

1 development of land around rail transit stations, thereby
2 supporting the local economy, improving access to
3 transportation, and increasing rail ridership.

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

12 Moreover, the purpose of this chapter is to focus on rail
13 transit stations that are adjacent to state-owned lands. The
14 authority shall plan and develop infrastructure to service lands
15 within a half-mile radius from one of the following rail transit
16 stations: University of Hawaii, West Oahu campus, transit
17 station; Leeward community college transit station; Aloha
18 Stadium transit station; Kalihi transit station; and Iwilei
19 transit station.

20 Furthermore, to facilitate the investment of private
21 capital in public infrastructure, this chapter encourages the



1 authority to enter into public-private partnerships established
2 through a lease-back arrangement between the authority and
3 private investors.

4 The legislature further finds that there exists within the
5 State vast, unmet state transit oriented development needs.
6 These include but are not limited to a lack of suitable
7 affordable housing; insufficient commercial and industrial
8 facilities for rent; residential areas that do not have
9 facilities necessary for basic livability, such as parks and
10 open space; and areas that are planned for extensive land
11 allocation to a single use, rather than mixed uses.

12 The legislature further determines that the lack of
13 planning and coordination in such areas has given rise to these
14 state transit oriented development needs and that existing laws
15 and public and private mechanisms have proven either incapable
16 or inadequate to facilitate timely redevelopment.

17 The legislature finds that a new and comprehensive
18 authority must be created to join the strengths of private
19 enterprise, public development, and regulation into a new form
20 capable of long-range planning and implementation of the
21 improved development of State-owned assets near rail transit



1 stations. The purpose of this chapter is to establish such a
2 mechanism in the state transit oriented development authority, a
3 public entity that shall determine development programs and
4 cooperate with private enterprise and the various components of
5 federal, state, and county governments in bringing plans to
6 fruition.

7 For such areas designated as state transit oriented
8 development districts, the legislature determines that the
9 planning and implementation program of the state transit
10 oriented development authority will result in communities that
11 serve the highest needs and aspirations of Hawaii's people.

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



1 § -2 Definitions. As used in this chapter:

2 "Authority" means the state transit oriented development
3 authority established by section -3.

4 "Commercial project" means an undertaking involving
5 commercial or light industrial development, which includes a
6 mixed use development in which commercial or light industrial
7 facilities may be built into, adjacent to, under, or above
8 residential units.

9 "County" means any county of the State.

10 "Local governing body" means the county council of any
11 county of the State.

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

19 "Project cost" means the total of all costs incurred by the
20 authority in carrying out all undertakings that it deems
21 reasonable and necessary for the development of a project



1 including but not limited to: studies; surveys; plans;
2 specifications; architectural, engineering, or any other
3 development-related services; acquisition of land and any
4 improvement thereon; site preparation and development;
5 construction; reconstruction; rehabilitation; the necessary
6 expenses in administering this chapter; the cost of financing
7 the project; and relocation costs.

8 "Public agency" means any office, department, board,
9 commission, bureau, division, public corporation agency, or
10 instrumentality of the federal, state, or county government.

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

20 "Qualified person" includes any individual, partnership,
21 corporation, or any public agency, possessing the competence,



1 expertise, experience, and resources, including financial,
2 personnel, and tangible resources, required for the purposes of
3 the project and such other qualifications as may be deemed
4 desirable by the authority in administering this chapter.

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

14 "Redevelopment project" means an undertaking for the
15 acquisition, clearance, planning, reconstruction, and
16 rehabilitation or a combination of these and other methods, of
17 an area for a residential project, for a commercial project, and
18 for other facilities appurtenant thereto, pursuant to and in
19 accordance with this chapter. The terms "acquisition,
20 clearance, planning, reconstruction, and rehabilitation" shall



1 include renewal, redevelopment, conservation, restoration, or
2 improvement, or any combination thereof.

3 "Residential project" means a project or that portion of a
4 mixed use project, including residential dwelling units,
5 designed and intended for the purpose of providing housing and
6 such facilities as may be incidental or appurtenant thereto.

7 § -3 State transit oriented development authority;
8 established. (a) There is established the state transit
9 oriented development authority, which shall be a body corporate
10 and a public instrumentality of the State, for the purpose of
11 implementing this chapter. The authority shall be placed within
12 the department of business, economic development, and tourism
13 for administrative purposes.

14 (b) The authority shall consist of the director of
15 finance, or the director's designee; the director of
16 transportation, or the director's designee; each county director
17 of planning and permitting, or the applicable county director's
18 designee; a private developer with experience in developing
19 affordable housing projects in Hawaii; an at-large member; an
20 at-large member nominated by the president of the senate; and an
21 at-large member nominated by the speaker of the house of



1 representatives. All members, except the director of finance,
 2 director of transportation, and county directors of planning and
 3 permitting, or their designees, shall be appointed by the
 4 governor pursuant to section 26-34. The two at-large members
 5 nominated by the president of the senate and speaker of the
 6 house of representatives shall each be appointed by the governor
 7 from a list of three nominees submitted for each position by the
 8 president of the senate or speaker of the house of
 9 representatives, as applicable.

