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# A BILL FOR AN ACT

RELATING TO URBAN REDEVELOPMENT.

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

1           SECTION 1. The Hawaii Revised Statutes is amended by  
2 adding a new chapter to be appropriately designated and to read  
3 as follows:

4                                 "CHAPTER

5           §   -1 **Findings and purpose.** The legislature finds that  
6 the State has a unique opportunity to address economic  
7 diversification and affordable housing shortages through  
8 transit-oriented development.

9           Prior to any redevelopment efforts, it is necessary to  
10 increase all infrastructure capacity along the transit corridor,  
11 especially around each of the twenty rail transit stations. In  
12 preparation for the completion of the Honolulu rail transit  
13 project, the State must maximize the opportunities for the  
14 development of land around rail transit stations, thereby  
15 supporting the local economy, improving access to  
16 transportation, and increasing rail ridership.



1           Recognizing the need for a focused effort on building  
2 infrastructure capacity to support redevelopment efforts at each  
3 of the rail transit stations and avoiding the need to create  
4 another government entity, the purpose of this chapter is to  
5 create the transit oriented development authority, to plan and  
6 develop infrastructure capacity, pursuant to this chapter, at  
7 each of the rail transit stations that will support the planned  
8 growth and density at each of the rail transit stations.

9           Moreover, the purpose of this chapter is to focus on rail  
10 transit stations that are adjacent to State- and county-owned  
11 lands. The authority shall plan and develop infrastructure to  
12 service lands within a half-mile radius from the rail transit  
13 stations.

14           Furthermore, in order to facilitate the investment of  
15 private capital in public infrastructure, this chapter  
16 encourages the authority to enter into public-private  
17 partnerships established through a lease-back arrangement  
18 between the authority and private investors.

19           The legislature further finds that there exists within the  
20 State vast, unmet state and county transit oriented development  
21 needs. These include but are not limited to a lack of suitable



1 affordable housing; insufficient commercial and industrial  
2 facilities for rent; residential areas that do not have  
3 facilities necessary for basic livability, such as parks and  
4 open space; and areas that are planned for extensive land  
5 allocation to a single use, rather than mixed uses.

6       The legislature further determines that the lack of  
7 planning and coordination in such areas has given rise to these  
8 transit oriented development needs and that existing laws and  
9 public and private mechanisms have proven either incapable or  
10 inadequate to facilitate timely redevelopment.

11       The legislature finds that a new and comprehensive  
12 authority must be created to join the strengths of private  
13 enterprise, public development, and regulation into a new form  
14 capable of long-range planning and implementation of the  
15 improved development of State- and county-owned assets near rail  
16 transit stations. The purpose of this chapter is to establish  
17 such a mechanism in the transit oriented development authority,  
18 a public entity that shall determine development programs and  
19 cooperate with private enterprise and the various components of  
20 federal, state, and county governments in bringing plans to  
21 fruition.



1 For such areas designated as transit oriented development  
2 districts, the legislature determines that the planning and  
3 implementation program of the transit oriented development  
4 authority will result in communities that serve the highest  
5 needs and aspirations of Hawaii's people.

6 The legislature finds that the creation of the transit  
7 oriented development authority, the establishment of transit  
8 oriented development districts, and the issuance of bonds  
9 pursuant to this chapter to finance public facilities serve the  
10 public interest and are matters of statewide concern. In  
11 coordinating transit oriented development, the authority shall  
12 plan for mixed-use districts in which industrial, commercial,  
13 residential, and public uses may coexist compatibly within the  
14 same area.

15 **§ -2 Definitions.** As used in this chapter:

16 "Authority" means the transit oriented development  
17 authority established by section -3.

18 "Commercial project" means an undertaking involving  
19 commercial or light industrial development, which includes a  
20 mixed use development in which commercial or light industrial



1 facilities may be built into, adjacent to, under or above  
2 residential units.

3 "County" means a county within the State with a population  
4 that exceeds six hundred thousand.

5 "Local governing body" means the county council of any  
6 county of the State.

7 "Project" means a specific work or improvement, including  
8 real and personal properties, or any interest therein, acquired,  
9 owned, constructed, reconstructed, rehabilitated, or improved by  
10 the authority, including a residential project, a redevelopment  
11 project, or a commercial project, all as defined herein, or any  
12 combination thereof, which combination shall hereinafter be  
13 called and known as a "mixed use project".

14 "Project cost" means the total of all costs incurred by the  
15 authority in carrying out all undertakings that it deems  
16 reasonable and necessary for the development of a project  
17 including but not limited to: studies; surveys; plans;  
18 specifications; architectural, engineering, or any other  
19 development-related services; acquisition of land and any  
20 improvement thereon; site preparation and development;  
21 construction; reconstruction; rehabilitation; the necessary



1 expenses in administering this chapter; the cost of financing  
2 the project; and relocation costs.

3 "Public agency" means any office, department, board,  
4 commission, bureau, division, public corporation agency, or  
5 instrumentality of the federal, state, or county government.

6 "Public facilities" includes streets, utility and service  
7 corridors, and utility lines where applicable, sufficient to  
8 adequately service developable improvements in the district;  
9 sites for schools, parks, parking garages, sidewalks, and  
10 pedestrian ways; and other community facilities. "Public  
11 facilities" shall also include public highways, as defined by  
12 statute, storm drainage systems, water systems, street lighting  
13 systems, off-street parking facilities, and sanitary sewerage  
14 systems.

