

ACT 153

S.B. NO. 2394-76

A Bill for an Act Relating to Community Development.

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:

“CHAPTER

HAWAII COMMUNITY DEVELOPMENT AUTHORITY

PART I. GENERAL PROVISIONS

Sec. -1 Findings and purpose. The legislature finds that many urban areas of the State are substantially underdeveloped or blighted, and are or are potentially in need of urban renewal, renovation, or improvement to alleviate

such conditions as dilapidation, deterioration, age, and other such factors or conditions which make such areas an economic or social liability.

The legislature further finds that there exists within the State vast, unmet community development needs. These include a lack of suitable housing for persons of low income; insufficient commercial and industrial facilities for rent; residential areas which do not have facilities necessary for basic liveability, such as parks and open space; and areas which are planned for extensive land allocation to one, rather than mixed uses.

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

The legislature finds that a new and comprehensive authority for community development 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 improved community development. The purpose of this chapter is to establish such a mechanism in the Hawaii community development authority, a public entity which shall determine community 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 community development districts, the legislature believes that planning and implementation program of the Hawaii community development authority will result in communities which serve the highest needs and aspirations of Hawaii's people.

Sec. -2 Definitions. As used in this chapter, the following words and terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

- (1) "Authority" means the Hawaii community development authority established by section -3.
- (2) "County" means any county of the State.
- (3) "Local governing body" means the county council.
- (4) "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 "multipurpose project."
 - (A) "Residential project" means a project or that portion of a multipurpose project, including residential dwelling units, designed and intended for the purpose of providing housing accommodations for persons or families of low income and such facilities as may be incidental or appurtenant thereto;
 - (B) "Redevelopment project" means an undertaking for the acquisition, clearance, replanning, reconstruction, and rehabilitation or a combination of these and other methods, of an area for a residential project, for an incidental commercial project, and for other

facilities incidental or appurtenant thereto, pursuant to and in accordance with this chapter. The terms "acquisition, clearance, replanning, reconstruction, and rehabilitation" shall include renewal, redevelopment, conservation, restoration, or improvement, or any combination thereof;

- (C) "Commercial project" means an undertaking involving commercial or light industrial development, which includes a mixed use development where commercial or light industrial facilities may be built into, adjacent to, under or above residential units.
- (5) "Project cost" means the total of all costs incurred by the authority in carrying out all undertakings which it deems reasonable and necessary for the development of a project including but not limited to: studies, surveys, plans, and specifications, architectural, engineering, or any other development related services, acquisition of land and any improvement thereon, site preparation and development, construction, reconstruction, and rehabilitation; the necessary expenses in administering the chapter; the cost of financing the project; and relocation costs as provided in chapter 111.
- (6) "Public agency" means any office, department, board, commission, bureau, division, public corporation agency, or instrumentality of the federal, state, or county government.
- (7) "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 garage, sidewalks, pedestrian ways, and other community facilities.
- (8) "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 the chapter.
- (9) "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.

Sec. -3. Hawaii community development authority; established.

- (a) There is established the Hawaii community 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 planning and economic development for administrative purposes.
- (b) The authority shall consist of eleven voting members. The director of finance, the director of planning and economic development, the comptroller, and the director of social services, or their respective designated representatives shall serve as ex officio, voting members. Seven members shall be appointed by the governor for staggered terms pursuant to section 26-34; provided that three

members shall be selected from a list of ten prospective appointees recommended by the local governing body of the county in which the designated district is situated. If an additional district is designated by the legislature in a county other than the county in which the initial designated district is situated, the total membership of the authority shall be increased as prescribed above by the appointment of three additional members. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions.

(c) The authority shall appoint the executive director who shall be the chief executive officer. The authority shall set the salary of the executive director, who shall serve at the pleasure of the authority and shall be exempt from chapters 76 and 77.