10 (c) The following members of the authority shall
 11 constitute a quorum and majority and shall be eligible to vote:

- 12 (1) The director of finance, or the director's designee;
- 13 (2) The director of transportation, or the director's
 14 designee;
- 15 (3) The private developer with experience in developing
 16 affordable housing projects in Hawaii; and
- 17 (4) The three at-large members;

18 provided that the director of planning and permitting of each
 19 county or the director's designee, as applicable, shall
 20 participate in these matters as an ex officio, nonvoting member
 21 and shall not be considered in determining quorum and majority.



1 (d) In the event of a vacancy, a member shall be appointed
2 to fill the vacancy in the same manner as the original
3 appointment within thirty days of the vacancy or within ten days
4 of the senate's rejection of a previous appointment, as
5 applicable.

6 (e) The terms of the director of finance, director of
7 transportation, county directors of planning and permitting, or
8 their respective designees shall run concurrently with each
9 official's term of office. The terms of the appointed voting
10 members shall be for four years, commencing on July 1 and
11 expiring on June 30.

12 (f) The governor may remove or suspend for cause any
13 member of the authority after due notice and public hearing.

14 (g) Notwithstanding section 92-15, a majority of all
15 eligible voting members as specified in this section shall
16 constitute a quorum to conduct business, and the concurrence of
17 a majority of all eligible voting members as specified in this
18 section shall be necessary to make any action of the authority
19 valid. All members shall continue in office until their
20 respective successors have been appointed and qualified. Except



1 as herein provided, no member appointed under this section shall
2 be an officer or employee of the State or a county.

3 (h) The authority shall appoint an executive director, who
4 shall serve as the chief executive officer of the authority.

5 The authority shall set the salary of the executive director,
6 who shall serve at the pleasure of the authority and shall be
7 exempt from chapter 76.

8 (i) The authority shall annually elect the chairperson and
9 vice chairperson from among its members.

10 (j) The members of the authority shall serve without
11 compensation, but each shall be reimbursed for expenses,
12 including travel expenses, incurred in the performance of their
13 duties.

14 § -4 Powers; generally. The authority may:

15 (1) Sue and be sued;

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

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

20 (4) Make and alter bylaws for its organization and
21 internal management;



- 1 (5) Make rules with respect to its projects, operations,
2 properties, and facilities, which rules shall be in
3 conformance with chapter 91;
- 4 (6) Through its executive director, appoint officers,
5 agents, and employees; prescribe their duties and
6 qualifications; and fix their salaries, without regard
7 to chapter 76;
- 8 (7) Prepare or cause to be prepared a state transit
9 oriented development plan for all designated state
10 transit oriented development districts;
- 11 (8) Acquire, reacquire, or contract to acquire or
12 reacquire by grant or purchase real, personal, or
13 mixed property or any interest therein; to own, hold,
14 clear, improve, and rehabilitate, and to sell, assign,
15 exchange, transfer, convey, lease, or otherwise
16 dispose of or encumber the same;
- 17 (9) Acquire or reacquire by condemnation real, personal,
18 or mixed property or any interest therein for public
19 facilities, including but not limited to streets,
20 sidewalks, parks, schools, and other public
21 improvements;



- 1 (10) By itself, or in partnership with qualified persons,
2 acquire, reacquire, construct, reconstruct,
3 rehabilitate, improve, alter, or repair or provide for
4 the construction, reconstruction, improvement,
5 alteration, or repair of any project; own, hold, sell,
6 assign, transfer, convey, exchange, lease, or
7 otherwise dispose of or encumber any project, and in
8 the case of the sale of any project, accept a purchase
9 money mortgage in connection therewith; and repurchase
10 or otherwise acquire any project that the authority
11 has theretofore sold or otherwise conveyed,
12 transferred, or disposed of;
- 13 (11) Arrange or contract for the planning, opening,
14 grading, or closing of streets, roads, roadways,
15 alleys, or other places, or for the furnishing of
16 facilities or for the acquisition of property or
17 property rights or for the furnishing of property or
18 services in connection with a project;
- 19 (12) Grant options to purchase any project or to renew any
20 lease entered into by it in connection with any of its



