



GOV. MSG. NO. 1440

EXECUTIVE CHAMBERS  
HONOLULU

NEIL ABERCROMBIE  
GOVERNOR

July 10, 2012

The Honorable Shan Tsutsui, President  
and Members of the Senate  
Twenty-Sixth State Legislature  
State Capitol, Room 409  
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker  
and Members of the House  
Twenty-Sixth State Legislature  
State Capitol, Room 431  
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on July 10, 2012, the following bill was signed into law:

SB2742 SD1 HD2 CD1

RELATING TO THE HAWAII COMMUNITY  
DEVELOPMENT AUTHORITY.  
**Act 323 (12)**

NEIL ABERCROMBIE  
Governor, State of Hawaii

# A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

PART I

SECTION 1. The legislature finds that quorum of the Hawaii community development authority is difficult to achieve. Due to the size and restrictions of the membership, often times decisions are unable to be made in a timely manner. In order to allow for the benefit of representation of all stakeholders, the composition of the membership of the authority should be amended.

The purpose of this part is to change the composition of the Hawaii community development authority board to nine voting members for each community development district and allow for certain members to designate a voting representative if they are unable to attend a meeting.

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

"(b) The authority shall consist of ~~[thirteen]~~ nine voting members ~~[-]~~ for each community development district established in this chapter. The director of finance, the director of



1 business, economic development, and tourism, the comptroller,  
2 and the director of transportation, or their respective  
3 designated representatives, shall serve as ex officio, voting  
4 members[. ~~One member shall be appointed by the governor from a~~  
5 ~~list of not less than three prospective appointees submitted by~~  
6 ~~the president of the senate, and one member shall be appointed~~  
7 ~~by the governor from a list of not less than three prospective~~  
8 ~~appointees submitted by the speaker of the house of~~  
9 ~~representatives. Seven members shall be appointed by the~~  
10 ~~governor for staggered terms pursuant to section 26-34; provided~~  
11 ~~that four members shall be appointed at large and, initially,~~  
12 ~~three] of the authority; provided that, in addition:~~

13 (1) A cultural expert shall be appointed by the governor  
14 pursuant to section 26-34 as a voting member;

15 (2) One member shall be appointed by the governor pursuant  
16 to section 26-34 as a voting member; provided further  
17 that this paragraph shall not apply to the Kalaeloa  
18 community development district; and

19 (3) The chairperson of the Hawaiian homes commission or  
20 the chairperson's designee, shall serve as an ex  
21 officio, voting member for the Kalaeloa community  
22 development district only, shall be considered in



1           determining quorum and majority only on issues  
2           relating to the Kalaeloa community development  
3           district, and shall vote only on issues relating to  
4           the Kalaeloa community development district.

5           Three additional members, hereinafter referred to as county  
6 members, shall be selected by the governor from a list of ten  
7 prospective appointees recommended by the local governing body  
8 of the county in which ~~[the initial]~~ each designated district is  
9 situated; ~~[and]~~ provided ~~[further]~~ that when vacancies occur in  
10 any of the three positions for which the members were selected  
11 from a list of county recommendations, the governor shall fill  
12 such vacancies on the basis of one from a list of four  
13 recommendations, two from a list of seven recommendations, or  
14 three from a list of ten recommendations. The list of  
15 recommendations shall be made by the local governing body of the  
16 county. Of the ~~[nine]~~ three members appointed ~~[either by the~~  
17 ~~governor from the lists provided by the president of the senate~~  
18 ~~and speaker of the house, at large by the governor, as a~~  
19 ~~cultural expert or]~~ as county members recommended by the local  
20 governing body of the county in which ~~[the initial]~~ each  
21 designated district is situated, ~~[at least]~~ two members shall  
22 represent small businesses and shall be designated as the small



1 business representatives on the board whose purpose, among other  
2 things, is to vote on matters before the board that affect small  
3 businesses. The small business representatives shall be owners  
4 or active managers of a small business with its principal place  
5 of operation located within the physical boundaries of [the  
6 ~~initial~~] each designated district. Notwithstanding section 84-  
7 14(a), the small business representatives [~~shall not be~~  
8 ~~prohibited from voting~~] may vote on any matter concerning any  
9 district under the board's jurisdiction[+] other than matters  
10 concerning the Heeia community development district; provided  
11 that the matter is not limited to solely benefiting the specific  
12 interest of that member and the matter concerns broader  
13 interests within the district. One of the county members shall  
14 be a resident of the designated district; provided that for  
15 purposes of this section, the county member who is a resident of  
16 the Kalaeloa community development district shall be a resident  
17 of the Ewa zone (zone 9, sections 1 through 2), or the Waianae  
18 zone (zone 8, sections 1 through 9) of the first tax map key  
19 division. The county members shall be considered in determining  
20 quorum and majority only on issues not relating to the Heeia  
21 community development district and may only vote on issues not  
22 related to the Heeia community development district.



