
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 91, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§91- Hawaii community development authority development
5 permit application proceedings; intervention; judicial review.

6 (a) Proceedings under this section shall be conducted in the
7 manner of a contested case hearing under chapter 91, except as
8 provided in this section.

9 (b) Any person requesting to intervene pursuant to this
10 section in a proceeding on an application for a development
11 permit from the Hawaii community development authority shall
12 file a written motion to intervene within fourteen days after
13 the publication date of the public notice issued pursuant to
14 section 206E-5.6(b).

15 (c) All proceedings under this section shall be held
16 before a hearings officer.

17 (d) Any person aggrieved by any decision of the Hawaii
18 community development authority or by a preliminary ruling of



1 the nature that deferral of review pending entry of a subsequent
2 final decision would deprive the person of adequate relief,
3 shall be entitled to judicial review thereof as set forth in
4 section 91-14."

5 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
6 amended by adding two new sections to part I to be appropriately
7 designated and to read as follows:

8 **"§206E-A Assignment of powers and duties prohibited.**

9 Notwithstanding anything contained in this chapter to the
10 contrary, the authority shall not assign to any person or
11 agency, including the executive director of the authority, any
12 of its powers and duties related to the approval of any
13 variance, exemption, or modification of any provision of a
14 community development plan or community development rules.

15 **§206E-B Public hearing on variances, exemptions, or**
16 **modifications; separate hearing required.** (a) When considering
17 any developer's proposal to develop lands under the authority's
18 control that includes any request for a variance, exemption, or
19 modification of a community development plan or of the
20 authority's community development rules, the authority shall
21 consider the request for variance, exemption, or modification at
22 a public hearing separate from and subsequent to the hearing at



1 which the developer's proposal was presented; provided that the
2 authority may consider all requests applicable to a single
3 proposal at the same separate public hearing.

4 (b) The authority shall issue a public notice in accordance
5 with section 1-28.5 and post the notice on its website; provided
6 that the hearing shall not occur earlier than five business days
7 after the notice is posted.

8 (c) The authority shall notify the president of the senate
9 and speaker of the house:

10 (1) Of any public hearing subject to this subsection upon
11 posting of the hearing notice; and

12 (2) With a report detailing the public's reaction at the
13 public hearing, within one week after the hearing.

14 (d) The authority's decision on requests subject to this
15 section shall be rendered at the public hearing held pursuant to
16 section 206E-5.6 rendering a decision regarding the developer's
17 proposal."

18 SECTION 3. Section 171-64.7, Hawaii Revised Statutes, is
19 amended by amending subsection (b) to read as follows:

20 "(b) Notwithstanding any law to the contrary, no sale of
21 lands described in subsection (a) in fee simple including land
22 sold for roads and streets, or gift of lands described in

1 subsection (a) in fee simple to the extent such gift is
2 otherwise permitted by law, shall occur without the prior
3 approval of the sale or gift by the legislature by concurrent
4 resolution to be adopted by each house by at least a two-thirds
5 majority vote of the members to which each house is entitled in
6 a regular or special session at which a concurrent resolution is
7 submitted for approval of the sale; provided that the provisions
8 of this section shall not apply to remnants, as that term is
9 defined in section 171-52, or portions thereof; provided further
10 that this section shall not apply to the issuance of licenses,
11 permits, easements, and leases executed in conformance with the
12 laws applicable to the lands listed in subsection (a); provided
13 further that this section shall not apply to non-ceded lands
14 conveyed to the University of Hawaii after December 31, 1989 to
15 which the University of Hawaii holds title[-]; provided further
16 that this section shall not apply to reserved housing, as that
17 term is defined in section 206E-101, by the Hawaii community
18 development authority."