- 1 projects, on terms and conditions as it deems
2 advisable;
- 3 (13) Prepare or cause to be prepared plans, specifications,
4 designs, and estimates of costs for the construction,
5 reconstruction, rehabilitation, improvement,
6 alteration, or repair of any project, and from time to
7 time, to modify the plans, specifications, designs, or
8 estimates;
- 9 (14) Provide advisory, consultative, training, and
10 educational services, technical assistance, and advice
11 to any person, partnership, or corporation, either
12 public or private, to carry out the purposes of this
13 chapter, and engage the services of consultants on a
14 contractual basis for rendering professional and
15 technical assistance and advice;
- 16 (15) Procure insurance against any loss in connection with
17 its property and other assets and operations in
18 amounts and from insurers as it deems desirable;
- 19 (16) Contract for and accept gifts or grants in any form
20 from any public agency or from any other source; and



1 (17) Do any and all things necessary to carry out its
2 purposes and exercise the powers given and granted in
3 this chapter.

4 § -5 **Assignment of powers and duties prohibited.** The
5 authority shall not assign to any person or agency, including
6 the executive director of the authority, any of its powers and
7 duties related to the approval of any variance, exemption, or
8 modification of any provision of a state transit oriented
9 development plan or state transit oriented development rules.

10 § -6 **Designation of state transit oriented development**
11 **districts.** (a) The legislature may designate an area as a
12 state transit oriented development district if it determines
13 that there is need for planning, renewal, or redevelopment of
14 that area. The designation shall describe the boundaries of the
15 district.

16 (b) After designation pursuant to subsection (a), the
17 authority shall develop a state transit oriented development
18 plan for the designated district. The plan shall include but
19 not be limited to state transit oriented development guidance
20 policies, district-wide improvement programs, and state transit
21 oriented development rules.



- 1 (c) The authority may enter into cooperative agreements
2 with qualified persons or public agencies, where the powers,
3 services, and capabilities of the persons or agencies are deemed
4 necessary and appropriate for the development of the state
5 transit oriented development plan, and include, at a minimum,
6 the following:
- 7 (1) Determining how to optimize the amount of workforce
8 and affordable housing in each district;
- 9 (2) Determining how to optimize public facilities,
10 including schools, parks, libraries, and other public
11 facilities in each district;
- 12 (3) Identifying the need for infrastructure capacity
13 building to support the planned density at the rail
14 transit stations, and various alternatives on how the
15 infrastructure could be financed; and
- 16 (4) Providing an economic model that would illustrate
17 development or redevelopment opportunities with
18 projected returns to public or private investors and
19 the overall economic benefit in new taxes from jobs,
20 businesses, real property taxes, and other factors.



1 (d) Whenever possible, planning activities of the
2 authority shall be coordinated with federal, state, and county
3 plans. Consideration shall be given to state goals and
4 policies, adopted state plan or land use guidance policies,
5 county general plans, development plans, and ordinances.

6 (e) The authority shall hold a public hearing on a
7 proposed state transit oriented development plan pursuant to
8 chapter 91 and shall, after consideration of comments received
9 and appropriate revision, submit the state transit oriented
10 development plan to the governor for the governor's approval.

11 (f) After the approval pursuant to subsection (e), the
12 governor shall submit to the legislature requests for
13 appropriations, authorization to issue bonds, or both, to
14 implement the state transit oriented development plan in an
15 orderly, affordable, and feasible manner.

16 The governor shall submit the requests to the legislature
17 as part of the biennial budget or supplemental budget, as
18 appropriate. In addition to the information, data, and
19 materials required under chapter 37, the requests shall be
20 accompanied by:



- 1 (1) Plans, maps, narrative descriptions, and other
2 appropriate materials on the:
- 3 (A) Locations and design of projects or public
4 facilities proposed to be funded; and
- 5 (B) Phase of the state transit oriented development
6 plans proposed to be implemented with the
7 requested funds; and
- 8 (2) Other information deemed by the governor to be of
9 significance to the legislature regarding the projects
10 or public facilities proposed to be funded, including
11 a discussion of the public benefits intended by, and
12 adverse effects which may result from, implementation
13 of the projects or public facilities.
- 14 (g) The authority may amend the state transit oriented
15 development plan as may be necessary. Amendments shall be made
16 in accordance with chapter 91.
- 17 **§ -7 Community and public notice requirements; posting**
18 **on the authority's website; required.** (a) The authority shall
19 adopt community and public notice procedures pursuant to chapter
20 91 that shall include, at a 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 state transit oriented development
7 districts, public hearing notices, and minutes of its
8 proceedings on the authority's website;
- 9 (3) The posting of every application for a development
10 permit for any project within a state transit oriented
11 development district on the authority's website when
12 the application is deemed complete;
- 13 (4) Notification by the applicant of any application for a
14 development permit for a project valued at \$250,000 or
15 more by first-class mail, postage prepaid, to owners
16 and lessees of record of real property located within
17 a three-hundred-foot radius of the perimeter of the
18 proposed project identified from the most current list
19 available from the real property assessment division
20 of the department of budget and fiscal services of the
21 county in which the proposed project is located, when



1 the application is deemed complete; provided that
2 notice mailed pursuant to this paragraph shall include
3 but not be limited to notice of:

4 (A) Project specifications;

5 (B) Requests for variance, exemption, or modification
6 of a state transit oriented development plan or
7 the authority's state transit oriented
8 development rules; and

9 (C) Procedures for intervention and a contested case
10 hearing; and

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

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

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

18 (2) With a written report detailing the public's reaction
19 at the public hearing, within one week after the
20 hearing.



