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# A BILL FOR AN ACT

RELATING TO DEVELOPMENT DISTRICTS.

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

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PART I

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SECTION 1. Section 206E, Hawaii Revised Statutes, is

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amended by adding a new part to read as follows:

4

**"PART . PULEHUNUI COMMUNITY DEVELOPMENT DISTRICT**

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**§206E-A Pulehunui community development district; purpose;**

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**findings.** The legislature finds that the lands of Pulehunui,

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Maui are underutilized. Redeveloping, renovating, or improving

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these public lands in a manner that will provide suitable

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recreational, residential, educational, industrial, government

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services, and commercial areas where the public can live,

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congregate, recreate, attend schools, and shop, as part of a

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thoughtfully integrated experience, is in the best interests of

13

the State and its people.

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The legislature further finds that the establishment of an

15

autonomous community development authority under the Hawaii

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community development authority is the best method of addressing



1 the planning and development of the public lands in Pulehunui,  
2 Maui.

3 This part establishes the Pulehunui community development  
4 district and the Pulehunui community development authority to  
5 make optimal use of public land for the economic, residential,  
6 educational, industrial, government services, and social benefit  
7 of the people of Hawaii.

8 The legislature finds that the jurisdiction of the  
9 authority shall include development within the Pulehunui  
10 community development district. Any development within the  
11 district shall require a permit from the authority.

12 **§206E-B Definitions.** As used in this part, unless the  
13 context otherwise requires:

14 "Authority" means the Pulehunui community development  
15 authority.

16 "District" means the Pulehunui community development  
17 district established by this part.

18 **§206E-C Pulehunui community development authority; powers;  
19 members; voting and quorum.** (a) There is established a  
20 Pulehunui community development authority, which shall be a body  
21 corporate and a public instrumentality of the State, for the



1 purposes of implementing this part. The authority shall be  
2 considered as part of the Hawaii community development authority  
3 for administrative purposes.

4 (b) Except as otherwise provided by law, the authority may  
5 make and execute contracts and all other instruments necessary  
6 or convenient for the planning and development of the Pulehunui  
7 community development district.

8 (c) The authority shall consist of:

- 9 (1) The director of finance or the director's designee;  
10 (2) The director of transportation or the director's  
11 designee;  
12 (3) The chairperson of the board of land and natural  
13 resources or the chairperson's designee;  
14 (4) The comptroller or the comptroller's designee;  
15 (5) The adjutant general or the adjutant general's  
16 designee;  
17 (6) The director of public safety or the director's  
18 designee;  
19 (7) The executive director of the Hawaii community  
20 development authority or the executive director's  
21 designee;



- 1           (8) The mayor of the county in which the Pulehunui
  - 2                   community development district is located or the
  - 3                   mayor's designee;
  - 4           (9) The chair of the county council of the county in which
  - 5                   the Pulehunui community development district is
  - 6                   located or the chair's designee;
  - 7           (10) The Hawaii community development authority cultural
  - 8                   specialist;
  - 9           (11) A resident of the island of Maui appointed by the
  - 10                  president of the senate; and
  - 11           (12) A resident of the island of Maui appointed by the
  - 12                  speaker of the house of representatives.
- 13 All members except the director of finance or the director's
- 14 designee and the adjutant general or the adjutant general's
- 15 designee shall serve as voting members and shall be considered
- 16 in determining quorum and majority. The director of finance or
- 17 the director's designee and the adjutant general or the adjutant
- 18 general's designee shall participate in these matters as ex
- 19 officio, nonvoting members and shall not be considered in
- 20 determining quorum and majority.



1 (c) Six voting members of the authority shall constitute a  
2 quorum to do business, and any action taken by the authority  
3 shall be validated by a majority of the quorum.

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

6 (e) The members of the authority appointed under  
7 subsection (b) shall serve without compensation, but each shall  
8 be reimbursed for expenses, including travel expenses, incurred  
9 in the performance of their duties.