19 SECTION 4. Section 206E-3, Hawaii Revised Statutes, is
20 amended by amending subsection (b) to read as follows:

21 "(b) The authority shall consist of nine voting members
22 [~~for each community development district established in this~~



1 ~~chapter. The director of finance, the director of business,~~
2 ~~economic development, and tourism, the comptroller, and the~~
3 ~~director of transportation, or their respective designated~~
4 ~~representatives, shall serve as ex officio, voting members of~~
5 ~~the authority; provided that, in addition:~~

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

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

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

20 ~~Three additional members, hereinafter referred to as county~~
21 ~~members, shall be selected by the governor from a list of ten~~
22 ~~prospective appointees recommended by the local governing body~~



~~1 of the county in which each designated district is situated;
2 provided that when vacancies occur in any of the three positions
3 for which the members were selected from a list of county
4 recommendations, the governor shall fill such vacancies on the
5 basis of one from a list of four recommendations, two from a
6 list of seven recommendations, or three from a list of ten
7 recommendations. The list of recommendations shall be made by
8 the local governing body of the county. Of the three members
9 appointed as county members recommended by the local governing
10 body of the county in which each designated district is
11 situated, two members shall represent small businesses and shall
12 be designated as the small business representatives on the board
13 whose purpose, among other things, is to vote on matters before
14 the board that affect small businesses. The small business
15 representatives shall be owners or active managers of a small
16 business with its principal place of operation located within
17 the physical boundaries of each designated district.
18 Notwithstanding section 84-14(a), the small business
19 representatives may vote on any matter concerning any district
20 under the board's jurisdiction other than matters concerning the
21 Heeia community development district; provided that the matter
22 is not limited to solely benefiting the specific interest of~~



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

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



1 ~~If an additional district is designated by the legislature,~~
2 ~~the governor shall appoint three county members as prescribed~~
3 ~~above for each additional designated district.]~~ to be appointed
4 by the governor, by and with the advice and consent of the
5 senate; provided that one member shall be appointed by the
6 governor from each of two separate lists of three nominees
7 submitted by the president of the senate and one member shall be
8 appointed from each of two separate lists of three nominees
9 submitted by the speaker of the house of representatives. The
10 director of planning of a county that contains a community
11 development district, or the director's designee, shall be an ex
12 officio, nonvoting member. In the event of a vacancy, the
13 governor shall appoint a member to fill the vacancy within
14 thirty days of the vacancy or within thirty days of the
15 submission of the list of nominees to the governor, as
16 applicable.

17 If the governor fails to make any appointment within the
18 thirty-day period specified in this subsection or within ten
19 days of the senate's rejection of any previous appointment, the
20 appointment shall be made by the applicable appointing authority
21 from the list with the advice and consent of the senate. The



1 same appointment and consent procedure shall be followed until a
2 valid appointment has been made.

3 The terms of the voting members shall be for four years,
4 commencing on July 1 and expiring on June 30; provided that the
5 governor may reduce the terms of those initially appointed so as
6 to provide, as nearly as can be, for the expiration of an equal
7 number of terms at intervals of one year. The governor may
8 remove or suspend for cause any member after due notice and
9 public hearing.

10 Notwithstanding section 92-15, a majority of all members
11 shall constitute a quorum to do business, and the concurrence of
12 a majority of all members shall be necessary to make any action
13 of the authority valid; except as provided in this subsection.
14 All members shall continue in office until their respective
15 successors have been appointed and qualified. Except as herein
16 provided, no member appointed under this subsection shall be an
17 officer or employee of the State or its 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 5. 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 roadway, 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 proposed development project; provided that the
17 authority shall [~~not~~] permit any person to make cash
18 payments in lieu of providing reserved housing[~~7~~
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 6. Section 206E-5.5, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) The authority shall adopt community and public notice
21 procedures pursuant to chapter 91 that shall include at a
22 minimum:



- 1 (1) A means to effectively engage the community in which
2 the authority is planning a development project to
3 ensure that community concerns are received and
4 considered by the authority;
- 5 (2) The posting of the authority's proposed plans for
6 development of community development districts, public
7 hearing notices, and minutes of its proceedings on the
8 authority's website; [and]
- 9 (3) The posting of every application for a development
10 permit for any project within a community development
11 district on the authority's website upon submission of
12 the application;
- 13 (4) Notification by the applicant of any application for a
14 development permit by mail to all property owners,
15 lessees, sublessees, and residents located within a
16 three hundred foot radius of the perimeter of a
17 proposed project upon submission of the application;
18 provided that the applicant shall pay for all costs
19 associated with the notification; and
- 20 [~~3~~] (5) Any other information that the public may find
21 useful so that it may meaningfully participate in the
22 authority's decision-making processes."