1 § -8 Public hearing for decision-making; separate
2 hearings required; contested case hearing; judicial review. (a)

3 When rendering a decision regarding:

4 (1) An amendment to any of the authority's state transit
5 oriented development rules established pursuant to
6 chapter 91 and section -10; 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 at which the proposal under paragraph
11 (1) or (2) was presented.

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



1 (c) Prior to rendering a decision, the authority shall
2 provide the public with the opportunity to testify at its
3 decision-making hearing; provided that members of the public who
4 are not intervenors in the proceeding shall not be considered
5 formal parties to the proceeding.

6 (d) 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 (e) When considering any developer's proposal to develop
14 lands under the authority's control that includes any request
15 for a variance, exemption, or modification of a state transit
16 oriented development plan or of the authority's state transit
17 oriented development rules, the authority shall consider the
18 request for variance, exemption, or modification at a public
19 hearing, noticed in accordance with section -7, separate from
20 and subsequent to the hearing at which the developer's proposal
21 was presented; provided that the authority may consider all



1 requests applicable to a single proposal at the same public
2 hearing. The authority's decision on requests subject to this
3 subsection shall be rendered at the decision-making hearing on
4 the developer's proposal.

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

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

11 (h) Any party aggrieved by a final decision of the
12 authority regarding the acceptance of a developer's proposal to
13 develop lands under the authority's control may seek judicial
14 review of the decision within thirty days, pursuant to section
15 91-14.

16 (i) The authority shall not approve any developer's
17 proposal to develop lands under the authority's control, unless
18 the authority finds that the proposed development project is
19 reasonable and is consistent with the development rules and
20 policies of the relevant state transit oriented development



1 district. In making its finding pursuant to this subsection,
2 the authority shall consider:

- 3 (1) The extent to which the proposed project:
 - 4 (A) Advances the goals, policies, and objectives of
 - 5 the applicable district plan;
 - 6 (B) Protects, preserves, or enhances desirable
 - 7 neighborhood characteristics through compliance
 - 8 with the standards and guidelines of the
 - 9 applicable district rules;
 - 10 (C) Avoids a substantially adverse effect on
 - 11 surrounding land uses through compatibility with
 - 12 the existing and planned land use character of
 - 13 the surrounding area; and
 - 14 (D) Provides housing opportunities for all income
 - 15 groups, particularly low-, moderate-, and other
 - 16 qualified income groups;
- 17 (2) The impact of the proposed project on the following
- 18 areas of urban design, as applicable:
 - 19 (A) Pedestrian oriented development, including
 - 20 "complete streets" design;



- 1 (B) Transit oriented development, including rail,
- 2 bus, and other modes of rapid transit; and
- 3 (C) Community amenities such as gathering places,
- 4 community centers, culture and arts facilities,
- 5 and the full array of public facilities normally
- 6 provided by the public sector;
- 7 (3) The impact of the proposed project on the following
- 8 areas of state concern:
- 9 (A) Preservation of important natural systems or
- 10 habitats;
- 11 (B) Maintenance of valued cultural, historical, or
- 12 natural resources;
- 13 (C) Maintenance of other resources relevant to the
- 14 State's economy;
- 15 (D) Commitment of state funds and resources;
- 16 (E) Employment opportunities and economic
- 17 development; and
- 18 (F) Maintenance and improvement of the quality of
- 19 educational programs and services provided by
- 20 schools; and



1 (4) The representations and commitments made by the
2 developer in the permit application process.

3 § -9 District-wide improvement program. (a) The
4 authority shall develop a district-wide improvement program to
5 identify necessary district-wide public facilities within a
6 state transit oriented development district.

