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GOVERNOR OF HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

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**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committee on
WATER & LAND**

**Wednesday, February 15, 2017
10:00 AM
State Capitol, Conference Room 325**

**In consideration of
HOUSE BILL 1212, HOUSE DRAFT 1
RELATING TO URBAN DEVELOPMENT**

House Bill 1212, House Draft 1 proposes to establish the Transit Development Authority (TOD Authority). The measure notes that the TOD Authority would strive to “join the strengths of private enterprise, public development, and regulation into a new form capable of long-range planning and implementation of the improved development of State- and county-owned assets near rail transit stations.” The purpose of this measure is to “establish such a mechanism in the transit oriented development authority, a public entity that shall determine development programs and cooperate with private enterprise and the various components of federal, state and county governments in bringing plans to fruition.” **The Department of Land and Natural Resources (Department) offers the following comments on this measure.**

The Department is a member and active participant in the Hawaii Interagency Council for Transit Oriented Development (TOD Council), established pursuant to Act 130, Session Laws of Hawaii 2016. The Council is led by the State Office of Planning and Hawaii Housing Finance and Development Corporation and consists of representatives from State and County regulatory agencies, State agencies managing lands along the rail line, and private and non-profit sectors of the community. Many of the responsibilities of the proposed TOD Authority are already delegated to the TOD Council, resulting in the duplicative and possibly conflicting results. In addition, the TOD Council has a broader scope of membership than the proposed Authority, allowing for a broader scope of member participation and input.

The protection of Hawaii’s public trust natural resources is a core public purpose and is the mission of the Department. Thus use of public lands in urban areas for income generation for natural resource protection is a core function of the Department.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON, P.E.
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

The Department has four parcels adjacent or in close proximity to the planned University of Hawaii West Oahu (UHWO) rail station in East Kapolei, which could be impacted by this measure. The Department's long term objective is to lease the parcels for income generating purposes to support the Department's natural resource management and protection programs. In order to maximize the development potential of these lands, the Department is working with both public and private adjacent landowners to address infrastructure needs, as well contracting for a strategic master plan regarding the use of these lands.

The Department notes the following provision in the measure in the proposed SECTION 6 regarding the TOD Authority's obligation to develop a transit oriented development plan for a transit oriented development district as designated by the Legislature:

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

(1) Determining how to optimize the amount of workforce and affordable housing in each district;

(2) Determining how to optimize public facilities, including schools, parks, libraries and other public facilities in each district;

(3) Identifying the need for infrastructure capacity building to support the planned density at the rail transit stations, and various alternatives on how the infrastructure could be financed; and

(4) Providing an economic model that would illustrate development or redevelopment opportunities with projected returns to public or private investors and the overall economic benefit in new taxes from jobs, businesses, real property taxes, and other factors.

The Department requests that in addition to the priorities enumerated above, any transit oriented development plan should also prioritize income generation for the public agencies managing land along the rail line. In addition to the Department, lands managed by University of Hawaii, the Aloha Stadium Authority and other public agencies are also intended to be developed for income generation purposes. The revenue generated from these agencies goes to support public purposes that fall within the mandate of those agencies. To the extent the TOD Authority desires to use public lands for any project, the Department supports this only to the extent that such conveyance or transfer remains voluntary. The Department is cognizant of infrastructure needs and is open to working with the TOD Authority to address these issues should this measure pass.

With respect to the affordable housing revision in House Draft 1 of this measure, the Department opposes placing strict income limits for rental housing development projects. It is unclear as to whether there is a market for the types of rental housing projects contemplated by this provision. The Department understands the need for affordable housing units, and has historically supported the development of affordable housing through the conveyance or transfer of

management of lands to HHFDC for affordable housing or rental projects statewide¹. In most instances, the lands transferred to HHFDC could have been used for more intensive income producing purposes to support natural resources work. Instead, these lands were dedicated by the Department to alleviate the significant lack of supply of affordable housing and rental units on Oahu, Maui and Hawaii Island.

The following affordable housing/rental projects have been supported by the transfer of lands from the Department to HHFDC:

- The Villages of Leialii in Lahaina, Maui, 1,033 acres of land mauka of downtown Lahaina.
- 690 Pohukaina in Kakaako, approximately 2.168 acres in Honolulu's urban core, adjacent to the rail line with access to existing infrastructure.
- Halekauwila Place in Kakaako, approximately 1.249 acres adjacent to the 690 Pohukaina project.
- Hale Mohalu in Pearl City, Oahu, 4.75 acres of land designated Urban, adjacent to Kamehameha Highway with access to existing infrastructure.
- The Villages of Laiopua, in North Kona, Island of Hawaii, 802 acres adjacent to Queen Kaahumanu Highway between Kona International Airport and Kailua Kona.

The Department is already in discussions with HHFDC regarding a potential affordable housing project on the East Kapolei parcels. However, the Department's position is that such a project must be compatible with the planned uses of the parcels.

Finally, the Department does have concerns regarding the additional regulatory requirements on transit oriented development imposed by this measure. Subjecting potential development projects to further regulatory approvals through the TOD Authority in addition to pre-existing State and County requirements may inhibit the implementation of successful public-private partnerships. Furthermore, the rulemaking process required for the TOD Authority and the development of a transit oriented development plan would consume a significant amount of time, potentially delaying projects in the transit oriented development district.

