

JAN 20 2017

A BILL FOR AN ACT

RELATING TO TRANSIT ORIENTED DEVELOPMENT COMMUNITY DEVELOPMENT
DISTRICTS.

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

1 SECTION 1. The legislature finds that the State has a
2 unique opportunity to address economic diversification and
3 affordable housing shortages through transit oriented
4 development. However, despite being one of the largest
5 landowners alongside the rail transit stations, the State has
6 yet to formulate a master plan to develop these parcels to make
7 them transit-ready.

8 The legislature also finds that prior to any redevelopment
9 effort, infrastructure capacity along the transit corridor needs
10 to be increased, especially around each of the twenty transit
11 stations. In preparation for the completion of the Honolulu
12 rail transit project, the legislature acknowledges that the
13 State must maximize the opportunities for development of land
14 around rail stations, thereby supporting the local economy,
15 improving access to transportation, and increasing rail
16 ridership.



1 The purpose of this Act is to recognize the need for a
2 focused effort on infrastructure capacity building to support
3 redevelopment efforts at each of the transit stations, and avoid
4 creating another government entity, by:

- 5 (1) Establishing transit oriented development community
6 development districts;
- 7 (2) Authorizing the Hawaii community development authority
8 to plan and develop infrastructure capacity at each of
9 the transit stations that will support the planned
10 growth and density at each of the transit stations;
- 11 (3) Requiring the Hawaii community development authority
12 to plan and develop infrastructure to service lands
13 within a one-half mile radius from one of the
14 following rail stations: Aloha stadium transit
15 station, Kalihi transit station, Iwilei transit
16 station, or leeward community college transit station;
17 and
- 18 (4) Allowing the Hawaii community development authority to
19 enter into public private partnerships established
20 through a lease back arrangement between the authority

1 and investors in order to facilitate the investment of
2 private capital in public infrastructure.

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

6 "PART . TRANSIT ORIENTED DEVELOPMENT COMMUNITY DISTRICTS

7 §206E-A Definitions. As used in this part, "transit
8 oriented development districts" mean transit oriented
9 development community development districts established pursuant
10 to section 206E-E.

11 §206E-B Transit oriented development community district;
12 purposes. The legislature finds that:

- 13 (1) The State has significant assets in four of the
14 transit station locations on Oahu;
- 15 (2) The twenty transit stations proposed along the transit
16 alignment are intended to provide for much of the
17 planned growth and urban expansion, so the State shall
18 insure its land assets along the transit corridor by
19 planning for the most efficient and economic uses of
20 the land;



1 (3) The transit oriented development districts are
2 relatively underdeveloped and underutilized,
3 especially in light of their proximity to the proposed
4 Honolulu area rapid transit system;

5 (4) The urban core has the potential for increased growth
6 and development that can alleviate community needs
7 such as workforce and affordable housing, parks and
8 open space, public facilities, and commercial and
9 industrial facilities;

10 (5) The transit oriented development community districts,
11 if not redeveloped or renewed, have the potential to
12 become blighted and deteriorated areas; and

13 (6) Transit stations have the potential to become planned
14 new communities in consonance with surrounding urban
15 areas.

16 In coordinating community development at each of the
17 transit oriented development community districts, the authority
18 shall plan a mixed-use district whereby industrial, commercial,
19 residential, and public uses may coexist compatibly within the
20 same area.



1 The authority shall plan for the above uses, but shall also
2 respect and support the present function of each of the transit
3 stations as an economic center, providing significant employment
4 in such areas as light industrial, wholesaling, service, and
5 commercial activity.

6 **§206E-C Prohibitions.** Anything contained in this chapter
7 to the contrary notwithstanding, the authority is prohibited
8 from selling or otherwise assigning the fee simple interest in
9 any lands in the transit oriented development districts to which
10 the authority in its corporate capacity holds title, except with
11 respect to:

- 12 (1) Utility easements;
- 13 (2) Remnants as defined in section 171-52;
- 14 (3) Grants to any state or county department or agency;
- 15 (4) Private entities for purposes of any easement,
16 roadway, or infrastructure improvements; or
- 17 (5) Reserved housing as defined in section 206E-101.