7 (b) Whenever the authority shall determine to undertake,
8 or cause to be undertaken, any public facility as part of the
9 district-wide improvement program, the cost of providing the
10 public facilities shall be assessed against the real property in
11 the state transit oriented development district specially
12 benefiting from the public facilities. The authority shall
13 determine the areas of the state transit oriented development
14 district that will benefit from the public facilities to be
15 undertaken and, if less than the entire state transit oriented
16 development district benefits, the authority may establish
17 assessment areas within the state transit oriented development
18 district. The authority may issue and sell bonds in amounts as
19 may be authorized by the legislature to provide funds to finance
20 the public facilities. The authority shall fix the assessments
21 against real property specially benefited. All assessments made



1 pursuant to this section shall be a statutory lien against each
2 lot or parcel of land assessed from the date of the notice
3 declaring the assessment until paid and the lien shall have
4 priority over all other liens, except the lien of property taxes
5 and except as provided in section 231-33. As between liens of
6 assessments, the earlier lien shall be superior to the later
7 lien.

8 (c) Bonds issued to provide funds to finance public
9 facilities shall be secured solely by the real properties
10 benefited or improved, the assessments thereon, or by the
11 revenues derived from the program for which the bonds are
12 issued, including reserve accounts and earnings thereon,
13 insurance proceeds, and other revenues, or any combination
14 thereof. The bonds may be additionally secured by the pledge or
15 assignment of loans and other agreements or any note or other
16 undertaking, obligation, or property held by the authority.
17 Bonds issued pursuant to this section and the income therefrom
18 shall be exempt from all state and county taxation, except
19 transfer and estate taxes. The bonds shall be issued according
20 and subject to the provisions of the rules adopted pursuant to
21 this section.



1 (d) The authority shall assess the real property within an
2 assessment area according to the special benefits conferred upon
3 the real property by the public facilities. These methods may
4 include assessment on a frontage basis or according to the area
5 of real property within an assessment area or any other
6 assessment method that assesses the real property according to
7 the special benefit conferred, or any combination thereof. No
8 such assessment levied against real property specially benefited
9 as provided by this chapter shall constitute a tax on real
10 property within the meanings of any constitutional or statutory
11 provisions.

12 (e) The authority shall adopt rules pursuant to chapter
13 91, and may amend the rules from time to time, providing for the
14 method of undertaking and financing public facilities in an
15 assessment area or an entire state transit oriented development
16 district. The rules adopted pursuant to this section shall
17 include but are not limited to the following: methods by which
18 the authority shall establish assessment areas; the method of
19 assessment of real properties specially benefited; the costs to
20 be borne by the authority, the county in which the public
21 facilities are situated, and the property owners; the procedures



1 before the authority relating to the creation of the assessment
2 areas by the owners of real property therein, including
3 provisions for petitions, bids, contracts, bonds, and notices;
4 provisions relating to assessments; provisions relating to
5 financing, such as bonds, revolving funds, advances from
6 available funds, special funds for payment of bonds, payment of
7 principal and interest, and sale and use of bonds; provisions
8 relating to funds and refunding of outstanding debts; and
9 provisions relating to limitations on time to sue, and other
10 related provisions.

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

15 (g) All sums collected under this section shall be
16 deposited in the Hawaii state transit oriented development
17 revolving fund established by section -19; except that
18 notwithstanding section -19, all moneys collected on account
19 of assessments and interest thereon for any specific public
20 facilities financed by the issuance of bonds shall be set apart
21 in a separate special fund and applied solely to the payment of



1 the principal and interest on these bonds; the cost of
2 administering, operating, and maintaining the program; the
3 establishment of reserves; and other purposes as may be
4 authorized in the proceedings providing for the issuance of the
5 bonds. If any surplus remains in any special fund after the
6 payment of the bonds chargeable against the special fund, it
7 shall be credited to and become a part of the Hawaii state
8 transit oriented development revolving fund. Moneys in the
9 Hawaii state transit oriented development revolving fund may be
10 used to make up any deficiencies in the special fund.

11 (h) If the public facilities to be financed through bonds
12 issued by the authority may be dedicated to the county in which
13 the public facilities are to be located, the authority shall
14 ensure that the public facilities are designed and constructed
15 to meet county requirements.

16 (i) If it becomes necessary to remove, relocate, replace,
17 or reconstruct public utility facilities, the authority shall
18 establish by rule the allocation of cost between the authority,
19 the affected public utilities, and properties that may specially
20 benefit from such improvement, if any. In determining the
21 allocation of cost, the authority shall consider the cost



1 allocation policies for improvement districts established by the
2 county in which the removal, relocation, replacement, or
3 reconstruction is to take place.

4 § -10 State transit oriented development rules. (a)

5 The authority shall establish state transit oriented development
6 rules under chapter 91 on health, safety, building, planning,
7 zoning, and land use which, upon final adoption of a state
8 transit oriented development plan, shall supersede all other
9 inconsistent ordinances and rules relating to the use, zoning,
10 planning, and development of land and construction thereon.

11 Rules adopted under this section shall follow existing law,
12 rules, ordinances, and regulations as closely as is consistent
13 with standards meeting minimum requirements of good design,
14 pleasant amenities, health, safety, and coordinated development.