15 "Qualified person" includes any individual, partnership,  
16 corporation, or any public agency, possessing the competence,  
17 expertise, experience, and resources, including financial,  
18 personnel, and tangible resources, required for the purposes of  
19 the project and such other qualifications as may be deemed  
20 desirable by the authority in administering this chapter.



1 "Real property" means lands, structures, and interests in  
2 land, including lands under water and riparian rights, space  
3 rights, and air rights and any and all other things and rights  
4 usually included within the term. "Real property" also means  
5 any and all interests in such property less than full title,  
6 such as easements, incorporeal hereditaments, and every estate,  
7 interest, or right, legal or equitable, including terms for  
8 years and liens thereon by way of judgments, mortgages, or  
9 otherwise.

10 "Redevelopment project" means an undertaking for the  
11 acquisition, clearance, planning, reconstruction, and  
12 rehabilitation or a combination of these and other methods, of  
13 an area for a residential project, for a commercial project, and  
14 for other facilities appurtenant thereto, pursuant to and in  
15 accordance with this chapter. The terms "acquisition,  
16 clearance, planning, reconstruction, and rehabilitation"  
17 includes renewal, redevelopment, conservation, restoration, or  
18 improvement, or any combination thereof.

19 "Residential project" means a project or that portion of a  
20 mixed use project, including residential dwelling units,



1 designed and intended for the purpose of providing housing and  
2 such facilities as may be incidental or appurtenant thereto.

3       **§ -3 Transit oriented development authority;**

4 **established.** (a) There is established the transit oriented  
5 development authority, which shall be a body corporate and a  
6 public instrumentality of the State, for the purpose of  
7 implementing this chapter. The authority shall be placed within  
8 the department of business, economic development, and tourism  
9 for administrative purposes.

10       (b) The authority shall consist of:

- 11       (1) The director of business, economic development, and  
12             tourism, or the director's designee;
- 13       (2) The county director of planning and permitting, or the  
14             applicable county director's designee;
- 15       (3) The county director of facilities maintenance, or the  
16             applicable county director's designee;
- 17       (4) The county director of land management, or the  
18             applicable county director's designee;
- 19       (5) The county employee who is responsible for overseeing  
20             transit oriented development;





1           (6) A representative appointed by the president of the  
2           senate; and

3           (7) A representative appointed by the speaker of the house  
4           of representatives.

5           (c) Notwithstanding section 92-15, a majority of all  
6 members shall constitute a quorum to conduct business, and the  
7 concurrence of a majority of all eligible voting members as  
8 specified in this section shall be necessary to make any action  
9 of the authority valid. All members shall continue in office  
10 until their respective successors have been appointed and  
11 qualified.

12           (d) The authority shall appoint an executive director, who  
13 shall serve as the chief executive officer of the authority.  
14 The authority shall set the salary of the executive director,  
15 who shall serve at the pleasure of the authority and shall be  
16 exempt from chapter 76.

17           (e) The authority shall annually elect the chairperson and  
18 vice chairperson from among its members.

19           (f) The members of the authority shall serve without  
20 compensation, but each shall be reimbursed for expenses,



1 including travel expenses, incurred in the performance of their  
2 duties.

3       **§ -4 Powers; generally.** The authority may:

4       (1) Sue and be sued;

5       (2) Have a seal and alter the same at pleasure;

6       (3) Make and execute contracts and all other instruments  
7             necessary or convenient for the exercise of its powers  
8             and functions under this chapter;

9       (4) Make and alter bylaws for its organization and  
10            internal management;

11       (5) Make rules with respect to its projects, operations,  
12            properties, and facilities, which rules shall be in  
13            conformance with chapter 91;

14       (6) Through its executive director, appoint officers,  
15            agents, and employees; prescribe their duties and  
16            qualifications; and fix their salaries, without regard  
17            to chapter 76;

18       (7) Prepare or cause to be prepared a transit oriented  
19            development plan for all designated transit oriented  
20            development districts;



- 1           (8) Acquire, reacquire, or contract to acquire or  
2                    reacquire by grant or purchase real, personal, or  
3                    mixed property or any interest therein; to own, hold,  
4                    clear, improve, and rehabilitate, and to sell, assign,  
5                    exchange, transfer, convey, lease, or otherwise  
6                    dispose of or encumber the same;
- 7           (9) Acquire or reacquire by condemnation real, personal,  
8                    or mixed property or any interest therein for public  
9                    facilities, including but not limited to streets,  
10                   sidewalks, parks, schools, and other public  
11                   improvements;
- 12          (10) By itself, or in partnership with qualified persons,  
13                    acquire, reacquire, construct, reconstruct,  
14                    rehabilitate, improve, alter, or repair or provide for  
15                    the construction, reconstruction, improvement,  
16                    alteration, or repair of any project; own, hold, sell,  
17                    assign, transfer, convey, exchange, lease, or  
18                    otherwise dispose of or encumber any project, and in  
19                    the case of the sale of any project, accept a purchase  
20                    money mortgage in connection therewith; and repurchase  
21                    or otherwise acquire any project that the authority