10 **§206E-D District; established; boundaries.** The Pulehunui  
11 community development district is established and shall be  
12 composed of the following properties:

- 13 (1) TMK 2-3-8-008-001;
- 14 (2) TMK 2-3-8-008-007;
- 15 (3) TMK 2-3-8-008-037; and
- 16 (4) TMK 2-3-8-008-038.

17 **§206E-E Development guidance policies.** The following  
18 shall be the development guidance policies generally governing  
19 the authority's actions in the district:

- 20 (1) The authority may engage in planning, design, and  
21 construction activities within and outside the



1 district; provided that activities outside the  
2 district shall relate to infrastructure development,  
3 area-wide drainage improvements, roadway realignments  
4 and improvements, business and industrial relocation,  
5 and other activities the authority deems necessary to  
6 carry out development of the district and implement  
7 this part. The authority may undertake studies or  
8 coordinating activities in conjunction with the county  
9 and appropriate state agencies and may address  
10 facility systems, industrial relocation, and other  
11 activities;

12 (2) Hawaiian archaeological, historic, and cultural sites  
13 shall be preserved and protected;

14 (3) Endangered species of flora and fauna shall be  
15 preserved to the extent feasible;

16 (4) Land use and development activities within the  
17 district shall be coordinated with and, to the extent  
18 possible, complement existing county and state  
19 policies, plans, and programs affecting the district;  
20 and



1 (5) Public facilities within the district shall be  
2 planned, located, and developed to support the  
3 development policies established by this part for the  
4 district and rules adopted pursuant to this chapter.

5 **§206E-F Development district governance; memorandum of**  
6 **agreement.** Notwithstanding section 206E-3, for matters  
7 affecting the district, the authority and the comptroller shall  
8 execute a memorandum of agreement with the appropriate state  
9 agencies; provided that for matters affecting TMK 2-3-8-008-037,  
10 the executive director of the Hawaii community development  
11 authority shall execute a memorandum of agreement with the  
12 appropriate state agencies.

13 **§206E-G Annual comprehensive report.** Not less than twenty  
14 days prior to the convening of each regular session of the  
15 legislature, the authority shall submit to the legislature an  
16 annual comprehensive status report on the progress of  
17 development within the district."

18 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is  
19 amended by adding a new section to be appropriately designated  
20 and to read as follows:



1            "§206E-            Contracts with the federal government.    (a)

2    The authority may:

3            (1)    Borrow money or accept grants from the federal  
4            government for or in aid of any development project  
5            the authority is authorized to undertake pursuant to  
6            this chapter;

7            (2)    Procure insurance or guarantees from the federal  
8            government for the payment of any debts or parts  
9            thereof secured by mortgages made or held by the  
10           authority;

11           (3)    Comply with any conditions required by the federal  
12           government in any contract for financial assistance;  
13           and

14           (4)    Execute contracts with the federal government.

15           (b)    It is the purpose and intent of this section to  
16           authorize the authority to do any and all things necessary to  
17           secure the financial aid and the cooperation of the federal  
18           government in the undertaking, financing, construction,  
19           maintenance, and operation of any development within a district  
20           that the authority is empowered to undertake."





1 SECTION 3. Section 206E-3, Hawaii Revised Statutes, is  
2 amended by amending subsection (b) to read as follows:

3 "(b) The authority shall consist of the director of  
4 finance or the director's designee; the director of  
5 transportation or the director's designee; a cultural  
6 specialist; an at-large member; an at-large member nominated by  
7 the senate president; an at-large member nominated by the  
8 speaker of the house[+] of representatives; three  
9 representatives of the Heeia community development district,  
10 comprising two residents of that district or the Koolaupoko  
11 district, which consists of sections 1 through 9 of zone 4 of  
12 the first tax map key division, and one owner of a small  
13 business or one officer or director of a nonprofit organization  
14 in the Heeia community development district or Koolaupoko  
15 district, nominated by the county council of the county in which  
16 the Heeia community development district is located; three  
17 representatives of the Kalaeloa community development district,  
18 comprising two residents of the Ewa zone (zone 9, sections 1  
19 through 2) or the Waianae zone (zone 8, sections 1 through 9) of  
20 the first tax map key division, and one owner of a small  
21 business or one officer or director of a nonprofit organization