15 The authority may, in the state transit oriented development
16 plan or by a state transit oriented development rule, provide
17 that lands within a state transit oriented development district
18 shall 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.



1 (b) Development rights under a master plan permit and
2 master plan development agreement issued and approved by the
3 authority are vested under the state transit oriented
4 development district rules in effect at the time of initial
5 approval by the authority and shall govern development on lands
6 subject to such permit and agreement.

7 **§ -11 Use of public lands; acquisition of state lands.**

8 (a) If state lands under the control and management of other
9 public agencies are required by the authority for its purposes,
10 the agency having the control and management of those required
11 lands may, upon request by the authority and with the approval
12 of the governor, convey or lease the lands to the authority upon
13 terms and conditions as may be agreed to by the parties.

14 (b) Notwithstanding subsection (a), no public lands shall
15 be conveyed or leased to the authority if the conveyance or
16 lease would impair any covenant between the State or any county
17 or any department or board thereof and the holders of bonds
18 issued by the State or the county, department, or board.

19 (c) The authority may negotiate lease terms on any lands
20 it controls, with terms and conditions that are deemed to be in
21 the best interest of the State in achieving its goals to develop



1 or redevelop State-owned lands near rail transit stations;
2 provided that the maximum term of an initial lease or lease-back
3 arrangement shall not exceed ninety-nine years.

4 § -12 Developments within special management areas and

5 shoreline setback. (a) Notwithstanding chapter 205A, all

6 requests for developments within a special management area and

7 shoreline setback variances for developments on any lands within

8 a state transit oriented development district, for which a state

9 transit oriented development plan has been developed and

10 approved in accordance with section -6, shall be submitted to

11 and reviewed by the lead agency as defined in chapter 205A. In

12 state transit oriented development districts for which a state

13 transit oriented development plan has not been developed and

14 approved in accordance with section -6, parts II and III of

15 chapter 205A shall continue to be administered by the applicable

16 county authority until a state transit oriented development plan

17 for the district takes effect.

18 (b) In the review of such requests, the lead agency shall

19 conform to the following, as deemed appropriate:

20 (1) Applicable county rules adopted in accordance with

21 section 205A-26 for the review of developments within



1 a special management area, except that section 205A-
2 26(2)(C) shall not apply; and

3 (2) Part III of chapter 205A and applicable county rules
4 for the review of developments within the shoreline
5 setback.

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

9 § -13 **Condemnation of real property.** Upon making a
10 finding that it is necessary to acquire any real property for
11 its immediate or future use for the purposes of this chapter,
12 the authority may acquire the property by condemnation pursuant
13 to chapter 101, including property already devoted to a public
14 use. The property shall not thereafter be taken for any other
15 public use without the consent of the authority. No award of
16 compensation shall be increased by reason of any increase in the
17 value of real property caused by the designation of a state
18 transit oriented development district or plan adopted pursuant
19 to a designation, or the actual or proposed acquisition, use, or
20 disposition of any other real property by the authority.



1 **§ -14 Relocation.** (a) The authority shall adopt rules
2 pursuant to chapter 91 to ensure the appropriate relocation
3 within or outside the district of persons, families, and
4 businesses displaced by governmental action within the district.
5 The rules may include but are not limited to the establishment
6 and operation of a central relocation office; relocation
7 payments for actual moving costs; fixed payments for losses
8 suffered; payments for replacement housing or business
9 locations; relocation payments and loans to displaced businesses
10 for certain costs related to the re-establishment of their
11 business operations; and other similar relocation matters.

12 (b) The authority shall provide relocation assistance to
13 persons, families, and businesses within the district that are
14 displaced by private action; provided that assistance shall not
15 include any form of direct monetary payments, except that the
16 authority may make relocation loans to displaced businesses in
17 accordance with rules adopted by the authority. Temporary
18 relocation facilities within or outside the district may be made
19 available to those displaced; provided that those displaced by
20 government action shall be afforded priority to these
21 facilities.



1 **§ -15 Construction contracts.** The authority shall award
2 construction contracts in conformity with the applicable
3 provisions of chapter 103D.

4 **§ -16 Dedication for public facilities as condition to**
5 **development.** The authority shall establish rules requiring
6 dedication for public facilities of land or facilities, or cash
7 payments in lieu thereof, by developers as a condition of
8 developing real property pursuant to the state transit oriented
9 development plan. Where state and county public facilities
10 dedication laws, ordinances, or rules differ, the provision for
11 greater dedication shall prevail.

12 **§ -17 Sale or lease of redevelopment projects.** (a) The
13 authority may, without recourse to public auction, sell or lease
14 for a term not exceeding ninety-nine years, all or any portion
15 of the real or personal property constituting a redevelopment
16 project to any person, upon terms and conditions as may be
17 approved by the authority, if the authority finds that the sale
18 or lease conforms with the state transit oriented development
19 plan.

