

JAN 19 2018

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# A BILL FOR AN ACT

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RELATING TO RENTAL HOUSING ON GOVERNMENT LANDS IN PROPOSED  
TRANSIT ORIENTED DEVELOPMENT COMMUNITY DISTRICTS.

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

**PART I**

SECTION 1. The legislature finds that the State has a unique opportunity to address economic diversification and affordable housing shortages through transit-oriented development. The majority of the state-owned lands along the transit corridor should be used in the development of rental housing at all price points. However, despite being one of the largest landowners alongside the rail transit stations, the State has yet to formulate a master plan to develop these parcels so they are transit-ready.

The legislature further finds that, before any redevelopment effort, there is a need to increase all infrastructure capacity along the transit corridor, especially around each of the twenty transit stations. In preparation for the completion of the Honolulu rail transit project, the State must maximize the opportunities for development of land around



1 rail stations, thereby supporting the local economy, improving  
2 access to transportation, and increasing rail ridership.

3 The legislature recognizes the need for a focused effort on  
4 infrastructure capacity building to support redevelopment  
5 efforts at each of the transit stations, but wishes to avoid the  
6 creation of another government entity. Therefore, the purpose  
7 of this Act is to have the Hawaii community development  
8 authority use its existing development and redevelopment  
9 authority to designate transit oriented development  
10 infrastructure capacity building development districts, then to  
11 plan and develop infrastructure capacity pursuant to section  
12 206E-6, Hawaii Revised Statutes, at each of the transit stations  
13 that will support the planned growth and density at each of the  
14 transit stations.

15 The authority shall plan and develop infrastructure to  
16 service state owned lands within a one-half mile radius from the  
17 following stations: Aloha Stadium transit station, Kalihi  
18 transit station, Iwilei transit station, or Leeward Community  
19 College transit station.

20 Further, in order to facilitate the investment of private  
21 capital in public infrastructure, chapter 206E, Hawaii Revised



1 Statutes, will be amended to allow the authority to enter into  
2 public private partnerships established through a lease back  
3 arrangement between the authority and private investors.

4 **PART II**

5 SECTION 2. Section 206E-1, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 **"§206E-1 Findings and purpose.** The legislature finds that  
8 many areas of the State are substantially undeveloped, blighted,  
9 or economically depressed, and are or are potentially in need of  
10 renewal, renovation, or improvement to alleviate such conditions  
11 as dilapidation, deterioration, age, and other such factors or  
12 conditions which make such areas an economic or social  
13 liability.

14 The legislature further finds that there exists within the  
15 State vast, unmet community development needs. These include,  
16 but are not limited to, a lack of suitable affordable housing;  
17 insufficient commercial and industrial facilities for rent;  
18 residential areas which do not have facilities necessary for  
19 basic livability, such as parks and open space; and areas which  
20 are planned for extensive land allocation to one, rather than  
21 mixed uses.



1        It is further determined that the lack of planning and  
2        coordination in such areas has given rise to these community  
3        development needs and that existing laws and public and private  
4        mechanisms have either proven incapable or inadequate to  
5        facilitate timely redevelopment and renewal.

6        The legislature finds that a new and comprehensive  
7        authority for community development must be created to join the  
8        strengths of private enterprise, public development and  
9        regulation into a new form capable of long-range planning and  
10       implementation of improved community development. The purpose  
11       of this chapter is to establish such a mechanism in the Hawaii  
12       community development authority, a public entity which shall  
13       determine community development programs and cooperate with  
14       private enterprise and the various components of federal, state,  
15       and county governments in bringing plans to fruition. For such  
16       areas designated as community development districts, the  
17       legislature believes that the planning and implementation  
18       program of the Hawaii community development authority will  
19       result in communities which serve the highest needs and  
20       aspirations of Hawaii's people.



1       The legislature finds that the creation of the Hawaii  
2       community development authority, the establishment of community  
3       development districts, and the issuance of bonds pursuant to  
4       this chapter to finance public facilities serve the public  
5       interest and are matters of statewide concern.