- 1           has theretofore sold or otherwise conveyed,  
2           transferred, or disposed of;
- 3       (11) Arrange or contract for the planning, opening,  
4           grading, or closing of streets, roads, roadways,  
5           alleys, or other places, or for the furnishing of  
6           facilities or for the acquisition of property or  
7           property rights or for the furnishing of property or  
8           services in connection with a project;
- 9       (12) Grant options to purchase any project or to renew any  
10           lease entered into by it in connection with any of its  
11           projects, on terms and conditions as it deems  
12           advisable;
- 13       (13) Prepare or cause to be prepared plans, specifications,  
14           designs, and estimates of costs for the construction,  
15           reconstruction, rehabilitation, improvement,  
16           alteration, or repair of any project, and from time to  
17           time, to modify the plans, specifications, designs, or  
18           estimates;
- 19       (14) Provide advisory, consultative, training, and  
20           educational services, technical assistance, and advice  
21           to any person, partnership, or corporation, either



1 public or private, to carry out the purposes of this  
2 chapter, and engage the services of consultants on a  
3 contractual basis for rendering professional and  
4 technical assistance and advice;

5 (15) Procure insurance against any loss in connection with  
6 its property and other assets and operations in  
7 amounts and from insurers as it deems desirable;

8 (16) Contract for and accept gifts or grants in any form  
9 from any public agency or from any other source;

10 (17) Assisted by the applicable county director of land  
11 management, identify county-owned real property for  
12 the development of affordable housing near rail  
13 transit stations;

14 (18) Develop affordable residential projects on the county-  
15 owned real property identified in paragraph (17); and

16 (19) Do any and all things necessary to carry out its  
17 purposes and exercise the powers given and granted in  
18 this chapter.

19 **§ -5 Assignment of powers and duties prohibited.** The  
20 authority shall not assign to any person or agency, including  
21 the executive director of the authority, any of its powers and



1 duties related to the approval of any variance, exemption, or  
2 modification of any provision of a transit oriented development  
3 plan or transit oriented development rules.

4       **§ -6 Designation of transit oriented development**

5 **districts.** (a) The legislature may designate an area as a  
6 transit oriented development district if it determines that  
7 there is need for planning, renewal, or redevelopment of that  
8 area. The designation shall describe the boundaries of the  
9 district.

10       (b) After designation pursuant to subsection (a), the  
11 authority shall develop a transit oriented development plan for  
12 the designated district. The plan shall include but not be  
13 limited to transit oriented development guidance policies,  
14 district-wide improvement programs, and transit oriented  
15 development rules.

16       (c) The authority may enter into cooperative agreements  
17 with qualified persons or public agencies, where the powers,  
18 services, and capabilities of the persons or agencies are deemed  
19 necessary and appropriate for the development of the transit  
20 oriented development plan, and include, at a minimum, the  
21 following:



- 1           (1) Determining how to optimize the amount of workforce  
2                   and affordable housing in each district;
- 3           (2) Determining how to optimize public facilities,  
4                   including schools, parks, libraries and other public  
5                   facilities in each district;
- 6           (3) Identifying the need for infrastructure capacity  
7                   building to support the planned density at the rail  
8                   transit stations, and various alternatives on how the  
9                   infrastructure could be financed; and
- 10          (4) Providing an economic model that would illustrate  
11                   development or redevelopment opportunities with  
12                   projected returns to public or private investors and  
13                   the overall economic benefit in new taxes from jobs,  
14                   businesses, real property taxes, and other factors.
- 15          (d) Whenever possible, planning activities of the  
16 authority shall be coordinated with federal, state, and county  
17 plans. Consideration shall be given to state goals and  
18 policies, adopted state plan or land use guidance policies,  
19 county general plans, development plans, and ordinances.
- 20          (e) The authority shall hold a public hearing on a  
21 proposed transit oriented development plan pursuant to chapter



1 91 and shall, after consideration of comments received and  
2 appropriate revision, submit the transit oriented development  
3 plan to the governor for the governor's approval.

4 (f) After the approval pursuant to subsection (e), the  
5 governor shall submit to the legislature requests for  
6 appropriations, authorization to issue bonds, or both, to  
7 implement the transit oriented development plan in an orderly,  
8 affordable, and feasible manner.

9 The governor shall submit the requests to the legislature  
10 as part of the biennial budget or supplemental budget, as  
11 appropriate. In addition to the information, data, and  
12 materials required under chapter 37, the requests shall be  
13 accompanied by:

14 (1) Plans, maps, narrative descriptions, and other  
15 appropriate materials on the:

16 (A) Locations and design of projects or public  
17 facilities proposed to be funded; and

18 (B) Phase of the transit oriented development plans  
19 proposed to be implemented with the requested  
20 funds; and





1           (2) Other information deemed by the governor to be of  
2           significance to the legislature regarding the projects  
3           or public facilities proposed to be funded, including  
4           a discussion of the public benefits intended by, and  
5           adverse effects which may result from, implementation  
6           of the projects or public facilities.

7           (g) The authority may amend the transit oriented  
8           development plan as may be necessary. Amendments shall be made  
9           in accordance with chapter 91.