1 SECTION 7. Section 206E-5.6, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:

3 "(a) When rendering a decision regarding:

4 (1) An amendment to any of the authority's community
5 development rules established pursuant to chapter 91
6 and section 206E-7; or

7 (2) The acceptance of a developer's proposal to develop
8 lands under the authority's control,

9 the authority shall render its decision at a public hearing
10 separate from the hearing that the proposal under paragraph (1)
11 or (2) was presented[-] subject to the requirements of section
12 206E-B.

13 (b) The authority shall issue a public notice in
14 accordance with section 1-28.5 and post the notice on its
15 website; provided that the decision-making hearing shall not
16 occur earlier than five business days after the notice is
17 posted. Prior to rendering a decision, the authority shall
18 provide the general public with the opportunity to testify at
19 its decision-making hearing. Public notice issued pursuant to
20 this subsection for decision-making hearings under subsection
21 (a)(2) shall state that any written motion to intervene shall be



1 received within fourteen days after the publication date of the
2 public notice."

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

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

21 (b) Development rights under a master plan permit and
22 master plan development agreement issued and approved by the



1 authority are vested under the community development district
2 rules in effect at the time of initial approval by the authority
3 and that shall govern development on lands subject to such
4 permit and agreement."

5 SECTION 9. Section 206E-8, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[+]§206E-8[+]~~ **Use of public lands; acquisition of state**

8 **lands.** [~~(a)~~ Any provision of chapter 171 to the contrary
9 notwithstanding, the governor may set aside public lands located
10 within community development districts to the authority for its
11 use.

12 ~~(b)]~~ (a) If state lands under the control and management
13 of other public agencies are required by the authority for its
14 purposes, the agency having the control and management of those
15 required lands [~~shall,~~] may, upon request by the authority and
16 with the approval of the governor, convey[~~,~~] or lease such lands
17 to the authority upon such terms and conditions as may be agreed
18 to by the parties.

19 [~~(e)]~~ (b) Notwithstanding the foregoing, no public lands
20 shall be [~~set aside,~~] conveyed[~~,~~] or leased to the authority as
21 above provided if such [~~setting aside,~~] conveyance[~~,~~] or lease
22 would impair any covenant between the State or any county or any



1 department or board thereof and the holders of bonds issued by
2 the State or such county, department, or board."

3 SECTION 10. Section 206E-16.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 " ~~[+]§206E-16.5[+]~~ **Expenditures of revolving funds under**
6 **the authority not exempt from appropriation and allotment.**

7 ~~[Except as to administrative expenditures, and except as~~
8 ~~otherwise provided by law, expenditures]~~ Expenditures from any
9 revolving fund administered by the authority ~~[may]~~ shall be made
10 by the authority ~~[without]~~ pursuant to appropriation ~~[or]~~ and
11 allotment of the legislature~~[, provided that no expenditure~~
12 ~~shall be made from and no obligation shall be incurred against~~
13 ~~any revolving fund in excess of the amount standing to the~~
14 ~~credit of the fund or for any purpose for which the fund may not~~
15 ~~lawfully be expended. Nothing in sections 37 31 to 37 41 shall~~
16 ~~require the proceeds of any revolving fund administered by the~~
17 ~~authority to be reappropriated annually]."~~

18 SECTION 11. Section 206E-31.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 " ~~[+]§206E-31.5[+]~~ **Prohibitions.** (a) Anything contained in
21 this chapter to the contrary notwithstanding, the authority is
22 prohibited from:



1 (1) Selling or otherwise assigning the fee simple interest
2 in any lands in the Kakaako community development
3 district to which the authority in its corporate
4 capacity holds title, except with respect to:

5 (A) Utility easements;

6 (B) Remnants as defined in section 171-52;

7 (C) Grants to any state or county department or
8 agency; [~~or~~]

9 (D) Private entities for purposes of any easement,
10 roadway, or infrastructure improvements; or

11 (E) Reserved housing as defined in section 206E-101;
12 provided that:

13 (i) The fee simple interest is sold or otherwise
14 assigned to an eligible buyer, as determined
15 by the authority; and

16 (ii) The reserved housing remains affordable in
17 perpetuity; or

18 (2) Approving any plan or proposal for any residential
19 development in that portion of the Kakaako community
20 development district makai of Ala Moana boulevard and
21 between Kewalo Basin and the foreign trade zone.



1 (b) For purposes of this section, "affordable" means
 2 available for purchase by a family or an individual whose income
 3 does not exceed per cent of the area median income as
 4 determined by the United States Department of Housing and Urban
 5 Development."

6 SECTION 12. Section 206E-33, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 **"§206E-33 Kakaako community development district;**
 9 **development guidance policies.** The following shall be the
 10 development guidance policies generally governing the
 11 authority's action in the Kakaako community development
 12 district:

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



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

16 (2) Existing and future industrial uses shall be permitted
17 and encouraged in appropriate locations within the
18 district. No plan or implementation strategy shall
19 prevent continued activity or redevelopment of
20 industrial and commercial uses which meet reasonable
21 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; provided that no portion
9 of any building or structure shall exceed four hundred
10 eighteen feet in height;
- 11 (5) Redevelopment of the district shall be compatible with
12 plans and special districts established for the Hawaii
13 Capital District, and other areas surrounding the
14 Kakaako district;
- 15 (6) Historic sites and culturally significant facilities,
16 settings, or locations shall be preserved;
- 17 (7) Land use activities within the district, where
18 compatible, shall to the greatest possible extent be
19 mixed horizontally, that is, within blocks or other
20 land areas, and vertically, as integral units of
21 multi-purpose structures;



1 (8) Residential development may require a mixture of
2 densities, building types, and configurations in
3 accordance with appropriate urban design guidelines;
4 integration both vertically and horizontally of
5 residents of varying incomes, ages, and family groups;
6 and an increased supply of housing for residents of
7 low- or moderate-income may be required as a condition
8 of redevelopment in residential use. Residential
9 development shall provide necessary community
10 facilities, such as open space, parks, community
11 meeting places, child care centers, and other
12 services, within and adjacent to residential
13 development; and

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

19 SECTION 13. Section 206E-182, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§206E-182 Powers.** In addition and supplemental to the
22 powers granted to the authority by law, the authority may:



- 1 (1) With the approval of the governor, enter into a
2 special facility lease or an amendment or supplement
3 thereto whereby the authority agrees to construct,
4 acquire, or remodel and furnish or equip a special
5 facility solely for the use by another person to a
6 special facility lease;
- 7 (2) With the approval of the governor, and subject to
8 prior approval by the legislature by concurrent
9 resolution adopted by each house by at least a
10 majority vote of the members to which that house is
11 entitled, issue special facility revenue bonds in
12 principal amounts not to exceed the total amount of
13 bonds authorized by the legislature, that may be
14 necessary to yield all or a portion of the cost of any
15 construction, acquisition, remodeling, furnishing, and
16 equipping of any special facility;
- 17 (3) With the approval of the governor, issue refunding
18 special facility revenue bonds, in principal amounts
19 not to exceed the total amount of bonds authorized by
20 the legislature, with which to provide for the payment
21 of outstanding special facility revenue bonds
22 (including any special facility revenue bonds



1 theretofore issued for this purpose) or any part
2 thereof; provided any issuance of refunding special
3 facility revenue bonds shall not reduce the principal
4 amount of the bonds which may be issued as provided in
5 paragraph (2);