Thank you for the opportunity to comment on this measure.

¹ In addition to HHFDC, the Department has also provided land to the City and County of Honolulu for the purpose of providing shelter support to the homeless. Sites include land leased to the City for a transitional housing center at Sand Island, and land set aside via Executive Order to the City for an emergency homes project adjacent to Keehi Lagoon, in collaboration with the Aio Foundation, a local non-profit organization.

A BILL FOR AN ACT

RELATING TO URBAN REDEVELOPMENT.

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

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

"CHAPTER

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

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

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

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

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

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

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

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

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

The legislature finds that the creation of the transit oriented development authority, the establishment of transit oriented development districts, and the issuance of bonds pursuant to this chapter to finance public facilities serve the public interest and are matters of statewide concern. In coordinating transit oriented development, the authority shall

plan for mixed-use districts in which industrial, commercial, residential, and public uses may coexist compatibly within the same area.

§ -2 **Definitions.** As used in this chapter: "Authority" means the transit oriented development authority established by section -3.

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

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

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

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

"Project cost" means the total of all costs incurred by the authority in carrying out all undertakings that it deems reasonable and necessary for the development of a project including but not limited to: studies; surveys; plans; specifications; architectural, engineering, or any other

development-related services; acquisition of land and any improvement thereon; site preparation and development; construction; reconstruction; rehabilitation; the necessary expenses in administering this chapter; the cost of financing the project; and relocation costs.

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

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

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

"Real property" means lands, structures, and interests in land, including lands under water and riparian rights, space rights, and air rights and any and all other things and rights usually included within the term. "Real property" also means

any and all interests in such property less than full title, such as easements, incorporeal hereditaments, and every estate, interest, or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages, or otherwise.

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

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

§ -3 Transit oriented development authority;

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

(b) The authority shall consist of:

(1) The director of business, economic development, and tourism, or the director's designee;

(2) The county director of planning and permitting, or the applicable county director's designee;

(3) The county director of facilities maintenance, or the applicable county director's designee;

(4) The county director of land management, or the applicable county director's designee;

(5) The county employee who is responsible for overseeing transit oriented development;

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

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

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

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

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

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

§ ~~4~~ Powers; generally. The authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Make rules with respect to its projects, operations, properties, and facilities, which rules shall be in conformance with chapter 91;
- (6) Through its executive director, appoint officers, agents, and employees; prescribe their duties and qualifications; and fix their salaries, without regard to chapter 76;
- (7) Prepare or cause to be prepared a transit oriented development plan for all designated transit oriented development districts;
- (8) Acquire, reacquire, or contract to acquire or reacquire by grant or purchase real, personal, or mixed property or any interest therein; to own, hold, clear, improve, and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, or otherwise dispose of or encumber the same;
- (9) Acquire or reacquire by condemnation real, personal, or mixed property or any interest therein for public facilities, including but not limited to streets, sidewalks, parks, schools, and other public improvements;
- (10) By itself, or in partnership with qualified persons, acquire, reacquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of or encumber any project, and in the case of the sale of any project, accept a purchase

money mortgage in connection therewith; and repurchase or otherwise acquire any project that the authority has theretofore sold or otherwise conveyed, transferred, or disposed of;

(11) Arrange or contract for the planning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or for the furnishing of facilities or for the acquisition of property or property rights or for the furnishing of property or services in connection with a project;

(12) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on terms and conditions as it deems advisable;

(13) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time, to modify the plans, specifications, designs, or estimates;

(14) Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, to carry out the purposes of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;

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

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

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

(18) Develop affordable residential projects on the county-owned real property identified in paragraph (17); ~~and~~provided that:

(A) Ten per cent of the projects may be used for affordable housing for individuals or families who meet sixty per cent of the area median income;

(B) Ten per cent of the projects may be used for affordable housing for individuals or families who meet sixty-one to eighty per cent of the area median income;

(C) Twenty per cent of the projects may be used for affordable housing for individuals or families who meet eighty-one to one hundred twenty per cent of the area median income; and

(D) Twenty per cent of the projects may be used for affordable housing for individuals or families who meet one hundred twenty one to one hundred eighty per cent of the area median income; and

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

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

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

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

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

(1) Determining how to optimize the amount of workforce and affordable housing in each district;

(2) Determining how to optimize public facilities, including schools, parks, libraries and other public facilities in each district;

(3) Identifying the need for infrastructure capacity building to support the planned density at the rail transit stations, and various alternatives on how the infrastructure could be financed; and

(4) Providing an economic model that would illustrate development or redevelopment opportunities with projected returns to public or private investors and the overall economic benefit in new taxes from jobs, businesses, real property taxes, and other factors.

(d) — Whenever possible, planning activities of the authority shall be coordinated with federal, state, and county plans. Consideration shall be given to state goals and

policies, adopted state plan or land use guidance policies, county general plans, development plans, and ordinances.