10           **§ -7 Community and public notice requirements; posting**  
11           **on the authority's website; required.** (a) The authority shall  
12           adopt community and public notice procedures pursuant to chapter  
13           91 that shall include, at a minimum:

14           (1) A means to effectively engage the community in which  
15           the authority is planning a development project to  
16           ensure that community concerns are received and  
17           considered by the authority;

18           (2) The posting of the authority's proposed plans for  
19           development of transit oriented development districts,  
20           public hearing notices, and minutes of its proceedings  
21           on the authority's website;



- 1           (3) The posting of every application for a development  
2           permit for any project within a transit oriented  
3           development district on the authority's website when  
4           the application is deemed complete;
- 5           (4) Notification by the applicant of any application for a  
6           development permit for a project valued at \$250,000 or  
7           more by first-class mail, postage prepaid, to owners  
8           and lessees of record of real property located within  
9           a three-hundred-foot radius of the perimeter of the  
10          proposed project identified from the most current list  
11          available from the real property assessment division  
12          of the department of budget and fiscal services of the  
13          county in which the proposed project is located, when  
14          the application is deemed complete; provided that  
15          notice mailed pursuant to this paragraph shall include  
16          but not be limited to notice of:
- 17               (A) Project specifications;
- 18               (B) Requests for variance, exemption, or modification  
19               of a transit oriented development plan or the  
20               authority's transit oriented development rules;  
21               and



1 (C) Procedures for intervention and a contested case  
2 hearing; and

3 (5) Any other information that the public may find useful  
4 so that it may meaningfully participate in the  
5 authority's decision-making processes.

6 (b) The authority shall notify the president of the senate  
7 and speaker of the house of representatives:

8 (1) Of any public hearing upon posting of the hearing  
9 notice; and

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

13 **§ -8 Public hearing for decision-making; separate**  
14 **hearings required; contested case hearing; judicial review. (a)**

15 When rendering a decision regarding:

16 (1) An amendment to any of the authority's transit  
17 oriented development rules established pursuant to  
18 chapter 91 and section -10; or

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



1 the authority shall render its decision at a public hearing  
2 separate from the hearing at which the proposal under paragraph  
3 (1) or (2) was presented.

4 (b) The authority shall issue a public notice in  
5 accordance with section -7 and post the notice on its  
6 website; provided that the decision-making hearing shall not  
7 occur earlier than five business days after the notice has been  
8 posted. Public notice issued pursuant to this subsection for  
9 public hearings on the acceptance of a developer's proposal to  
10 develop lands under the authority's control shall state that any  
11 written motion to intervene as a formal party to the proceeding  
12 shall be received within twenty days after the publication date  
13 of the public notice.

14 (c) Prior to rendering a decision, the authority shall  
15 provide the public with the opportunity to testify at its  
16 decision-making hearing; provided that members of the public who  
17 are not intervenors in the proceeding shall not be considered  
18 formal parties to the proceeding.

19 (d) The authority shall notify the president of the senate  
20 and speaker of the house of representatives:



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

3 (2) With a written report detailing the public's reaction  
4 at the public hearing, within one week after the  
5 hearing.

6 (e) When considering any developer's proposal to develop  
7 lands under the authority's control that includes any request  
8 for a variance, exemption, or modification of a transit oriented  
9 development plan or of the authority's transit oriented  
10 development rules, the authority shall consider the request for  
11 variance, exemption, or modification at a public hearing,  
12 noticed in accordance with section -7, separate from and  
13 subsequent to the hearing at which the developer's proposal was  
14 presented; provided that the authority may consider all requests  
15 applicable to a single proposal at the same public hearing. The  
16 authority's decision on requests subject to this subsection  
17 shall be rendered at the decision-making hearing on the  
18 developer's proposal.

19 (f) No final decision of the authority on a developer's  
20 proposal shall be issued until after all proceedings required by  
21 this section are finally concluded.



1 (g) Proceedings regarding the acceptance of a developer's  
2 proposal to develop lands under the authority's control shall be  
3 considered a contested case hearing.

4 (h) Any party aggrieved by a final decision of the  
5 authority regarding the acceptance of a developer's proposal to  
6 develop lands under the authority's control may seek judicial  
7 review of the decision within thirty days, pursuant to section  
8 91-14.

9 (i) The authority shall not approve any developer's  
10 proposal to develop lands under the authority's control, unless  
11 the authority finds that the proposed development project is  
12 reasonable and is consistent with the development rules and  
13 policies of the relevant development district. In making its  
14 finding pursuant to this subsection, the authority shall  
15 consider:

- 16 (1) The extent to which the proposed project:
- 17 (A) Advances the goals, policies, and objectives of
  - 18 the applicable district plan;
  - 19 (B) Protects, preserves, or enhances desirable
  - 20 neighborhood characteristics through compliance



- 1 with the standards and guidelines of the
- 2 applicable district rules;
- 3 (C) Avoids a substantially adverse effect on
- 4 surrounding land uses through compatibility with
- 5 the existing and planned land use character of
- 6 the surrounding area; and
- 7 (D) Provides housing opportunities for low- and
- 8 moderate-income groups;
- 9 (2) The impact of the proposed project on the following
- 10 areas of urban design, as applicable:
- 11 (A) Pedestrian oriented development, including
- 12 "complete streets" design;
- 13 (B) Transit oriented development, including rail,
- 14 bus, and other modes of rapid transit; and
- 15 (C) Community amenities such as gathering places,
- 16 community centers, culture and arts facilities,
- 17 and the full array of public facilities normally
- 18 provided by the public sector;
- 19 (3) The impact of the proposed project on the following
- 20 areas of state concern:



- 1 (A) Preservation of important natural systems or
- 2 habitats;
- 3 (B) Maintenance of valued cultural, historical, or
- 4 natural resources;
- 5 (C) Maintenance of other resources relevant to the
- 6 State's economy;
- 7 (D) Commitment of state funds and resources;
- 8 (E) Employment opportunities and economic
- 9 development; and
- 10 (F) Maintenance and improvement of the quality of
- 11 educational programs and services provided by
- 12 schools; and
- 13 (4) The representations and commitments made by the
- 14 developer in the permit application process.

