Effective July 1, 2020. (HB1866 HD1)

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