1 in the Ewa or Waianae zone, nominated by the county council of  
2 the county in which the Kalaeloa community development district  
3 is located; three representatives of the Kakaako community  
4 development district, comprising two residents of the district  
5 and one owner of a small business or one officer or director of  
6 a nonprofit organization in the district, nominated by the  
7 county council of the county in which the Kakaako community  
8 development district is located; the director of planning and  
9 permitting of each county in which a community development  
10 district is located or the director's designee, who shall serve  
11 in an ex officio, nonvoting capacity; and the chairperson of the  
12 Hawaiian homes commission or the chairperson's designee, who  
13 shall serve in an ex officio, nonvoting capacity.

14 All members except the director of finance, director of  
15 transportation, county directors of planning and permitting, and  
16 chairperson of the Hawaiian homes commission or their designees  
17 shall be appointed by the governor pursuant to section 26-34.  
18 The two at-large members nominated by the senate president and  
19 speaker of the house of representatives and the nine  
20 representatives of the respective community development  
21 districts shall each be appointed by the governor from a list of



1 three nominees submitted for each position by the nominating  
2 authority specified in this subsection.

3 The authority shall be organized and shall exercise  
4 jurisdiction as follows:

5 (1) For matters affecting the Heeia community development  
6 district, the following members shall be considered in  
7 determining quorum and majority and shall be eligible  
8 to vote:

9 (A) The director of finance or the director's  
10 designee;

11 (B) The director of transportation or the director's  
12 designee;

13 (C) The cultural specialist;

14 (D) The three at-large members; and

15 (E) The three representatives of the Heeia community  
16 development district;

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



1           (2) For matters affecting the Kalaeloa community  
2           development district, the following members shall be  
3           considered in determining quorum and majority and  
4           shall be eligible to vote:  
5           (A) The director of finance or the director's  
6           designee;  
7           (B) The director of transportation or the director's  
8           designee;  
9           (C) The cultural specialist;  
10          (D) The three at-large members; and  
11          (E) The three representatives of the Kalaeloa  
12          community development district;  
13          provided that the director of planning and permitting  
14          of the relevant county and the chairperson of the  
15          Hawaiian homes commission, or their respective  
16          designees, shall participate in these matters as ex  
17          officio, nonvoting members and shall not be considered  
18          in determining quorum and majority;  
19          (3) For matters affecting the Kakaako community  
20          development district, the following members shall be



1 considered in determining quorum and majority and  
2 shall be eligible to vote:  
3 (A) The director of finance or the director's  
4 designee;  
5 (B) The director of transportation or the director's  
6 designee;  
7 (C) The cultural specialist;  
8 (D) The three at-large members; and  
9 (E) The three representatives of the Kakaako  
10 community development district;  
11 provided that the director of planning and permitting  
12 of the relevant county or the director's designee  
13 shall participate in these matters as an ex officio,  
14 nonvoting member and shall not be considered in  
15 determining quorum and majority[-]; and  
16 (4) For matters affecting the Pulehunui community  
17 development district, membership for determining  
18 quorum, majority, and voting authority shall be as  
19 provided under section 206E-C.  
20 In the event of a vacancy, a member shall be appointed to  
21 fill the vacancy in the same manner as the original appointment

1 within thirty days of the vacancy or within ten days of the  
2 senate's rejection of a previous appointment, as applicable.

3 The terms of the director of finance, director of  
4 transportation, county directors of planning and permitting, and  
5 chairperson of the Hawaiian homes commission or their respective  
6 designees shall run concurrently with each official's term of  
7 office. The terms of the appointed voting members shall be for  
8 four years, commencing on July 1 and expiring on June 30;  
9 provided that the initial terms of all voting members initially  
10 appointed pursuant to Act 61, Session Laws of Hawaii 2014, shall  
11 commence on March 1, 2015. The governor shall provide for  
12 staggered terms of the initially appointed voting members so  
13 that the initial terms of four members selected by lot shall be  
14 for two years, the initial terms of four members selected by lot  
15 shall be for three years, and the initial terms of the remaining  
16 five members shall be for four years.