15 **§ -9 District-wide improvement program.** (a) The  
16 authority shall develop a district-wide improvement program to  
17 identify necessary district-wide public facilities within a  
18 transit oriented development district.

19 (b) Whenever the authority shall determine to undertake,  
20 or cause to be undertaken, any public facility as part of the  
21 district-wide improvement program, the cost of providing the





1 public facilities shall be assessed against the real property in  
2 the transit oriented development district specially benefiting  
3 from the public facilities. The authority shall determine the  
4 areas of the transit oriented development district that will  
5 benefit from the public facilities to be undertaken and, if less  
6 than the entire transit oriented development district benefits,  
7 the authority may establish assessment areas within the transit  
8 oriented development district. The authority may issue and sell  
9 bonds in amounts as may be authorized by the legislature to  
10 provide funds to finance the public facilities. The authority  
11 shall fix the assessments against real property specially  
12 benefited. All assessments made pursuant to this section shall  
13 be a statutory lien against each lot or parcel of land assessed  
14 from the date of the notice declaring the assessment until paid  
15 and the lien shall have priority over all other liens, except  
16 the lien of property taxes. As between liens of assessments,  
17 the earlier lien shall be superior to the later lien.

18 (c) Bonds issued to provide funds to finance public  
19 facilities shall be secured solely by the real properties  
20 benefited or improved, the assessments thereon, or by the  
21 revenues derived from the program for which the bonds are



1 issued, including reserve accounts and earnings thereon,  
2 insurance proceeds, and other revenues, or any combination  
3 thereof. The bonds may be additionally secured by the pledge or  
4 assignment of loans and other agreements or any note or other  
5 undertaking, obligation, or property held by the authority.  
6 Bonds issued pursuant to this section and the income therefrom  
7 shall be exempt from all state and county taxation, except  
8 transfer and estate taxes. The bonds shall be issued according  
9 and subject to the provisions of the rules adopted pursuant to  
10 this section.

11 (d) The authority shall assess the real property within an  
12 assessment area according to the special benefits conferred upon  
13 the real property by the public facilities. These methods may  
14 include assessment on a frontage basis or according to the area  
15 of real property within an assessment area or any other  
16 assessment method which assesses the real property according to  
17 the special benefit conferred, or any combination thereof. No  
18 such assessment levied against real property specially benefited  
19 as provided by this chapter shall constitute a tax on real  
20 property within the meanings of any constitutional or statutory  
21 provisions.



1           (e) The authority shall adopt rules pursuant to chapter  
2 91, and may amend the rules from time to time, providing for the  
3 method of undertaking and financing public facilities in an  
4 assessment area or an entire transit oriented development  
5 district. The rules adopted pursuant to this section shall  
6 include but are not limited to the following: methods by which  
7 the authority shall establish assessment areas; the method of  
8 assessment of real properties specially benefited; the costs to  
9 be borne by the authority, the county in which the public  
10 facilities are situated, and the property owners; the procedures  
11 before the authority relating to the creation of the assessment  
12 areas by the owners of real property therein, including  
13 provisions for petitions, bids, contracts, bonds, and notices;  
14 provisions relating to assessments; provisions relating to  
15 financing, such as bonds, revolving funds, advances from  
16 available funds, special funds for payment of bonds, payment of  
17 principal and interest, and sale and use of bonds; provisions  
18 relating to funds and refunding of outstanding debts; and  
19 provisions relating to limitations on time to sue, and other  
20 related provisions.



1           (f) The authority may, in its discretion, enter into any  
2 agreement with the county in which the public facilities are  
3 located, to implement all or part of the purposes of this  
4 section.

5           (g) All sums collected under this section shall be  
6 deposited in the Hawaii transit oriented development revolving  
7 fund established by section     -19; except that notwithstanding  
8 section     -19, all moneys collected on account of assessments  
9 and interest thereon for any specific public facilities financed  
10 by the issuance of bonds shall be set apart in a separate  
11 special fund and applied solely to the payment of the principal  
12 and interest on these bonds; the cost of administering,  
13 operating, and maintaining the program; the establishment of  
14 reserves; and other purposes as may be authorized in the  
15 proceedings providing for the issuance of the bonds. If any  
16 surplus remains in any special fund after the payment of the  
17 bonds chargeable against the special fund, it shall be credited  
18 to and become a part of the Hawaii transit oriented development  
19 revolving fund. Moneys in the Hawaii transit oriented  
20 development revolving fund may be used to make up any  
21 deficiencies in the special fund.



1 (h) If the public facilities to be financed through bonds  
2 issued by the authority may be dedicated to the county in which  
3 the public facilities are to be located, the authority shall  
4 ensure that the public facilities are designed and constructed  
5 to meet county requirements.

6 (i) If it becomes necessary to remove, relocate, replace,  
7 or reconstruct public utility facilities, the authority shall  
8 establish by rule the allocation of cost between the authority,  
9 the affected public utilities, and properties that may specially  
10 benefit from such improvement, if any. In determining the  
11 allocation of cost, the authority shall consider the cost  
12 allocation policies for improvement districts established by the  
13 county in which the removal, relocation, replacement, or  
14 reconstruction is to take place.