6 (4) Perform and carry out the terms and provisions of any
7 special facility lease;

8 (5) Notwithstanding section 103-7 or any other law to the
9 contrary, acquire, construct, or remodel and furnish
10 or equip any special facility, or accept the
11 assignment of any contract therefor entered into by
12 the other person to the special facility lease;

13 (6) Construct any special facility on land owned by the
14 State; provided that no funds derived herein will be
15 expended for land acquisition; and

16 (7) Agree with the other person to the special facility
17 lease whereby any acquisition, construction,
18 remodeling, furnishing, or equipping of the special
19 facility and the expenditure of moneys therefor shall
20 be undertaken or supervised by another person."

21 SECTION 14. Section 206E-185, Hawaii Revised Statutes, is
22 amended to read as follows:



1 " ~~[+]§206E-185[+]~~ **Special facility revenue bonds.** All
2 special facility revenue bonds authorized to be issued in
3 principal amounts not to exceed the total amount of bonds
4 authorized by the legislature shall be issued pursuant to part
5 III of chapter 39, except as follows:

- 6 (1) No revenue bonds shall be issued unless at the time of
7 issuance the authority shall have entered into a
8 special facility lease with respect to the special
9 facility for which the revenue bonds are to be issued;
- 10 (2) The revenue bonds shall be issued in the name of the
11 authority, and not in the name of the State;
- 12 (3) The revenue bonds shall be payable solely from and
13 secured solely by the revenues derived by the
14 authority from the special facility for which they are
15 issued;
- 16 (4) The final maturity date of the revenue bonds shall not
17 be later than either the estimated life of the special
18 facility for which they are issued or the initial term
19 of the special facility lease;
- 20 (5) If deemed necessary or advisable by the authority, or
21 to permit the obligations of the other person to the
22 special facility lease to be registered under the U.S.



1 Securities Act of 1933, the authority, with the
2 approval of the director of finance, may appoint a
3 national or state bank within or without the State to
4 serve as trustee for the holders of the revenue bonds
5 and may enter into a trust indenture or trust
6 agreement with the trustee. The trustee may be
7 authorized by the authority to collect, hold, and
8 administer the revenues derived from the special
9 facility for which the revenue bonds are issued and to
10 apply the revenues to the payment of the principal and
11 interest on the revenue bonds. If any trustee shall
12 be appointed, any trust indenture or agreement entered
13 into by the authority with the trustee may contain the
14 covenants and provisions authorized by part III of
15 chapter 39 to be inserted in a resolution adopted or
16 certificate issued, as though the words "resolution"
17 or "certificate" as used in that part read "trust
18 indenture or agreement". The covenants and provisions
19 shall not be required to be included in the resolution
20 or certificate authorizing the issuance of the revenue
21 bonds if included in the trust agreement or indenture.
22 Any resolution or certificate, trust indenture, or



1 trust agreement adopted, issued, or entered into by
2 the authority pursuant to this part may also contain
3 any provisions required for the qualification thereof
4 under the U.S. Trust Indenture Act of 1939. The
5 authority may pledge and assign to the trustee the
6 special facility lease and the rights of the authority
7 including the revenues thereunder;

8 (6) If the authority, with the approval of the director of
9 finance, shall have appointed or shall appoint a
10 trustee for the holders of the revenue bonds, then
11 notwithstanding the provisions of the second sentence
12 of section 39-68, the director of finance may elect
13 not to serve as fiscal agent for the payment of the
14 principal and interest, and for the purchase,
15 registration, transfer, exchange, and redemption, of
16 the revenue bonds, or may elect to limit the functions
17 the director of finance shall perform as the fiscal
18 agent. The authority, with the approval of the
19 director of finance, may appoint the trustee to serve
20 as the fiscal agent, and may authorize and empower the
21 trustee to perform the functions with respect to
22 payment, purchase, registration, transfer, exchange,