17 The governor may remove or suspend for cause any member  
18 after due notice and public hearing.

19 Notwithstanding section 92-15, a majority of all eligible  
20 voting members as specified in this subsection shall constitute  
21 a quorum to do business, and the concurrence of a majority of



1 all eligible voting members as specified in this subsection  
2 shall be necessary to make any action of the authority valid.  
3 All members shall continue in office until their respective  
4 successors have been appointed and qualified. Except as herein  
5 provided, no member appointed under this subsection shall be an  
6 officer or employee of the State or its political subdivisions.

7 For purposes of this section, "small business" means a  
8 business which is independently owned and which is not dominant  
9 in its field of operation."

10 PART II

11 SECTION 4. Section 46-4, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 **"§46-4 County zoning.** (a) This section and any  
14 ordinance, rule, or regulation adopted in accordance with this  
15 section shall apply to lands not contained within the forest  
16 reserve boundaries as established on January 31, 1957, or as  
17 subsequently amended.

18 Zoning in all counties shall be accomplished within the  
19 framework of a long-range, comprehensive general plan prepared  
20 or being prepared to guide the overall future development of the  
21 county. Zoning shall be one of the tools available to the



1 county to put the general plan into effect in an orderly manner.  
2 Zoning in the counties of Hawaii, Maui, and Kauai means the  
3 establishment of districts of such number, shape, and area, and  
4 the adoption of regulations for each district to carry out the  
5 purposes of this section. In establishing or regulating the  
6 districts, full consideration shall be given to all available  
7 data as to soil classification and physical use capabilities of  
8 the land to allow and encourage the most beneficial use of the  
9 land consonant with good zoning practices. The zoning power  
10 granted herein shall be exercised by ordinance which may relate  
11 to:

- 12 (1) The areas within which agriculture, forestry,  
13 industry, trade, and business may be conducted;
- 14 (2) The areas in which residential uses may be regulated  
15 or prohibited;
- 16 (3) The areas bordering natural watercourses, channels,  
17 and streams, in which trades or industries, filling or  
18 dumping, erection of structures, and the location of  
19 buildings may be prohibited or restricted;
- 20 (4) The areas in which particular uses may be subjected to  
21 special restrictions;





- 1 (5) The location of buildings and structures designed for
- 2 specific uses and designation of uses for which
- 3 buildings and structures may not be used or altered;
- 4 (6) The location, height, bulk, number of stories, and
- 5 size of buildings and other structures;
- 6 (7) The location of roads, schools, and recreation areas;
- 7 (8) Building setback lines and future street lines;
- 8 (9) The density and distribution of population;
- 9 (10) The percentage of a lot that may be occupied, size of
- 10 yards, courts, and other open spaces;
- 11 (11) Minimum and maximum lot sizes; and
- 12 (12) Other regulations the boards or city council find
- 13 necessary and proper to permit and encourage the
- 14 orderly development of land resources within their
- 15 jurisdictions.

16 The council of any county shall prescribe rules,  
17 regulations, and administrative procedures and provide personnel  
18 it finds necessary to enforce this section and any ordinance  
19 enacted in accordance with this section. The ordinances may be  
20 enforced by appropriate fines and penalties, civil or criminal,



1 or by court order at the suit of the county or the owner or  
2 owners of real estate directly affected by the ordinances.

3 Any civil fine or penalty provided by ordinance under this  
4 section may be imposed by the district court, or by the zoning  
5 agency after an opportunity for a hearing pursuant to chapter  
6 91. The proceeding shall not be a prerequisite for any  
7 injunctive relief ordered by the circuit court.

8 Nothing in this section shall invalidate any zoning  
9 ordinance or regulation adopted by any county or other agency of  
10 government pursuant to the statutes in effect prior to July 1,  
11 1957.

12 The powers granted herein shall be liberally construed in  
13 favor of the county exercising them, and in such a manner as to  
14 promote the orderly development of each county or city and  
15 county in accordance with a long-range, comprehensive general  
16 plan to ensure the greatest benefit for the State as a whole.  
17 This section shall not be construed to limit or repeal any  
18 powers of any county to achieve these ends through zoning and  
19 building regulations, except insofar as forest and water reserve  
20 zones are concerned and as provided in subsections (c) and (d).