15 **§ -10 Transit oriented development rules.** (a) The  
16 authority shall establish transit oriented development rules  
17 under chapter 91 on health, safety, building, planning, zoning,  
18 and land use which, upon final adoption of a transit oriented  
19 development plan, shall supersede all other inconsistent  
20 ordinances and rules relating to the use, zoning, planning, and  
21 development of land and construction thereon. Rules adopted



1 under this section shall follow existing law, rules, ordinances,  
2 and regulations as closely as is consistent with standards  
3 meeting minimum requirements of good design, pleasant amenities,  
4 health, safety, and coordinated development. The authority may,  
5 in the transit oriented development plan or by a transit  
6 oriented development rule, provide that lands within a transit  
7 oriented development district shall not be developed beyond  
8 existing uses or that improvements thereon shall not be  
9 demolished or substantially reconstructed, or provide other  
10 restrictions on the use of the lands.

11 (b) Development rights under a master plan permit and  
12 master plan development agreement issued and approved by the  
13 authority are vested under the transit oriented development  
14 district rules in effect at the time of initial approval by the  
15 authority and shall govern development on lands subject to such  
16 permit and agreement.

17 **§ -11 Use of public lands; acquisition of state and**  
18 **county lands.** (a) If state lands under the control and  
19 management of other public agencies are required by the  
20 authority for its purposes, the agency having the control and  
21 management of those required lands may, upon request by the



1 authority and with the approval of the governor or mayor, as  
2 applicable, convey or lease the lands to the authority upon  
3 terms and conditions as may be agreed to by the parties.

4 (b) Notwithstanding subsection (a), no public lands shall  
5 be conveyed or leased to the authority if the conveyance or  
6 lease would impair any covenant between the State or any county  
7 or any department or board thereof and the holders of bonds  
8 issued by the State or the county, department, or board.

9 (c) The authority may negotiate lease terms on any lands  
10 it controls, with terms and conditions that are deemed to be in  
11 the best interest of the State in achieving its goals to develop  
12 or redevelop State- and county-owned lands near rail transit  
13 stations; provided that the maximum term of an initial lease or  
14 lease-back arrangement shall not exceed ninety-nine years.

15 **§ -12 Developments within special management areas and**  
16 **shoreline setback.** (a) Notwithstanding chapter 205A, all  
17 requests for developments within a special management area and  
18 shoreline setback variances for developments on any lands within  
19 a transit oriented development district, for which a transit  
20 oriented development plan has been developed and approved in  
21 accordance with section -6, shall be submitted to and



1 reviewed by the lead agency as defined in chapter 205A. In  
2 transit oriented development districts for which a transit  
3 oriented development plan has not been developed and approved in  
4 accordance with section -6, parts II and III of chapter 205A  
5 shall continue to be administered by the applicable county  
6 authority until a transit oriented development plan for the  
7 district takes effect.

8 (b) In the review of such requests, the lead agency shall  
9 conform to the following, as deemed appropriate:

10 (1) Applicable county rules adopted in accordance with  
11 section 205A-26 for the review of developments within  
12 a special management area, except that section 205A-  
13 26(2)(C) shall not apply; and

14 (2) Part III of chapter 205A and applicable county rules  
15 for the review of developments within the shoreline  
16 setback.

17 (c) With the approval of the lead agency, the developments  
18 may be allowed without a special management area permit or  
19 shoreline setback variance as required by chapter 205A.

20 **§ -13 Condemnation of real property.** Upon making a  
21 finding that it is necessary to acquire any real property for





1 its immediate or future use for the purposes of this chapter,  
2 the authority may acquire the property by condemnation pursuant  
3 to chapter 101, including property already devoted to a public  
4 use. The property shall not thereafter be taken for any other  
5 public use without the consent of the authority. No award of  
6 compensation shall be increased by reason of any increase in the  
7 value of real property caused by the designation of a transit  
8 oriented development district or plan adopted pursuant to a  
9 designation, or the actual or proposed acquisition, use, or  
10 disposition of any other real property by the authority.

11       **§ -14 Relocation.** (a) The authority shall adopt rules  
12 pursuant to chapter 91 to ensure the appropriate relocation  
13 within or outside the district of persons, families, and  
14 businesses displaced by governmental action within the district.  
15 The rules may include but are not limited to the establishment  
16 and operation of a central relocation office; relocation  
17 payments for actual moving costs; fixed payments for losses  
18 suffered; payments for replacement housing or business  
19 locations; relocation payments and loans to displaced businesses  
20 for certain costs related to the re-establishment of their  
21 business operations; and other similar relocation matters.



1           (b) The authority shall provide relocation assistance to  
2 persons, families, and businesses within the district that are  
3 displaced by private action; provided that assistance shall not  
4 include any form of direct monetary payments, except that the  
5 authority may make relocation loans to displaced businesses in  
6 accordance with rules adopted by the authority. Temporary  
7 relocation facilities within or outside the district may be made  
8 available to those displaced; provided that those displaced by  
9 government action shall be afforded priority to these  
10 facilities.

11           **§ -15 Construction contracts.** The authority shall award  
12 construction contracts in conformity with the applicable  
13 provisions of chapter 103D.