6       The legislature further finds that:

7       (1) The State has significant assets in four of the  
8       transit station locations on Oahu. The twenty  
9       stations proposed along the transit alignment are  
10      intended to provide for much of the planned growth and  
11      urban expansion through increased density concentrated  
12      within the urban core. The State must take  
13      appropriate steps to ensure its land assets along the  
14      transit corridor can be used in the most efficient and  
15      economic manner to support the best interest of the  
16      State;

17      (2) Due to its present low density function, the transit  
18      oriented development districts are relatively  
19      underdeveloped and underutilized especially in view of  
20      their proximity to the proposed Honolulu area rapid  
21      transit system. In the urban core, where the pressure



1       for all land uses is strong, the transit oriented  
2       development districts have the potential for increased  
3       growth and development that can alleviate community  
4       needs such as workforce and affordable housing, parks  
5       and open space, public facilities, and commercial and  
6       industrial facilities;

7       (3) The transit oriented development districts, if not  
8       redeveloped or renewed, have the potential to become  
9       blighted and deteriorated areas. Due to their present  
10       economic importance to the State in terms of industry  
11       and subsequent employment, there is a need to preserve  
12       and enhance their value and potential; and

13       (4) The transit oriented development districts have the  
14       potential, if properly developed and improved, to  
15       become planned new communities in consonance with  
16       surrounding urban areas."

17       SECTION 3. Section 206E-2, Hawaii Revised Statutes, is  
18       amended by adding a new definition to be appropriately inserted  
19       and to read as follows:

20       "Transit oriented development district" means a transit  
21       oriented development community development district."



1       SECTION 4. Section 206E-6, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§206E-6 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 community 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 community development district specially benefiting from  
12 such public facilities. The authority shall determine the areas  
13 of the community development district which will benefit from  
14 the public facilities to be undertaken and, if less than the  
15 entire community development district benefits, the authority  
16 may establish assessment areas within the community development  
17 district. The authority may issue and sell bonds in such  
18 amounts as may be authorized by the legislature to provide funds  
19 to finance such public facilities. The authority shall fix the  
20 assessments against real property specially benefited. All  
21 assessments made pursuant to this section shall be a statutory



1 lien against each lot or parcel of land assessed from the date  
2 of the notice declaring the assessment until paid and such lien  
3 shall have priority over all other liens except the lien of  
4 property taxes. As between liens of assessments, the earlier  
5 lien shall be superior to the later lien.

6 (c) Bonds issued to provide funds to finance public  
7 facilities shall be secured solely by the real properties  
8 benefited or improved, the assessments thereon, or by the  
9 revenues derived from the program for which the bonds are  
10 issued, including reserve accounts and earnings thereon,  
11 insurance proceeds, and other revenues, or any combination  
12 thereof. The bonds may be additionally secured by the pledge or  
13 assignment of loans and other agreements or any note or other  
14 undertaking, obligation, or property held by the authority.

15 Bonds issued pursuant to this section and the income therefrom  
16 shall be exempt from all state and county taxation, except  
17 transfer and estate taxes. The bonds shall be issued according  
18 and subject to the provisions of the rules adopted pursuant to  
19 this section.

20 (d) Any other law to the contrary notwithstanding, in  
21 assessing real property for public facilities, the authority





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

15 (g) All sums collected under this section shall be  
16 deposited in the Hawaii community development revolving fund  
17 established by section 206E-16; except that notwithstanding  
18 section 206E-16, all moneys collected on account of assessments  
19 and interest thereon for any specific public facilities financed  
20 by the issuance of bonds shall be set apart in a separate  
21 special fund and applied solely to the payment of the principal



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

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

15 (i) Notwithstanding any law to the contrary, whenever as  
16 part of a district-wide improvement program it becomes necessary  
17 to remove, relocate, replace, or reconstruct public utility  
18 facilities, the authority shall establish by rule the allocation  
19 of cost between the authority, the affected public utilities,  
20 and properties that may specially benefit from such improvement,  
21 if any. In determining the allocation of cost, the authority



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

4 (j) Notwithstanding any law to the contrary, the authority  
5 may enter into a partnership agreement with any private investor  
6 for the leasing of public infrastructure to the private  
7 investor; provided that the partnership agreement contains the  
8 following requirements:

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

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

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

16 (2) The land upon which the public infrastructure rests  
17 shall not be sold to the private investor; provided  
18 further that the land may be leased at a nominal rate  
19 to the private investor for a term that would, at a  
20 minimum, allow the private investor to recover the



1           capital investment that has been made to the public  
2           infrastructure, including depreciation; and

3       (3) The authority shall have the option of purchasing the  
4           public infrastructure from the private investor for  
5           the remaining balance of the debt service costs  
6           incurred by the private investor at any time; provided  
7           further that the lease shall terminate concurrently."