1           Neither this section nor any ordinance enacted pursuant to  
2 this section shall prohibit the continued lawful use of any  
3 building or premises for any trade, industrial, residential,  
4 agricultural, or other purpose for which the building or  
5 premises is used at the time this section or the ordinance takes  
6 effect; provided that a zoning ordinance may provide for  
7 elimination of nonconforming uses as the uses are discontinued,  
8 or for the amortization or phasing out of nonconforming uses or  
9 signs over a reasonable period of time in commercial,  
10 industrial, resort, and apartment zoned areas only. In no event  
11 shall [~~such~~] the amortization or phasing out of nonconforming  
12 uses apply to any existing building or premises used for  
13 residential (single-family or duplex) or agricultural uses.  
14 Nothing in this section shall affect or impair the powers and  
15 duties of the director of transportation as set forth in chapter  
16 262.

17           (b) Any final order of a zoning agency established under  
18 this section may be appealed to the circuit court of the circuit  
19 in which the land in question is found. The appeal shall be in  
20 accordance with the Hawaii rules of civil procedure.



1 (c) Each county may adopt reasonable standards to allow  
2 the construction of two single-family dwelling units on any lot  
3 where a residential dwelling unit is permitted.

4 (d) Neither this section nor any other law, county  
5 ordinance, or rule shall prohibit group living in facilities  
6 with eight or fewer residents for purposes or functions that are  
7 licensed, certified, registered, or monitored by the State;  
8 provided that a resident manager or a resident supervisor and  
9 the resident manager's or resident supervisor's family shall not  
10 be included in this resident count. These group living  
11 facilities shall meet all applicable county requirements not  
12 inconsistent with the intent of this subsection, including but  
13 not limited to building height, setback, maximum lot coverage,  
14 parking, and floor area requirements.

15 (e) Neither this section nor any other law, county  
16 ordinance, or rule shall prohibit the use of land for employee  
17 housing and community buildings in plantation community  
18 subdivisions as defined in section 205-4.5(a)(12); in addition,  
19 no zoning ordinance shall provide for the elimination,  
20 amortization, or phasing out of plantation community  
21 subdivisions as a nonconforming use.



1 (f) Neither this section nor any other law, county  
 2 ordinance, or rule shall prohibit the use of land for medical  
 3 cannabis production centers or medical cannabis dispensaries  
 4 established and licensed pursuant to chapter 329D; provided that  
 5 the land is otherwise zoned for agriculture, manufacturing, or  
 6 retail purposes.

7 (g) No county ordinance or county rule shall require the  
 8 developer of a multi-residential dwelling unit development to  
 9 obtain the approval of any state agency unless that approval is  
 10 expressly required under state law. Any county ordinance or  
 11 county rule in conflict with this subsection shall be void with  
 12 respect to any multi-residential dwelling unit development."

13 PART III

14 SECTION 5. In codifying the new sections added by  
 15 section 1 of this Act, the revisor of statutes shall substitute  
 16 appropriate section numbers for the letters used in designating  
 17 the new sections in this Act.

18 SECTION 6. If any provision of this Act, or the  
 19 application thereof to any person or circumstance, is held  
 20 invalid, the invalidity does not affect other provisions or  
 21 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions  
2 of this Act are severable.

3 SECTION 7. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect on July 1, 2020.



**Report Title:**

HCDA; Pulehunui Community Development District; Federal  
Financial Aid; Multi-residential Dwelling Unit Development

**Description:**

Establishes the Pulehunui community development authority on the island of Maui as an autonomous community development authority under the Hawaii Community Development Authority for the purposes of developing the Pulehunui community development district. Authorizes the Hawaii Community Development Authority to obtain various forms of financial aid from the federal government for projects of the authority. Prohibits a county ordinance or county rule from requiring a developer of a multi-residential dwelling unit development to obtain the approval of any state agency, unless required under state law. (SD1)

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