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

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

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

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

- (A) Locations and design of projects or public facilities proposed to be funded; and
- (B) Phase of the transit oriented development plans proposed to be implemented with the requested funds; and

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

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

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

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

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

(3) The posting of every application for a development permit for any project within a transit oriented development district on the authority's website when the application is deemed complete;

(4) Notification by the applicant of any application for a development permit for a project valued at \$250,000 or more by first-class mail, postage prepaid, to owners and lessees of record of real property located within a three-hundred-foot radius of the perimeter of the proposed project identified from the most current list available from the real property assessment division of the department of budget and fiscal services of the county in which the proposed project is located, when the application is deemed complete; provided that notice mailed pursuant to this paragraph shall include but not be limited to notice of:

(A) Project specifications;

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

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

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

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

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

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

§ -8 Public hearing for decision-making; separate hearings required; contested case hearing; judicial review. (a) When rendering a decision regarding:

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

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

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

(b) The authority shall issue a public notice in accordance with section -7 and post the notice on its website; provided that the decision-making hearing shall not occur earlier than five business days after the notice has been posted. Public notice issued pursuant to this subsection for public hearings on the acceptance of a developer's proposal to

develop lands under the authority's control shall state that any written motion to intervene as a formal party to the proceeding shall be received within twenty days after the publication date of the public notice.

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

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

- (1) Of any public hearing upon posting of the hearing notice; and
- (2) With a written report detailing the public's reaction at the public hearing, within one week after the hearing.

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

shall be rendered at the decision-making hearing on the developer's proposal.

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

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

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

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

(1) The extent to which the proposed project:

- (A) Advances the goals, policies, and objectives of the applicable district plan;
- (B) Protects, preserves, or enhances desirable neighborhood characteristics through compliance

with the standards and guidelines of the applicable district rules;

- (C) Avoids a substantially adverse effect on surrounding land uses through compatibility with the existing and planned land use character of the surrounding area; and
- (D) Provides housing opportunities for low- and moderate-income groups;

(2) The impact of the proposed project on the following areas of urban design, as applicable:

- (A) Pedestrian oriented development, including "complete streets" design;
- (B) Transit oriented development, including rail, bus, and other modes of rapid transit; and
- (C) Community amenities such as gathering places, community centers, culture and arts facilities, and the full array of public facilities normally provided by the public sector;

(3) The impact of the proposed project on the following areas of state concern:

- (A) Preservation of important natural systems or habitats;
- (B) Maintenance of valued cultural, historical, or natural resources;
- (C) Maintenance of other resources relevant to the State's economy;

- (D) Commitment of state funds and resources;
- (E) Employment opportunities and economic development; and
- (F) Maintenance and improvement of the quality of educational programs and services provided by schools; and

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

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

(b) Whenever the authority shall determine to undertake, or cause to be undertaken, any public facility as part of the district-wide improvement program, the cost of providing the public facilities shall be assessed against the real property in the transit oriented development district specially benefiting from the public facilities. The authority shall determine the areas of the transit oriented development district that will benefit from the public facilities to be undertaken and, if less than the entire transit oriented development district benefits, the authority may establish assessment areas within the transit oriented development district. The authority may issue and sell bonds in amounts as may be authorized by the legislature to provide funds to finance the public facilities. The authority shall fix the assessments against real property specially

benefited. All assessments made pursuant to this section shall be a statutory lien against each lot or parcel of land assessed from the date of the notice declaring the assessment until paid and the lien shall have priority over all other liens, except the lien of property taxes. As between liens of assessments, the earlier lien shall be superior to the later lien.

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

(d) The authority shall assess the real property within an assessment area according to the special benefits conferred upon the real property by the public facilities. These methods may include assessment on a frontage basis or according to the area of real property within an assessment area or any other assessment method which assesses the real property according to the special benefit conferred, or any combination thereof.—__No

such assessment levied against real property specially benefited as provided by this chapter shall constitute a tax on real property within the meanings of any constitutional or statutory provisions.

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

(f) The authority may, in its discretion, enter into any agreement with the county in which the public facilities are

located, to implement all or part of the purposes of this section.

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

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

(i) If it becomes necessary to remove, relocate, replace, or reconstruct public utility facilities, the authority shall establish by rule the allocation of cost between the authority,

the affected public utilities, and properties that may specially benefit from such improvement, if any. In determining the allocation of cost, the authority shall consider the cost allocation policies for improvement districts established by the county in which the removal, relocation, replacement, or reconstruction is to take place.

§ -10 Transit oriented development rules. (a) ~~—~~ The authority shall establish transit oriented development rules under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final adoption of a transit oriented development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The authority may, in the transit oriented development plan or by a transit oriented development rule, provide that lands within a transit oriented development district shall not be developed beyond existing uses or that improvements thereon shall not be demolished or substantially reconstructed, or provide other restrictions on the use of the lands.

(b) Development rights under a master plan permit and master plan development agreement issued and approved by the authority are vested under the transit oriented development district rules in effect at the time of initial approval by the

authority and shall govern development on lands subject to such permit and agreement.

§ -11 Use of public lands; acquisition of state and county lands. (a) If state lands under the control and management of other public agencies are required by the authority for its purposes, the agency having the control and management of those required lands may, upon request by the authority and with the approval of the governor or mayor, as applicable, convey or lease the lands to the authority upon terms and conditions as may be agreed to by the parties.