8                               PART III

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

12       "PART       . TRANSIT ORIENTED DEVELOPMENT COMMUNITY DISTRICTS

13       §206E-       Transit oriented development community district;  
14      purposes. In coordinating community development at each of the  
15      transit oriented development districts, the authority shall plan  
16      a mixed-use district whereby industrial, commercial,  
17      residential, and public uses may coexist compatibly within the  
18      same area. The authority shall plan for the above uses, but  
19      shall also respect and support the present function of the  
20      transit stations as major economic centers, providing



1 significant employment in such areas as light industrial,  
2 wholesaling, service, and commercial activity.

3       **§206E- Prohibitions.** Anything contained in this chapter  
4 to the contrary notwithstanding, the authority is prohibited  
5 from selling or otherwise assigning the fee simple interest in  
6 any lands in the transit oriented development districts to which  
7 the authority in its corporate capacity holds title, except with  
8 respect to:

9       (1) Utility easements;

10       (2) Remnants as defined in section 171-52;

11       (3) Grants to any state or county department or agency;

12       (4) Private entities for purposes of any easement,

13       roadway, or infrastructure improvements; or

14       (5) Reserved housing as defined in section 206E-101.

15       **§206E- Lease of transit oriented development districts.**

16 (a) Notwithstanding any law to the contrary, including section  
17 206E-14, except as prohibited by section 206E-31.5, the  
18 authority may, without recourse to public auction or public  
19 notice for sealed bids, lease for a term not exceeding ninety-  
20 nine years all or any portion of the real or personal property  
21 constituting a project to any person, upon such terms and



1 conditions as may be approved by the authority, if the authority  
2 finds that the lease is in conformity with the community  
3 development plan.

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

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

20 **§206E- Districts established; boundaries.** (a) The  
21 transit oriented development community district is established



1 and designated as a community development district. The  
2 district shall include the area within the boundaries of a  
3 transit station where there are significant state owned land  
4 interests, described as a one-half mile radius around each of  
5 the following transit stations;

- 6 (1) Iwilei transit station;
- 7 (2) Kapalama transit station;
- 8 (3) Aloha Stadium transit station; and
- 9 (4) Leeward Community College transit station.

10 **§206E- Transit oriented development districts;**  
11 **development guidance policies.** The following shall be the  
12 development guidance policies generally governing the  
13 authority's action in the transit oriented development  
14 districts:

- 15 (1) Development shall result in a community which permits  
16 an appropriate land mixture of residential,  
17 commercial, industrial, and other uses. A majority of  
18 the state-owned lands within each transit oriented  
19 development district shall be used for the development  
20 of rental housing at all price points. In view of the  
21 innovative nature of the mixed use approach, urban





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



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



1 mixed horizontally, that is, within blocks or other  
2 land areas, and vertically, as integral units of  
3 multi-purpose structures;

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

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



# S.B. NO. 2214

1        §206E-        Rules; adoption. The authority shall adopt rules  
2 in accordance with chapter 91 to carry out the purposes of this  
3 part."

4        SECTION 6. New statutory material is underscored.

5        SECTION 7. This Act shall take effect upon its approval.  
6

INTRODUCED BY:

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# S.B. NO. 2214

**Report Title:**

Transit Oriented Development Districts; Hawaii Community Development Authority; Infrastructure; Public-private Partnerships

**Description:**

Establishes transit oriented development districts along transit corridors as a community development district, empowers Hawaii community development authority to develop infrastructure in transit oriented development districts, and allows Hawaii community development authority to form public-private partnerships through a lease back arrangement.

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