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

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

Sec. -4. Powers; generally. Except as otherwise limited by this chapter, 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 chapters 76 and 77;
- (7) Prepare or cause to be prepared, a community development plan for all designated community 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 which the authority has theretofore sold, or otherwise conveyed, transferred, or disposed of;

- (11) Arrange or contract for the planning, replanning, 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 such 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 such 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, in order 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 such amounts and from such 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) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter.

Sec. -5 Designation of community development districts; community development plans. (a) The legislature, by statute, may designate an area as a community development district if it determines that there is need for replanning, renewal, or redevelopment of that area. The designation shall describe the boundaries of the district.

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

(c) The authority may enter into cooperative agreements with qualified persons or public agencies, where the powers, services, and capabilities of such persons or agencies are deemed necessary and appropriate for the development of the community development plan.

(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 community development plan pursuant to chapter 91 and, after consideration of comments

received and appropriate revision, shall submit the community development plan to the governor for his approval. After approval, the governor shall submit to the legislature, prior to the start of any regular session, the community development plan with a request for appropriation of the required moneys.

(f) The authority may amend the community development plan pursuant to chapter 91 as may be necessary.

Sec. -6 District-wide improvement program. (a) The authority shall develop a district-wide improvement program to identify necessary district-wide public facilities.

(b) The cost of providing district-wide improvements shall be assessed against the properties in the district specially benefiting from such improvements. For the purpose of creating assessment districts the authority shall fix the assessments against lands specially benefited, and may adopt, pursuant to chapter 91, the appropriate provisions of the assessment ordinances of the county in which the project is located with the powers, duties and functions to be performed by the authority, or the authority may establish rules pursuant to chapter 91 for assessing the cost and special benefits of, and payments for district-wide improvements.

(c) All sums collected under this section shall be deposited in the Hawaii community development revolving fund established by section -16.

Sec. -7 Community development rules. The authority shall establish community development rules under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final adoption of a community 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 community development plan or by a community development rule, provide that lands within a community 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.

Sec. -8 Use of public lands; acquisition of state lands. (a) Any provision of chapter 171 to the contrary notwithstanding, the governor may set aside public lands located within community development districts to the authority for its use.

(b) 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 shall, upon request by the authority and with the approval of the governor, convey, or lease such lands to the authority upon such terms and conditions as may be agreed to by the parties.

(c) Notwithstanding the foregoing, no public lands shall be set aside, conveyed, or leased to the authority as above provided if such setting aside, 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 such county, department, or board.

Sec. -9 Acquisition of real property from a county. Notwithstanding the provision of any law or charter, any county, by resolution of its local governing body, may, without public auction, sealed bids, or public notice, sell, lease for a term not exceeding sixty-five years, grant or convey to the authority any real property owned by it which the authority certifies to be necessary for its purposes. The sale, lease, grant, or conveyance shall be made with or without consideration and upon such terms and conditions as may be agreed upon by the county and the authority. Certification shall be evidenced by a formal request from the authority. Before the sale, lease, grant, or conveyance may be made to the authority, a public hearing shall be held by the local governing body to consider the same. Notice of the hearing shall be published at least ten days before the date set for the hearing in such publication and in such manner as may be designated by such local governing body.

Sec. -10 Condemnation of real property. The authority 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, may acquire the property by condemnation pursuant to chapter 101, including property already devoted to a public use. Such 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 community 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.

Sec. -11 Construction contracts. The authority shall award construction contracts in conformity with the applicable provisions of chapter 103.

Sec. -12 Dedication of facilities as conditions of development. The authority shall establish rules requiring dedication of land or facilities, or cash payments in lieu thereof by developers as a condition of developing real property pursuant to the community development plan. Where state and county dedication laws, ordinances, or rules differ, the provision for greater dedication shall prevail.

Sec. -13 Public projects. Any project or activity of any county or agency of the State in a designated district shall be constructed, renovated, or improved in consultation with the authority.