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

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

§ -12 Developments within special management areas and shoreline setback. (a) Notwithstanding chapter 205A, all requests for developments within a special management area and shoreline setback variances for developments on any lands within a transit oriented development district, for which a transit oriented development plan has been developed and approved in

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

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

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

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

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

§ -13 Condemnation of real property. Upon making a finding that it is necessary to acquire any real property for its immediate or future use for the purposes of this chapter, the authority may acquire the property by condemnation pursuant to chapter 101, including property already devoted to a public use. The property shall not thereafter be taken for any other public use without the consent of the authority. No award of compensation shall be increased by reason of any increase in the value of real property caused by the designation of a transit

oriented development district or plan adopted pursuant to a designation, or the actual or proposed acquisition, use, or disposition of any other real property by the authority.

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

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

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

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

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

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

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

§ -18 Residential projects; cooperative agreements. (a) If the authority deems it desirable to develop a residential project, it may enter into an agreement with qualified persons to construct, maintain, operate, or otherwise dispose of the residential project. Sale, lease, or rental of dwelling units in the project shall be as provided by the rules established by the authority. The authority may enter into cooperative agreements with the Hawaii housing finance and development corporation for the financing, development, construction, sale, lease, or rental of dwelling units and projects.

(b) The authority may transfer the housing fees collected from private residential developments for the provision of housing for low- to moderate-income residents to the Hawaii housing finance and development corporation for the financing, development, construction, sale, lease, or rental of such housing within or without the transit oriented development districts. The fees shall be used only for projects owned by the State, owned by the county, or owned or developed by a qualified nonprofit organization. As used in this section, "nonprofit organization" means a corporation, association, or other duly chartered organization registered with the State,

which organization has received charitable status under the Internal Revenue Code of 1986, as amended.

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

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

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

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

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

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

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

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

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

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

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

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

(c) If the purchaser in a residential project is a state agency, the authority may include as a term of the sale a

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

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

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

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

(1) Development shall result in a community that permits an appropriate land mixture of residential, commercial, industrial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies should be established to provide guidelines for the public and private sectors in the proper development of this district. Although the authority's development responsibilities apply only to the area within the district, the authority may engage in any studies or coordinative activities permitted in this chapter that affect areas lying outside the district, where the authority, in its discretion, decides that those activities are necessary to implement the intent of this chapter. The studies or coordinative activities shall be limited to facility systems, residential and industrial relocation, and other activities with the counties and appropriate state agencies. The authority may engage in construction activities outside ~~of~~ the district; provided that the construction relates to infrastructure development or residential or business relocation activities; provided further, notwithstanding section 206E-7, that the construction shall comply with the general plan, development plan, ordinances, and rules of the county in which the district is located;

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

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

(4) Major view planes, view corridors, and other environmental elements, such as natural light and prevailing winds, shall be preserved through necessary regulation and design review;

(5) Redevelopment of the district shall be compatible with plans of the surrounding areas;

(6) Historic sites and culturally significant facilities, settings, or locations shall be preserved;

(7) Land use activities within the district, where compatible, shall, to the greatest possible extent, be mixed horizontally, i.e., within blocks or other land areas, and vertically, as integral units of multi-purpose structures;

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

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

§ -29 **County-owned real property.** (a) The county shall continue to own any real property identified in section - 4(17).

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

SECTION 2. This Act shall take effect ~~upon its approval on~~
July 1, 2050.

~~INTRODUCED BY:~~ _____

Report Title:

State Urban Redevelopment

Description:

Establishes the Transit Oriented Development Authority. (HB1212 HD1)

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

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STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

February 15, 2017

TO: The Honorable Representative Ryan I. Yamane, Chair
House Committee on Water and Land

FROM: Pankaj Bhanot, Director

SUBJECT: **HB 1212 – RELATING TO URBAN DEVELOPMENT**

Hearing: February 15, 2017, 10:00 a.m.
Conference Room 325, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) supports the intent of the above mentioned bill to the extent the measure does not adversely impact priorities identified in the Governor's Executive Budget request, and offers comments.

PURPOSE: The purpose of HB 1212 HD1 is to establish the Transit Oriented Development Authority in order to address economic diversification and affordable housing shortages through transit-oriented development (TOD).

The Director of DHS is a member of the Hawaii Interagency Council for Transit Oriented Development created by Act 130, Session Laws of Hawaii 2016. As a department, DHS provides benefits to and services one in four residents in Hawaii. DHS strives to encourage self-sufficiency and support the well-being of individuals, families, and communities in Hawaii through its major benefit programs that provide financial assistance, Supplemental Nutrition Assistance Program (SNAP), medical insurance coverage (through Med-QUEST), vocational rehabilitation services, and protective services for vulnerable children and adults.

One of the primary determinants of well-being is access to stable and affordable housing. Affordable and stable housing is linked with improved health, education and economic outcomes for families and children. When housing is stable and affordable,

families can spend more time and resources on education, medical care, nutritious food, and quality child care.

Strengthening communities by incorporating safe, adequate, and affordable housing in State development projects near Honolulu rail transit stations would also reduce the likelihood that low- and moderate-income households currently living in growing TOD areas would be displaced due to gentrification pressures.

Additionally, the presence of adequate and affordable housing in TOD areas would generate strong rail ridership, as the core users of public transportation are often low- to moderate-income individuals.

Given the shortage of affordable housing in Hawaii, it is crucial that the State, as the largest landowner along the Honolulu rail corridor, utilize its resources to create safe communities where families can thrive, and increase the supply of affordable housing units in TOD areas without displacing long-standing or low-income residents.

Thank you for this opportunity to provide comments on this measure.