20 (b) In the case of residential projects or redevelopment
21 projects, the terms of the sale shall provide for the repurchase



1 of the property by the authority at its option, in the event
 2 that the purchaser, if other than a state agency, desires to
 3 sell the property within ten years; provided that this
 4 requirement may be waived by the authority if the authority
 5 determines that a waiver will not be contrary to the state
 6 transit oriented development plan. The authority shall
 7 establish at the time of original sale a formula setting forth a
 8 basis for a repurchase price based on market considerations,
 9 including interest rates, land values, construction costs, and
 10 federal tax laws.

11 If the purchaser in a residential project is a state
 12 agency, the authority may include as a term of the sale a
 13 provision for the repurchase of the property in conformance with
 14 this section.

15 **§ -18 Residential projects; cooperative agreements. (a)**

16 If the authority deems it desirable to develop a residential
 17 project, it may enter into an agreement with qualified persons
 18 to construct, maintain, operate, or otherwise dispose of the
 19 residential project. Sale, lease, or rental of dwelling units
 20 in the project shall be as provided by the rules established by
 21 the authority. The authority may enter into cooperative



1 agreements with the Hawaii housing finance and development
2 corporation for the financing, development, construction, sale,
3 lease, or rental of dwelling units and projects.

4 (b) The authority may transfer the housing fees collected
5 from private residential developments for the provision of
6 housing for low- to moderate-income residents to the Hawaii
7 housing finance and development corporation for the financing,
8 development, construction, sale, lease, or rental of such
9 housing within or without the state transit oriented development
10 districts. The fees shall be used only for projects owned by
11 the State or owned or developed by a qualified nonprofit
12 organization. As used in this section, "nonprofit organization"
13 means a corporation, association, or other duly chartered
14 organization registered with the State, which organization has
15 received charitable status under the Internal Revenue Code of
16 1986, as amended.

17 § -19 Hawaii state transit oriented development
18 revolving fund. There is created the Hawaii state transit
19 oriented development revolving fund into which all receipts and
20 revenues of the authority shall be deposited. Proceeds from the
21 fund shall be used for the purposes of this chapter.



1 **§ -20 Expenditures of revolving funds under the**
2 **authority exempt from appropriation and allotment.** Except as to
3 administrative expenditures, and except as otherwise provided by
4 law, expenditures from any revolving fund administered by the
5 authority may be made by the authority without appropriation or
6 allotment of the legislature; provided that no expenditure shall
7 be made from and no obligation shall be incurred against any
8 revolving fund in excess of the amount standing to the credit of
9 the fund or for any purpose for which the fund may not lawfully
10 be expended. Nothing in sections 37-31 to 37-41 shall require
11 the proceeds of any revolving fund administered by the authority
12 to be re-appropriated annually.

13 **§ -21 Exemption from taxation.** The authority shall not
14 be required to pay assessments levied by any county, nor shall
15 the authority be required to pay state taxes of any kind.

16 **§ -22 Annual report.** The authority shall submit to the
17 governor and the legislature, at least twenty days prior to the
18 convening of any regular session, a complete and detailed report
19 of its activities.

20 **§ -23 Issuance of bonds.** The director of finance may,
21 from time to time, issue general obligation bonds pursuant to



1 chapter 39 in amounts as may be authorized by the legislature,
2 for the purposes of this chapter.

3 **§ -24 Violations and penalty.** (a) The authority may
4 set, charge, and collect reasonable fines for violation of this
5 chapter or any rule adopted pursuant to chapter 91. Any person
6 violating any of the provisions of this chapter or any rule
7 adopted pursuant to chapter 91, for which violation a penalty is
8 not otherwise provided, shall be fined not more than \$500 per
9 day and shall be liable for administrative costs incurred by the
10 authority.

11 (b) The authority may maintain an action for an injunction
12 to restrain any violation of the provisions of this chapter and
13 may take any other lawful action to prevent or remedy any
14 violation.

15 (c) Any person violating any provision of this chapter
16 shall, upon conviction, be punished by a fine not exceeding
17 \$1,000 or by imprisonment not exceeding thirty days, or both.
18 The continuance of a violation after conviction shall be deemed
19 a new offense for each day of continuance.

20 **§ -25 State transit oriented development district;**
21 **prohibitions.** The authority is prohibited from selling or



1 otherwise assigning the fee simple interest in any lands in the
2 state transit oriented development district to which the
3 authority in its corporate capacity holds title, except with
4 respect to:

- 5 (1) Utility easements;
- 6 (2) Remnants as defined in section 171-52;
- 7 (3) Grants to any state or county department or agency;
- 8 and
- 9 (4) Private entities for purposes of any easement,
10 roadway, or infrastructure improvements.