Sec. -14 Sale or lease of redevelopment projects. The authority may, without recourse to public auction, sell, or lease for a term not exceeding sixty-five years, all or any portion of the real or personal property constituting a redevelopment project to any person, upon such terms and conditions as may be approved by the authority, if the authority finds that the sale or lease is in conformity with the community development plan. One of 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. The repurchase price shall be the original price at which the property was sold by the authority increased by any improvement to the property, valued at cost, made by the purchaser, and an amount equivalent to

the decline in the purchasing power of the dollar, if any at the time of sale, as measured by the consumer price index or the cost of living index of the United States Bureau of Labor Statistics, as may be applicable, computed from the date of initial purchase or the addition of an improvement by the purchaser less any depreciation measured on a straight line basis. If the purchaser is a state agency, it may include as a term of its sale of the property purchased from the authority, a provision for the repurchase of the property in conformance with this section.

Sec. -15 Residential projects; cooperative agreements. If the authority deems it desirable to develop residential dwelling units for persons or families of low income, it may enter into an agreement with qualified persons to construct, maintain, operate, or otherwise dispose of such units and projects. Sale, lease, or rental of such dwelling units shall be as provided by the rules established by the State housing agency.

Sec. -16 Hawaii community development revolving fund. There is created the Hawaii community 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.

Sec. -17 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.

Sec. -18 Assistance by State and county agencies. Any state or county agency may render services upon request of the authority.

Sec. -19 Annual report. The authority shall submit to the governor and the legislature, at least twenty days prior to the start of any regular session, a complete and detailed report of its activities.

Sec. -20 Court proceedings; preferences; venue. Any action or proceeding to which the authority, the State or the county may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil causes, except election cases, in any court of this State and shall be heard and determined in preference to all other civil cases pending therein except election cases, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this chapter in which the authority may be allowed to intervene.

Sec. -21 Issuance of bonds. The director of finance may, from time to time, issue general obligation bonds pursuant to chapter 39 in such amounts as may be authorized by the legislature, for the purposes of this chapter.

PART II. KAKAAKO COMMUNITY DEVELOPMENT DISTRICT

Sec. -31 Kakaako community development district; purposes. The legislature finds that:

- (1) The Kakaako district is centrally located in Honolulu proper, in close proximity to the central business district, the government center, commercial industrial and market facilities, major existing and con-

- templated transportation routes and recreational and service areas;
- (2) Due to its present function as a service and light industrial area, the district is relatively underdeveloped and has especially in view of its proximity to the urban core where the pressure for all land uses is strong the potential for increased growth and development that can alleviate community needs such as low-income housing, parks and open space, and commercial and industrial facilities;
 - (3) The district, if not redeveloped or renewed, has the potential to become a blighted and deteriorated area. Due to its present economic importance to the State in terms of industry and subsequent employment, there is a need to preserve and enhance its value and potential;
 - (4) Kakaako has a potential, if properly developed and improved, to become a planned new community in consonance with surrounding urban areas.

In coordinating community development in the Kakaako district, the authority shall plan a mixed-use district whereby industrial, commercial, residential, and public uses may coexist compatibly within the same area.

The authority shall plan for the above uses, but shall also respect and support the present function of Kakaako as a major economic center, providing significant employment in such areas as light industrial, wholesaling, service, and commercial activity.

Sec. -32 District; established, boundaries. The Kakaako community development district is established. The district shall include that area bounded by King street, Piikoi street from its intersection with King street to Ala Moana boulevard, Ala Moana boulevard from Piikoi street to its intersection with Punchbowl street, and Punchbowl street to its intersection with King street.

Sec. -33 Kakaako community development district; development guidance policies. The following shall be the development guidance policies generally governing the authority's action in the Kakaako community development district:

- (1) Development shall result in a community which 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;
- (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 so as 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 and

special districts established for the Hawaii Capital District, and other areas surrounding the Kakaako district;

- (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, that is, within blocks or other land areas, and vertically, as integral units of multi-purpose structures;
- (8) Residential development shall ensure 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 residents of low- or moderate-income shall 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;
- (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.”

SECTION 2. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 3. This Act shall take effect upon approval.

(Approved May 27, 1976.)