DAVID Y. IGE
GOVERNOR



WESLEY K. MACHIDA
DIRECTOR

LAUREL A. JOHNSTON
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON WATER AND LAND
ON
HOUSE BILL NO. 1212, H.D. 1

February 15, 2017
10:00 a.m.
Room 325

RELATING TO URBAN REDEVELOPMENT

House Bill No. 1212, H.D. 1, establishes the Transit-Oriented Development Authority (TODA) within the Department of Business, Economic Development and Tourism to plan and develop infrastructure capacity on State and county lands within a half-mile radius from rail transit stations. The bill establishes the Hawaii Transit-Oriented Development (HTOD) Revolving Fund that would generate revenues from assessments and interest on public facilities financed by the issuance of bonds and set apart in a separate special fund applied solely to the payment of principal and interest of these bonds and the issuance of general obligation bonds.

The Department of Budget and Finance takes no position on the establishment of the TODA. As a matter of general policy, the department does not support the creation of any revolving fund which does not meet the requirements of Section 37-52.4 of the HRS. Revolving funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the

program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. In regards to House Bill No. 1212, H.D. 1, it is difficult to determine whether the proposed source of revenues will be self-sustaining, and we are concerned that the primary revenue stream for the HTOD Revolving Fund may be general obligation bonds.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
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PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

DAMIEN A. ELEFANTE
DEPUTY DIRECTOR

To: The Honorable Ryan I. Yamane, Chair
and Members of the House Committee on Water & Land

Date: Wednesday, February 15, 2017
Time: 10:00 A.M.
Place: Conference Room 325, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: H.B. 1212, H.D. 1, Relating to Urban Redevelopment

The Department of Taxation (Department) appreciates the intent of H.B. 1212, H.D. 1, and provides the following comments for your consideration.

H.B. 1212, H.D. 1, creates a State Transit Oriented Development Authority (Authority) to plan and develop infrastructure capacity at rail transit stations. The bill includes various tax-related provisions, including: (1) a provision that would give priority to assessments against real property to fund the cost of providing public facilities over all other liens, except property tax liens; (2) a provision that exempts income from bond issues to fund public facilities from all State and county taxes, except transfer and estate taxes; and (3) a provision that exempts the Authority from all State and county taxes. The bill has a defective effective date of July 1, 2050.

First, the Department notes that the provision giving priority to assessments to fund public facilities over all other liens may conflict with section 231-33(b), Hawaii Revised Statutes (HRS). New section __-9 provides that if the authority undertakes a public facility (defined as including streets, utility and service corridors, utility lines, public highways, storm drainage systems, water systems, street lighting systems, off-street parking facilities, and sanitary sewerage systems), the cost of providing the public facility shall be assessed against the real property in the district specially benefiting from the public facility. The assessments are deemed to be statutory liens against each parcel from the date of notice of the assessment and shall have priority over all other liens, except liens of property taxes.

Section 231-33(b), HRS, provides that a tax lien, which arises at the time the tax is assessed, the time a return is filed, or the time a certificate of State tax lien is recorded by the Department, whichever is earlier, "is a paramount lien upon the property and rights to property against all parties, whether their interest arose before or after that time." An exception is made, however, for a mortgagee or purchaser of real property, or the lien of a judgment creditor upon real property, whose interest arose prior to the recording by the Department of the certificate of

the State tax lien. HRS § 231-33(c)(1). Since property tax liens are exempted from this new lien priority provision, it seems that State tax liens were inadvertently omitted.

To avoid ambiguity, the Department suggests the following amendment to section __-9(b):

All assessments made pursuant to this section shall be a statutory lien against each lot or parcel of land assessed from the date of the notice declaring the assessment until paid and the lien shall have priority over all other liens, except the lien of property taxes[-] and except as provided in section 231-33.

With respect to the provisions that make the Authority and income from bonds exempt from State taxes, the Department notes that these provisions will require changes to forms and instructions. Accordingly, the Department requests that the lien priority provision at section __-9(b) be made effective July 1, 2017 and bond income exemption at section __-9(c) be made effective for tax years beginning after December 31, 2017.

Thank you for the opportunity to provide comments.



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DAVID Y. IGE
GOVERNOR

LEO R. ASUNCION
DIRECTOR
OFFICE OF PLANNING

Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
HOUSE COMMITTEE ON WATER AND LAND
Wednesday, February 15, 2017
10:00 AM
State Capitol, Conference Room 325

in consideration of
HB 1212, HD1
RELATING TO URBAN REDEVELOPMENT

Chair Yamane, Vice Chair Kong and Members of the House Committee on Water and Land.

The Office of Planning (OP) offers comments on House Bill 1212, HD1, which would establish a Transit Oriented Development (TOD) Authority within the Department of Business, Economic Development, and Tourism (DBEDT) to plan and coordinate development projects on State lands within a one-half mile radius from rail transit stations.

The coordination and financing of infrastructure improvements in planned growth areas, such as along the Honolulu rail corridor, is a major impediment to realizing the potential of TOD in providing needed housing and creating vibrant and sustainable mixed-use communities. The State has identified infrastructure development and implementation as priority for State TOD.