11 § -26 Lease of projects. (a) The authority may,
12 without recourse to public auction or public notice for sealed
13 bids, lease for a term not exceeding ninety-nine years, all or
14 any portion of the real or personal property constituting a
15 project to any person, upon such terms and conditions as may be
16 approved by the authority, if the authority finds that the lease
17 conforms with the state transit oriented development plan.

18 (b) In the case of any sale of the leasehold interest in
19 the project, the terms of the sale shall provide for the
20 repurchase of the leasehold property by the authority at its
21 option, in the event that the purchaser, if other than a state



1 agency, desires to sell the property within ten years; provided
 2 that this requirement may be waived by the authority if the
 3 authority determines that a waiver will not be contrary to the
 4 state transit oriented development plan. The authority shall
 5 establish at the time of original sale a formula setting forth a
 6 basis for a repurchase price based on market considerations
 7 including but not limited to interest rates, land values,
 8 construction costs, and federal tax laws.

9 (c) If the purchaser in a residential project is a state
 10 agency, the authority may include as a term of the sale a
 11 provision for the repurchase of the property in conformance with
 12 this section.

13 § -27 State transit oriented development districts;
 14 established; boundaries. Five state transit oriented
 15 development districts shall be established. The district
 16 boundaries are defined as a one-half mile radius around each of
 17 the following rail transit stations:

- 18 (1) University of Hawaii, West Oahu, transit station;
- 19 (2) Leeward community college transit station;
- 20 (3) Aloha Stadium transit station;
- 21 (4) Kalihi transit station; and



1 (5) Iwilei transit station.

2 § -28 State transit oriented development districts;
3 development guidance policies. The following shall constitute
4 the development guidance policies generally governing the
5 authority's action in the state transit oriented development
6 districts:

7 (1) Development shall result in a community that permits
8 an appropriate land mixture of residential,
9 commercial, industrial, and other uses. In view of
10 the innovative nature of the mixed use approach, urban
11 design policies should be established to provide
12 guidelines for the public and private sectors in the
13 proper development of this district. Although the
14 authority's development responsibilities apply only to
15 the area within the district, the authority may engage
16 in any studies or coordinative activities permitted in
17 this chapter that affect areas lying outside the
18 district, where the authority, in its discretion,
19 decides that those activities are necessary to
20 implement the intent of this chapter. The studies or
21 coordinative activities shall be limited to facility



1 systems, residential and industrial relocation, and
2 other activities with the counties and appropriate
3 state agencies. The authority may engage in
4 construction activities outside the district; provided
5 that the construction relates to infrastructure
6 development or residential or business relocation
7 activities; provided further, notwithstanding section
8 206E-7, that the construction shall comply with the
9 general plan, development plan, ordinances, and rules
10 of the county in which the district is located;

11 (2) Existing and future industrial uses shall be permitted
12 and encouraged in appropriate locations within the
13 district. No plan or implementation strategy shall
14 prevent continued activity or redevelopment of
15 industrial and commercial uses that meet reasonable
16 performance standards;

17 (3) Activities shall be located to provide primary
18 reliance on public transportation and pedestrian
19 facilities for internal circulation within the
20 district or designated subareas;



- 1 (4) Major view planes, view corridors, and other
2 environmental elements, such as natural light and
3 prevailing winds, shall be preserved through necessary
4 regulation and design review;
- 5 (5) Redevelopment of the district shall be compatible with
6 plans of the surrounding areas;
- 7 (6) Historic sites and culturally significant facilities,
8 settings, or locations shall be preserved;
- 9 (7) Land use activities within the district, where
10 compatible, shall, to the greatest possible extent, be
11 mixed horizontally, such as within blocks or other
12 land areas, and vertically, as integral units of
13 multi-purpose structures;
- 14 (8) Residential development may require a mixture of
15 densities, building types, and configurations in
16 accordance with appropriate urban design guidelines;
17 integration both vertically and horizontally of
18 residents of varying incomes, ages, and family groups;
19 and an increased supply of housing for low- or
20 moderate-income residents may be required as a
21 condition of redevelopment in residential use.



1 Residential development shall provide necessary
2 community facilities, such as open space, parks,
3 community meeting places, child care centers, and
4 other services, within and adjacent to residential
5 development; and
6 (9) Public facilities within the district shall be
7 planned, located, and developed so as to support the
8 redevelopment policies for the district established by
9 this chapter and plans and rules adopted pursuant to
10 it."

11 SECTION 2. This Act shall take effect on July 1, 2038.



Report Title:

Transit Oriented Development

Description:

Establishes the State Transit Oriented Development Authority.
(HB626 HD1)

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