14           **§ -16 Dedication for public facilities as condition to**  
15 **development.** The authority shall establish rules requiring  
16 dedication for public facilities of land or facilities, or cash  
17 payments in lieu thereof, by developers as a condition of  
18 developing real property pursuant to the transit oriented  
19 development plan. Where state and county public facilities  
20 dedication laws, ordinances, or rules differ, the provision for  
21 greater dedication shall prevail.



1           **§ -17 Sale or lease of redevelopment projects.** (a) The  
2 authority may, without recourse to public auction, sell or lease  
3 for a term not exceeding ninety-nine years, all or any portion  
4 of the real or personal property constituting a redevelopment  
5 project to any person, upon terms and conditions as may be  
6 approved by the authority, if the authority finds that the sale  
7 or lease conforms with the transit oriented development plan.

8           (b) In the case of residential projects or redevelopment  
9 projects, the terms of the sale shall provide for the repurchase  
10 of the property by the authority at its option, in the event  
11 that the purchaser, if other than a state agency, desires to  
12 sell the property within ten years; provided that this  
13 requirement may be waived by the authority if the authority  
14 determines that a waiver will not be contrary to the transit  
15 oriented development plan. The authority shall establish at the  
16 time of original sale a formula setting forth a basis for a  
17 repurchase price based on market considerations, including  
18 interest rates, land values, construction costs, and federal tax  
19 laws.

20           If the purchaser in a residential project is a state  
21 agency, the authority may include as a term of the sale a



1 provision for the repurchase of the property in conformance with  
2 this section.

3       **§ -18 Residential projects; cooperative agreements.** (a)

4 If the authority deems it desirable to develop a residential  
5 project, it may enter into an agreement with qualified persons  
6 to construct, maintain, operate, or otherwise dispose of the  
7 residential project. Sale, lease, or rental of dwelling units  
8 in the project shall be as provided by the rules established by  
9 the authority. The authority may enter into cooperative  
10 agreements with the Hawaii housing finance and development  
11 corporation for the financing, development, construction, sale,  
12 lease, or rental of dwelling units and projects.

13       (b) The authority may transfer the housing fees collected  
14 from private residential developments for the provision of  
15 housing for low- to moderate-income residents to the Hawaii  
16 housing finance and development corporation for the financing,  
17 development, construction, sale, lease, or rental of such  
18 housing within or without the transit oriented development  
19 districts. The fees shall be used only for projects owned by  
20 the State, owned by the county, or owned or developed by a  
21 qualified nonprofit organization. As used in this section,



1 "nonprofit organization" means a corporation, association, or  
2 other duly chartered organization registered with the State,  
3 which organization has received charitable status under the  
4 Internal Revenue Code of 1986, as amended.

5       **§ -19 Hawaii transit oriented development revolving**  
6 **fund.** There is created the Hawaii transit oriented development  
7 revolving fund into which all receipts and revenues of the  
8 authority shall be deposited. Proceeds from the fund shall be  
9 used for the purposes of this chapter.

10       **§ -20 Expenditures of revolving funds under the**  
11 **authority exempt from appropriation and allotment.** Except as to  
12 administrative expenditures, and except as otherwise provided by  
13 law, expenditures from any revolving fund administered by the  
14 authority may be made by the authority without appropriation or  
15 allotment of the legislature; provided that no expenditure shall  
16 be made from and no obligation shall be incurred against any  
17 revolving fund in excess of the amount standing to the credit of  
18 the fund or for any purpose for which the fund may not lawfully  
19 be expended. Nothing in sections 37-31 to 37-41 shall require  
20 the proceeds of any revolving fund administered by the authority  
21 to be re-appropriated annually.



1           **§ -21 Exemption from taxation.** The authority shall not  
2 be required to pay assessments levied by any county, nor shall  
3 the authority be required to pay state taxes of any kind.

4           **§ -22 Annual report.** The authority shall submit to the  
5 governor and the legislature, at least twenty days prior to the  
6 convening of any regular session, a complete and detailed report  
7 of its activities.

8           **§ -23 Issuance of bonds.** The director of finance may,  
9 from time to time, issue general obligation bonds pursuant to  
10 chapter 39 in amounts as may be authorized by the legislature,  
11 for the purposes of this chapter.

12           **§ -24 Violations and penalty.** (a) The authority may  
13 set, charge, and collect reasonable fines for violation of this  
14 chapter or any rule adopted pursuant to chapter 91. Any person  
15 violating any of the provisions of this chapter or any rule  
16 adopted pursuant to chapter 91, for which violation a penalty is  
17 not otherwise provided, shall be fined not more than \$500 per  
18 day and shall be liable for administrative costs incurred by the  
19 authority.

20           (b) The authority may maintain an action for an injunction  
21 to restrain any violation of the provisions of this chapter and



1 may take any other lawful action to prevent or remedy any  
2 violation.

3 (c) Any person violating any provision of this chapter  
4 shall, upon conviction, be punished by a fine not exceeding  
5 \$1,000 or by imprisonment not exceeding thirty days, or both.  
6 The continuance of a violation after conviction shall be deemed  
7 a new offense for each day of continuance.

8 **§ -25 Transit oriented development district;**  
9 **prohibitions.** The authority is prohibited from selling or  
10 otherwise assigning the fee simple interest in any lands in the  
11 transit oriented development district to which the authority in  
12 its corporate capacity holds title, except with respect to:

- 13 (1) Utility easements;
- 14 (2) Remnants as defined in section 171-52;
- 15 (3) Grants to any state or county department or agency;
- 16 and
- 17 (4) Private entities for purposes of any easement,  
18 roadway, or infrastructure improvements.