While this proposal could potentially expedite TOD on County or State lands, OP has a number of concerns related to the bill as it is currently written:

- There are inconsistencies between the primarily County composition of the membership for the proposed Authority in § -3 (page 8), the reference to County-owned real property to be developed for affordable housing § -4 (18) (page 13), and the majority of districts established in § -27 (page 42). UH West Oahu Transit Station, Leeward Community College Transit Station and Aloha Stadium Transit Station are all TOD districts with primarily State-owned property. It is not clear from the bill whether the TOD Authority will develop either County or State lands, or both.
- Many of the proposed duties of the Authority, including coordination and planning, currently overlap with the duties of the Hawaii Interagency Council for TOD (TOD Council) recently established pursuant to Hawaii Revised Statutes (HRS) § 226-64

(Act 130, SLH 2016). Any comprehensive planning efforts delegated to the Authority, including identifying TOD infrastructure needs and financing and long-range planning, would be duplicative of the tasks already mandated to the TOD Council, including the development of a State strategic plan for TOD.

- The effective delivery of infrastructure system capacity to accommodate planned and future State agency projects with those of other public and private developers requires a much broader and coordinated regional geographic approach to State agency land use planning and development along the rail corridor than the assignment of powers granted to a single development authority.
- The redevelopment potential of many State-owned properties along the rail corridor has yet to be assessed by the TOD Council. Specific station-areas designated for infrastructure investment priorities as detailed in § -27 (1 through 5 (page 42) still need further review by the TOD Council before they are determined to be ready for development.
- With respect to TOD districts and boundaries established, OP believes a more comprehensive and collaborative planning approach is needed to determine the priority areas and boundaries. Districts that are established should take into consideration the existing City and County of Honolulu Neighborhood TOD Plans, including the boundaries for designated State TOD districts, and current and proposed zoning designations.

OP would prefer that the existing TOD Council be given the opportunity to proceed with planning for projects on State lands, including long-range planning and identifying TOD infrastructure needs and financing.

Thank you for the opportunity to testify on this matter.



LATE

Testimony by:
FORD N. FUCHIGAMI
DIRECTOR

Deputy Directors
JADE T. BUTAY
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 15, 2017
10:00 AM
State Capitol, Room 325

**H.B. 1212, H.D. 1
RELATING TO URBAN REDEVELOPMENT**

House Committee on Water and Land

The Department of Transportation (DOT) **supports** the intent of this bill to encourage the State to use Transit Oriented Development (TOD) to address needed economic diversification and affordable housing shortages. However; the DOT does have significant concerns regarding the establishment of a Transit Oriented Development Authority (TODA) that could potentially have authority and/or jurisdiction over Airport, Harbors, or Highways properties within proximity to rail stations.

The lands under the jurisdiction of the DOT are vital to the safe and efficient movement of people and goods throughout the entire State as well as between Hawaii and the mainland and international ports. DOT must plan, administer, and manage such lands to accommodate ever evolving needs and anticipated future demands while ensuring compliance with federal regulations (Federal Transit Administration (FTA), Federal Highway Administration (FHWA), Federal Aviation Administration (FAA), and Maritime Administration (MARAD)). Noncompliance with our federal partners may jeopardize our federal funding.

Additionally, the DOT is participating in the City and County of Honolulu's transit oriented development planning and we intend to continue to do so. Furthermore, the DOT is a participant in the recently created Hawaii Interagency Council for Transit Oriented Development to develop a State TOD Strategic Plan directed at State lands. To establish another entity to administer and manage transit oriented developments adds another layer of bureaucracy and is duplicative with the existing framework to address TOD. Then too, the time and resources (funding, staffing, etc.) to set up an authority will be time consuming and create delays to the existing efforts already underway.

DOT has and continues to work cooperatively and comprehensively with the City and County of Honolulu and with other State agencies in the ongoing

development of the Honolulu Area Rapid Transit and surrounding TOD areas. As such, we do not believe that the creation of a TODA would be beneficial.

Thank you for the opportunity to provide testimony.

LATE

DAVID Y. IGE
GOVERNOR

RODERICK K. BECKER
COMPTROLLER



An Agency of the State of Hawaii

ROSS I. YAMASAKI
CHAIRMAN, STADIUM AUTHORITY

SCOTT L. CHAN
MANAGER

RYAN G. ANDREWS
DEPUTY MANAGER

TESTIMONY
OF
ROSS YAMASAKI, CHAIRMAN
STADIUM AUTHORITY ON HB 1212, HD1
TO THE
HOUSE COMMITTEE
ON
WATER AND LAND

February 15, 2017

RELATING TO URBAN DEVELOPMENT

Chair Yamane, Vice Chair Kong and members of the Committee, thank you for the opportunity to submit testimony in the form of comments on H.B. 1212, HD1.

The Stadium Authority understands and appreciates the Legislature's intent to coordinate oversight and maximize opportunity and resources to develop land in and around rail transit stations. As noted in previous testimony submitted for HB 1212's hearing on February 8, 2017, it is our understanding that the State Department of Transportation, Department of Land and Natural Resources, and State Office of Planning defer to the existing Hawaii Interagency Council for Transit Oriented Development (HIC-TOD) to continue its charge of coordinating resources to develop a State Transit Oriented Development strategic plan.

Given that the Stadium Authority is more than three years invested into its transit oriented development project and has established collaborative working relationships with HIC-TOD members and their agencies, it is of even greater importance that the Stadium Authority's project continue on track. Any unintended postponement or delay in project development could prove costly for the Stadium Authority.