1 and redemption, that the authority may deem necessary,
2 advisable, or expedient, including, without
3 limitation, the holding of the revenue bonds and
4 coupons which have been paid and the supervision and
5 conduction of the destruction thereof in accordance
6 with sections 40-10 and 40-11. Nothing in this
7 paragraph shall be a limitation upon or construed as a
8 limitation upon the powers granted in the preceding
9 paragraph to the authority, with the approval of the
10 director of finance, to appoint the trustee, or
11 granted in sections 36-3 and 39-13 and the third
12 sentence of section 39-68 to the director of finance
13 to appoint the trustee or others, as fiscal agents,
14 paying agents, and registrars for the revenue bonds or
15 to authorize and empower the fiscal agents, paying
16 agents, and registrars to perform the functions
17 referred to in that paragraph and sections, it being
18 the intent of this paragraph to confirm that the
19 director of finance as aforesaid may elect not to
20 serve as fiscal agent for the revenue bonds or may
21 elect to limit the functions the director of finance
22 shall perform as the fiscal agent, that the director



- 1 of finance may deem necessary, advisable, or
2 expedient;
- 3 (7) The authority may sell the revenue bonds either at
4 public or private sale;
- 5 (8) If no trustee shall be appointed to collect, hold, and
6 administer the revenues derived from the special
7 facility for which the revenue bonds are issued, the
8 revenues shall be held in a separate account in the
9 treasury of the State, separate and apart from the
10 Hawaii community development revolving fund, to be
11 applied solely to the carrying out of the resolution,
12 certificate, trust indenture, or trust agreement
13 authorizing or securing the revenue bonds;
- 14 (9) If the resolution, certificate, trust indenture, or
15 trust agreement shall provide that no revenue bonds
16 issued thereunder shall be valid or obligatory for any
17 purpose unless certified or authenticated by the
18 trustee for the holders of the revenue bonds,
19 signatures of the officers of the State upon the bonds
20 required by section 39-56 may be facsimiles of their
21 signatures;



1 (10) Proceeds of the revenue bonds may be used and applied
2 by the authority to reimburse the other person to the
3 special facility lease for all preliminary costs and
4 expenses, including architectural and legal costs; and

5 (11) If the special facility lease shall require the other
6 person to operate, maintain, and repair the special
7 facility which is the subject of the lease, at the
8 other person's expense, the requirement shall
9 constitute compliance by the authority with section
10 39-61(a)(2), and none of the revenues derived by the
11 authority from the special facility shall be required
12 to be applied to the purposes of section 39-62(2).
13 Sections 39-62(4), 39-62(5), and 39-62(6) shall not
14 apply to the revenues derived from a special facility
15 lease."

16 SECTION 15. Act 134, Session Laws of Hawaii 2013, is
17 amended by amending section 3, program heading A (economic
18 development), item No. 23, program ID BED150 Hawaii community
19 development authority, to read as follows:



1	"23. BED150 - HAWAII COMMUNITY DEVELOPMENT AUTHORITY			
2			2.00*	[2.00*] 0*
3	OPERATING	BED	1,086,818W	[1,086,818W] 0
4	INVESTMENT CAPITAL	BED	2,155,000C	[2,555,000C] 0"

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

9 SECTION 17. This Act does not affect rights and duties
10 that matured, penalties that were incurred, and proceedings that
11 were begun before its effective date.

12 SECTION 18. In codifying the new sections added by section
13 2 of this Act, the revisor of statutes shall substitute
14 appropriate section numbers for the letters used in designating
15 the new sections in this Act.

16 SECTION 19. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 20. This Act shall take effect on July 1, 2020.



Report Title:

Hawaii Community Development Authority

Description:

Provides for administrative appeal, judicial review, and intervention in HCDA development permit application proceedings. Amends requirements for notice, hearing, approval, and vesting of rights for developmental permits. Amends HCDA membership and appointment. Requires provision of affordable housing within same district and permits sale of units. Requires legislative oversight of fiscal actions. Prohibits acquisition of public land by set aside. Creates height limit for Kakaako. Effective July 1, 2020. (HB1866 HD2)

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