19 **§ -26 Lease of projects.** (a) The authority may,  
20 without recourse to public auction or public notice for sealed  
21 bids, lease for a term not exceeding ninety-nine years, all or



1 any portion of the real or personal property constituting a  
2 project to any person, upon such terms and conditions as may be  
3 approved by the authority, if the authority finds that the lease  
4 conforms with the transit oriented development plan.

5 (b) In the case of any sale of the leasehold interest in  
6 the project, the terms of the sale shall provide for the  
7 repurchase of the leasehold property by the authority at its  
8 option, in the event that the purchaser, if other than a state  
9 agency, desires to sell the property within ten years; provided  
10 that this requirement may be waived by the authority if the  
11 authority determines that a waiver will not be contrary to the  
12 transit oriented development plan. The authority shall  
13 establish at the time of original sale a formula setting forth a  
14 basis for a repurchase price based on market considerations  
15 including but not limited to interest rates, land values,  
16 construction costs, and federal tax laws.

17 (c) If the purchaser in a residential project is a state  
18 agency, the authority may include as a term of the sale a  
19 provision for the repurchase of the property in conformance with  
20 this section.





1           **§ -27 Districts; established; boundaries.** The transit  
2 oriented development district is hereby established. The  
3 district boundaries are defined as a one-half mile radius around  
4 each of the following rail transit stations:

- 5           (1) University of Hawaii, west Oahu, transit station;
- 6           (2) Leeward community college transit station;
- 7           (3) Aloha Stadium transit station;
- 8           (4) Kalihi transit station; and
- 9           (5) Iwilei transit station.

10           **§ -28 Transit oriented development district; development**  
11 **guidance policies.** The following shall constitute the  
12 development guidance policies generally governing the  
13 authority's action in the transit oriented development district:

- 14           (1) Development shall result in a community that 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. Although the  
21           authority's development responsibilities apply only to



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

- 19 (2) Existing and future industrial uses shall be permitted  
20 and encouraged in appropriate locations within the  
21 district. No plan or implementation strategy shall



- 1 prevent continued activity or redevelopment of  
2 industrial and commercial uses which meet reasonable  
3 performance standards;
- 4 (3) Activities shall be located to provide primary  
5 reliance on public transportation and pedestrian  
6 facilities for internal circulation within the  
7 district or designated subareas;
- 8 (4) Major view planes, view corridors, and other  
9 environmental elements, such as natural light and  
10 prevailing winds, shall be preserved through necessary  
11 regulation and design review;
- 12 (5) Redevelopment of the district shall be compatible with  
13 plans of the surrounding areas;
- 14 (6) Historic sites and culturally significant facilities,  
15 settings, or locations shall be preserved;
- 16 (7) Land use activities within the district, where  
17 compatible, shall, to the greatest possible extent, be  
18 mixed horizontally, i.e., within blocks or other land  
19 areas, and vertically, as integral units of multi-  
20 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 low- or  
7 moderate-income residents may be required as a  
8 condition of redevelopment in residential use.

9 Residential development shall provide necessary  
10 community facilities, such as open space, parks,  
11 community meeting places, child care centers, and  
12 other 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 **§ -29 County-owned real property.** (a) The county shall  
20 continue to own any real property identified in section -  
21 4(17).



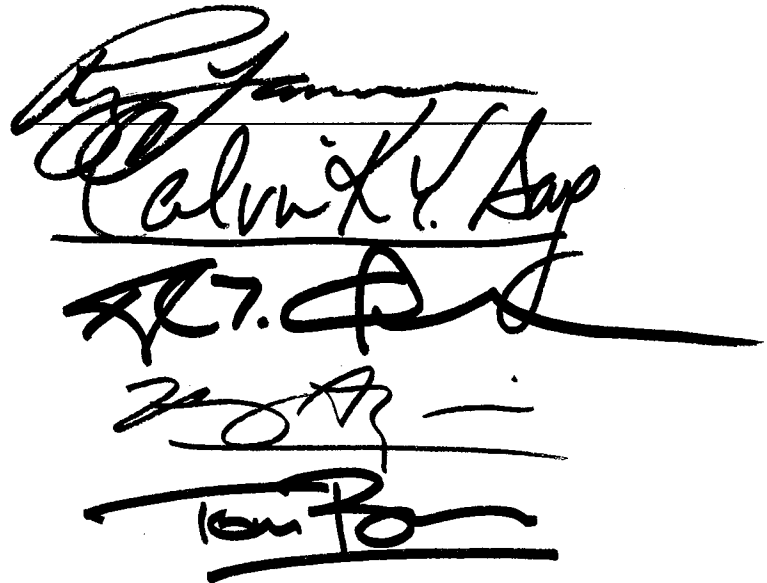
# H.B. NO. 1212

1 (b) Notwithstanding subsection (a), the authority shall  
2 have the power to develop affordable residential projects on the  
3 real property and negotiate with any other parties, as  
4 necessary, for this purpose."

5 SECTION 2. This Act shall take effect upon its approval.

6

INTRODUCED BY:

  
Calvin Y. Aap  
R. A. J.  
[Signature]  
[Signature]

JAN 24 2017



# H.B. NO. 1212

**Report Title:**

State Urban Redevelopment

**Description:**

Establishes the Transit Oriented Development Authority.

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