The Stadium Authority respectfully appreciates an opportunity to continue its development project while being receptive to utilizing any authority bestowed upon a proposed transit oriented development authority that would serve to expedite completion of the Stadium Authority's development project.

Thank you for the opportunity to provide comments on HB 1212, HD1

DEPARTMENT OF PLANNING AND PERMITTING
CITY AND COUNTY OF HONOLULU

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KIRK CALDWELL
MAYOR



KATHY K. SOKUGAWA
ACTING DIRECTOR

TIMOTHY F. T. HIU
ACTING DEPUTY DIRECTOR

February 15, 2017

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on
Water and Land
Hawaii House of Representatives
Hawaii State Capitol
415 South Beretania Street
Honolulu, Hawaii 96813

Dear Chair Yamane and Committee Members:

Subject: House Bill No. 1212, HD 1
Relating to Urban Redevelopment

The Department of Planning and Permitting (DPP) **strongly opposes** House Bill No. 1212, HD 1, which would establish the State Transit Oriented Development Authority. This Bill is unnecessary, premature, duplicative, usurps home rule, and will be costly to the taxpayers of Hawaii.

The DPP supports the role of the State in developing State-owned lands near rail transit stations. From the beginning, more than ten years ago, we have invited State agency participation in our transit-oriented development (TOD) planning. State agencies have responded, and have influenced our TOD plans and strategies. We would be happy to share with you all of our collaborative efforts with State agencies and others in developing our TOD program.

We are well aware that the State owns lands that can take advantage of their proximity to rail stations. Our draft TOD Plan for the Halawa area demonstrates the input of the Department of Accounting and General Services and the Stadium Authority. Moreover, we have been active participants in meetings convened by Senators Chun-Oakland and Dela Cruz in 2015 that began the consolidated discussion on redevelopment of State lands near rail stations.

By creating a new Authority, this Bill ignores these investments in collaborative planning by taking over the City's role in planning, zoning and permitting TOD projects. This new authority would also be in charge of planning and implementing infrastructure improvements. Rather than accelerate action on TOD and affordable housing,

The Honorable Ryan I. Yamane, Chair
and Members of the Committee on
Water and Land
Hawaii House of Representatives
House Bill No. 1212, HD 1
February 15, 2017
Page 2

establishing this new authority – and the extensive new rules, procedures and staffing it would require – could set back progress by several years.

It is unfortunate that the proposed legislation cites “a lack of planning and coordination” and the need for major infrastructure investments. These findings ignore the significant progress made by State agencies and the City, in collaboration with the private sector. Act 130 (2016) established the Hawaii Interagency Council for Transit-Oriented Development, which is moving expeditiously in developing a State TOD Strategic Plan (focused on development of State lands), even though it was convened less than seven months ago. Working collaboratively with the City, it expects the Plan to be completed later this year. The Plan will prioritize proposed CIP projects for recommendation to the Legislature. The Interagency Council has already identified priority TOD areas, and provided master planning funds.

To sum, we support the State in coordinating planning and prioritizing its investments in TOD infrastructure and projects on State lands. The City will continue to collaborate with the State on this effort. We are especially supportive of bills that help fund infrastructure upgrades and stimulate more affordable housing. However, the State should not usurp City land use planning and project approval functions, which are clearly the responsibility of the City under home rule provisions.

Please defer House Bill No. 1212, HD 1.

Thank you for the opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Kathy Sokugawa', written in a cursive style.

Kathy Sokugawa
Acting Director

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Testimony to the House Committee on Water & Land
Wednesday, February 15, 2017
10:00 am
Conference Room 325

RE: HB 1212 HD1 – Relating to Urban Development

Chair Yamane, Vice-Chair Kong, and members of the committee:

My name is Gladys Quinto Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-HAWAII is in strong support of H.B. 1212 HD1, which proposes to establish the Transit Oriented Development Authority. The bill is in response to the Legislature position that a new and comprehensive authority must be created to join the strengths of private enterprise, public development, and regulation into a new form capable of long-range planning and implementation of the improved development of State- and county-owned assets near rail transit stations. The purpose of this chapter is to establish such a mechanism in the transit oriented development authority, a public entity that shall determine development programs and cooperate with private enterprise and the various components of federal, state, and county governments in bringing plans to fruition.

We applaud the efforts of the legislature to provide pro-active leadership to ensure the state owned lands are developed properly in order to realize the maximum benefits to the state. Market and affordable rentals in a pedestrian friendly, mixed use environment can be realized when properly planned and implemented.

We are in strong support of H.B. 1212 HD1, and look forward to working with the new authority. Thank you for the opportunity to express our views on this matter.



**Testimony to the House Committee on Water & Land
Wednesday, February 15, 2017 at 10:00 A.M.
Conference Room 325, State Capitol**

RE: HOUSE BILL 1212 HD1 RELATING TO URBAN REDEVELOPMENT

Chair Yamane, Vice Chair Kong, and Members of the Committee:

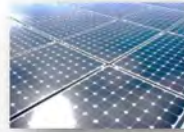
The Chamber of Commerce Hawaii ("The Chamber") **strongly supports** HB 1212 HD1, which proposes to establish the Transit Oriented Development Authority. The bill is in response to the Legislature position that a new and comprehensive authority must be created to join the strengths of private enterprise, public development, and regulation into a new form capable of long-range planning and implementation of the improved development of State- and county-owned assets near rail transit stations. The purpose of this chapter is to establish such a mechanism in the transit oriented development authority, a public entity that shall determine development programs and cooperate with private enterprise and the various components of federal, state, and county governments in bringing plans to fruition.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 1,600+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

We applaud the efforts of the legislature to provide some pro-active leadership to ensure the state owned lands are developed properly in order to realize the maximum benefits to the state. Market and affordable rentals in a pedestrian friendly, mixed use environment can be realized when properly planned and implemented.