18 **§206E-D Lease of projects.** (a) Notwithstanding any law
19 to the contrary, including section 206E-14, except as prohibited
20 by section 206E-C, the authority may, without recourse to public
21 auction or public notice for sealed bids, lease for a term not



1 exceeding ninety-nine years all or any portion of the real or
2 personal property constituting a project to any person, upon
3 such terms and conditions as may be approved by the authority,
4 if the authority finds that the lease is in conformity with the
5 community development plan.

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

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



1 **§206E-E Districts established; boundaries.** The transit
2 oriented development community development districts are hereby
3 established. The districts shall include that area within the
4 boundaries of transit stations where there is significant state
5 owned land interests, described as one-half mile radius around
6 each of the following transit stations: Aloha stadium transit
7 station, Kalihi transit station, Iwilei transit station, and
8 leeward community college transit station.

9 **§206E-F Transit oriented development community districts;**
10 **development guidance policies.** The authority shall plan and
11 develop infrastructure for one of the transit oriented
12 development community districts established in section 206E-E.
13 The following shall be the development guidance policies
14 generally governing the authority's action in the transit
15 oriented development community districts:

- 16 (1) Development shall result in a community which permits
17 an appropriate land mixture of residential,
18 commercial, industrial, and other uses. In view of
19 the innovative nature of the mixed use approach, urban
20 design policies should be established to provide
21 guidelines for the public and private sectors in the



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



- 1 (2) Existing and future industrial uses shall be permitted
2 and encouraged in appropriate locations within the
3 transit oriented development community districts. No
4 plan or implementation strategy shall prevent
5 continued activity or redevelopment of industrial and
6 commercial uses which meet reasonable performance
7 standards;
- 8 (3) Activities shall be located so as to provide primary
9 reliance on public transportation and pedestrian
10 facilities for internal circulation within the transit
11 oriented development community districts or designated
12 subareas;
- 13 (4) Major view planes, view corridors, and other
14 environmental elements such as natural light and
15 prevailing winds, shall be preserved through necessary
16 regulation and design review;
- 17 (5) Redevelopment of the transit oriented development
18 community districts shall be compatible with plans and
19 special districts established for the Hawaii Capital
20 District;



- 1 (6) Historic sites and culturally significant facilities,
2 settings, or locations shall be preserved;
- 3 (7) Land use activities within the transit oriented
4 development community districts, where compatible,
5 shall to the greatest possible extent be mixed
6 horizontally, that is, within blocks or other land
7 areas, and vertically, as integral units of multi-
8 purpose structures;
- 9 (8) Residential development may require a mixture of
10 densities, building types, and configurations in
11 accordance with appropriate urban design guidelines;
12 integration vertically and horizontally of residents
13 of varying incomes, ages, and family groups; and an
14 increased supply of housing for residents of low- or
15 moderate-income may be required as a condition of
16 redevelopment in residential use. Residential
17 development shall provide necessary community
18 facilities, such as open space, parks, community
19 meeting places, child care centers, and other
20 services, within and adjacent to residential
21 development; and



1 (9) Public facilities within the transit oriented
2 development community districts shall be planned,
3 located, and developed so as to support the
4 redevelopment policies for the districts established
5 by this chapter and plans and rules adopted pursuant
6 to it.

7 **§206E-G Rules; adoption.** The authority shall adopt rules
8 in accordance with chapter 91 to carry out the purposes of this
9 part."

10 SECTION 3. Section 206E-6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§206E-6 District-wide improvement program.** (a) The
13 authority shall develop a district-wide improvement program to
14 identify necessary district-wide public facilities within a
15 community development district.