We strongly support HB 1212 HD1, and look forward to working with the new authority. We appreciate the opportunity to provide our input on this important legislation.

Thank you for the opportunity to testify.



HOUSE COMMITTEE ON WATER AND LAND

Feb. 15, 2017, 10:00 A.M.

Room 325

(Testimony is 2 pages long)

TESTIMONY IN SUPPORT OF THE INTENT OF HB 1212 HD1

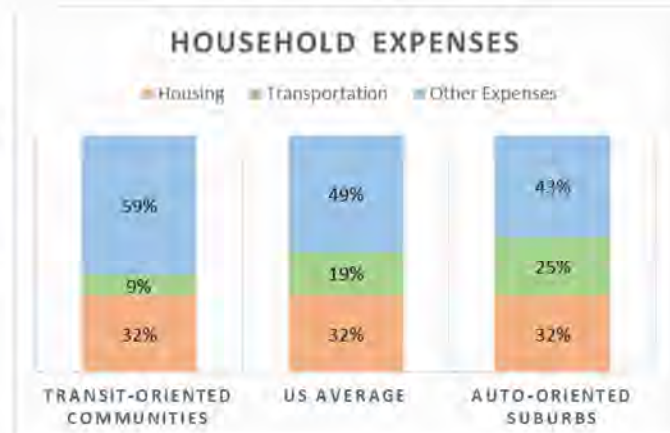
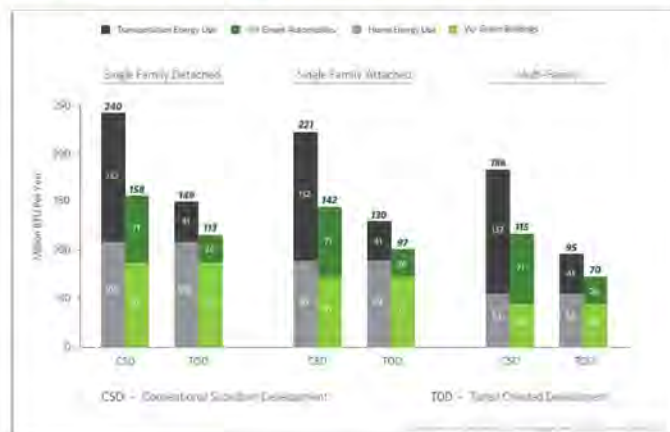
Aloha Chair Yamane, Vice Chair Kong, and members of the committee:

Blue Planet Foundation **supports the intent** of HB 1212 HD1 which would establish a State Transit Oriented Development Authority.

Transit-Oriented Development Can Reduce Transportation Energy and Household Costs

As a leading advocate for clean energy and clean transportation in Hawaii, Blue Planet Foundation believes that transit oriented development (TOD) is important because it has been shown to encourage compact, mixed-use communities designed for walking, biking and transit use. Such communities can reduce travel distances, transportation energy use, household transportation costs, and the amount of land we consume for development.

The chart to the upper right shows that regardless of housing type, people in TODs use less energy both within their homes and for transportation.¹ Meanwhile, the chart to the lower right shows that households within TODs spend only 9% of their income on transportation, compared to the national average of 19%, and suburban households which spend 25%.²



¹ US Environmental Protection Agency. 2011. Location Efficiency and Housing Type: Boiling it Down to BTUs. https://www.epa.gov/sites/production/files/2014-03/documents/location_efficiency_btu.pdf

² Reconnecting America. 2007. Realizing the Potential: Expanding Housing Opportunities near Transit. US Department of Transportation. Federal Transit Administration.

Affordable Housing is Important for Achieving Promised TOD Benefits

Blue Planet Foundation also believes that it is important to ensure that housing built within TODs accommodates a mix of income groups. It is particularly important that TODs include ample housing for low and moderate income groups who are most likely to utilize walking, biking, and transit and benefit from the associated cost savings. If too much of the housing built in TOD districts is targeted at higher income groups, the transportation benefits of TOD and return on public investments in transit are likely to be significantly reduced.

State TOD Authority Should Work Collaboratively with Counties

Blue Planet Foundation believes there is a need for better coordination of land use and transportation policies and infrastructure development between the state and counties. A State transit oriented development authority could help to facilitate such better coordination, particularly if it has the ability to help fund infrastructure improvements that are needed to develop TOD.

We also understand that the City and County of Honolulu has an active TOD program and has been developing community-based Neighborhood TOD plans along the Honolulu Rail Project route since 2008. We believe that it would be important for any State TOD Authority to work collaboratively with the counties in such a manner that doesn't duplicate work already done or undermine the efforts of the counties that are already underway.

We defer to the City and County of Honolulu on the specific details of the bill.

Thank you for the opportunity to testify.