16 (b) Whenever the authority shall determine to undertake,
17 or cause to be undertaken, any public facility as part of the
18 district-wide improvement program, the cost of providing the
19 public facilities shall be assessed against the real property in
20 the community development district specially benefiting from
21 such public facilities. The authority shall determine the areas

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

15 (c) Bonds issued to provide funds to finance public
16 facilities shall be secured solely by the real properties
17 benefited or improved, the assessments thereon, or by the
18 revenues derived from the program for which the bonds are
19 issued, including reserve accounts and earnings thereon,
20 insurance proceeds, and other revenues, or any combination
21 thereof. The bonds may be additionally secured by the pledge or



1 assignment of loans and other agreements or any note or other
2 undertaking, obligation, or property held by the authority.
3 Bonds issued pursuant to this section and the income therefrom
4 shall be exempt from all state and county taxation, except
5 transfer and estate taxes. The bonds shall be issued according
6 and subject to the provisions of the rules adopted pursuant to
7 this section.

8 (d) Any other law to the contrary notwithstanding, in
9 assessing real property for public facilities, the authority
10 shall assess the real property within an assessment area
11 according to the special benefits conferred upon the real
12 property by the public facilities. These methods may include
13 assessment on a frontage basis or according to the area of real
14 property within an assessment area or any other assessment
15 method which assesses the real property according to the special
16 benefit conferred, or any combination thereof. No such
17 assessment levied against real property specially benefited as
18 provided by this chapter shall constitute a tax on real property
19 within the meanings of any constitutional or statutory
20 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 community development district.
5 The rules adopted pursuant to this section shall include, but
6 are not limited to, the following: methods by which the
7 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) Any provisions to the contrary notwithstanding, the
2 authority may, in its discretion, enter into any agreement with
3 the county in which the public facilities are located, to
4 implement all or part of the purposes of this section.

5 (g) All sums collected under this section shall be
6 deposited in the Hawaii community development revolving fund
7 established by section 206E-16; except that notwithstanding
8 section 206E-16, 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 such fund, it shall be credited to and
18 become a part of the Hawaii community development revolving
19 fund. Moneys in the Hawaii community development revolving fund
20 may be used to make up any 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) Notwithstanding any law to the contrary, whenever as
7 part of a district-wide improvement program it becomes necessary
8 to remove, relocate, replace, or reconstruct public utility
9 facilities, the authority shall establish by rule the allocation
10 of cost between the authority, the affected public utilities,
11 and properties that may specially benefit from such improvement,
12 if any. In determining the allocation of cost, the authority
13 shall consider the cost allocation policies for improvement
14 districts established by the county in which the removal,
15 relocation, replacement, or reconstruction is to take place.

16 (j) Notwithstanding any law to the contrary, the authority
17 may enter into a partnership agreement with any private investor
18 for the leasing of public infrastructure to the private
19 investor; provided that the partnership agreement contains the
20 following requirements:



1 (1) The authority shall lease the infrastructure facility
2 to the private investor, who shall:

3 (A) Renovate, improve, or construct for the authority
4 public infrastructure, pursuant to a ground lease
5 or easement, and may maintain the facility; and

6 (B) Lease back the public infrastructure to the
7 authority, pursuant to a lease or easement;

8 (2) The land upon which the public infrastructure rests
9 shall not be sold to the private investor; provided
10 that the land may be leased at a nominal rate to the
11 private investor for a term that would, at a minimum,
12 allow the private investor to recover the capital
13 investment that has been made to the public
14 infrastructure, including depreciation; and

15 (3) The authority shall have the option of purchasing the
16 public infrastructure from the private investor for
17 the remaining balance of the debt service costs
18 incurred by the private investor at any time; provided
19 that the lease shall terminate concurrently."

20 SECTION 4. In codifying the new sections added by section
21 2 of this Act, the revisor of statutes shall substitute

S.B. NO. 586

1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect upon its approval.

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S.B. NO. 586

Report Title:

Transit Oriented Development; Community Districts; Transit Stations; Development

Description:

Establishes transit oriented development community development districts. Authorizes the Hawaii community development authority to plan and develop infrastructure capacity at each of the transit stations established as transit oriented development community districts. Requires the authority to plan and develop infrastructure for state owned land surrounding one of the following rail stations: Aloha stadium, Kalihi, Iwilei, or leeward community college. Allows the authority to enter into public private partnerships.

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