1       Three additional voting members shall be appointed to the  
2 authority by the governor pursuant to section 26-34 to represent  
3 the Heeia community development district. These three members  
4 shall be considered in determining quorum and majority only on  
5 issues relating to the Heeia community development district and  
6 may vote only on issues related to the Heeia community  
7 development district. The three members shall be residents of  
8 the Heeia community development district or the Koolaupoko  
9 district which consists of sections 1 through 9 of zone 4 of the  
10 first tax map key division.

11       If an additional district is designated by the legislature,  
12 ~~[the total membership of the authority shall be increased]~~ the  
13 governor shall appoint three county members as prescribed above  
14 ~~[by the appointment of three additional members, except as~~  
15 ~~provided for in section 206E-191.]~~ for each additional  
16 designated district.

17       Notwithstanding section 92-15, a majority of all members  
18 shall constitute a quorum to do business, and the concurrence of  
19 a majority of all members shall be necessary to make any action  
20 of the authority valid; except ~~[that, on any matter relating~~  
21 ~~solely to a specific community development district, the members~~  
22 ~~representing districts other than that specific community~~



1 ~~development district shall neither vote, nor shall they be~~  
2 ~~counted to constitute a quorum, and concurrence shall be~~  
3 ~~required of a majority of that portion of the authority made up~~  
4 ~~of all ex officio voting members, members at large, and county~~  
5 ~~and district members representing the district for which action~~  
6 ~~is being proposed for such action to be valid.]~~ as provided in  
7 this subsection. All members shall continue in office until  
8 their respective successors have been appointed and qualified.  
9 Except as herein provided, no member appointed under this  
10 subsection shall be an officer or employee of the State or its  
11 political subdivisions.

12 For [{}purposes{}] of this section, "small business" means  
13 a business which is independently owned and which is not  
14 dominant in its field of operation."

15 SECTION 3. Section 206E-191, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[{}\$206E-191{}] Barbers Point Naval Air Station  
18 redevelopment; power to redevelop established. (a) The Hawaii  
19 community development authority shall be the designated agency  
20 of the State to implement this part.

21 (b) The authority shall act as the local redevelopment  
22 authority to facilitate the redevelopment of Barbers Point Naval



1 Air Station in accordance with the Barbers Point Naval Air  
2 Station community reuse plan. In addition to any other duties  
3 that the authority may have pursuant to this chapter, the  
4 authority's duties shall include but not be limited to:

5 (1) Coordinating with the Navy and other entities during  
6 the conveyance of properties and conducting  
7 remediation activities for the Barbers Point Naval Air  
8 Station community reuse plan;

9 (2) Assisting landholders designated by the plan to market  
10 their properties and process conveyance requests;

11 (3) Working with the Navy and others to ensure that  
12 infrastructure support is provided to the existing  
13 developed area, referred to as the "downtown area",  
14 and other federally retained areas;

15 (4) Developing the infrastructure necessary to support the  
16 implementation of the Barbers Point Naval Air Station  
17 community reuse plan; and

18 (5) Providing, to the extent feasible, maximum opportunity  
19 for the reuse of surplus property by private  
20 enterprise or state and county government.

21 ~~[(e) Five additional voting members shall, except as~~  
22 ~~otherwise provided in this subsection, be appointed to the~~





~~authority by the governor to represent the Kalaeloa community development district. These members shall be considered in determining quorum and majority only on issues relating to the Kalaeloa community development district, and may vote only on issues relating to the Kalaeloa community development district. These members shall consist of:~~

~~(1) The chairperson of the Hawaiian homes commission;~~

~~(2) The director of the city and county of Honolulu department of planning and permitting;~~

~~(3) Two members representing the surrounding community for a term pursuant to section 26-34, one of which shall be selected by the mayor of the city and county of Honolulu; and~~

~~(4) One member who is a Hawaiian cultural specialist.] "~~

SECTION 4. Section 206E-202, Hawaii Revised Statutes, is amended to read as follows:

"[+]§206E-202[+] District established; boundaries. (a)

The Heeia community development district is hereby established.

The district shall include that area within the boundaries

described as follows: the southern boundary begins at the

southern property line of tax map key number (1) 4-6-16:001 and

runs west to Kahekili highway and east to Kamehameha highway.



1 The northern boundary begins at the northern property line of  
2 tax map key number (1) 4-6-16:001 and runs west to Kahekili  
3 highway and east to Kamehameha highway. The tax map key numbers  
4 are (1) 4-6-16:001 and (1) 4-6-16:002 (owned by the authority),  
5 and (1) 4-6-16:004, :011, :012, and :017 (owned by various  
6 owners of kuleana parcels).

7 (b) The authority shall serve as the local redevelopment  
8 authority of the district to facilitate culturally appropriate  
9 agriculture, education, and natural-resource restoration and  
10 management of the Heeia wetlands, in alignment with the Honolulu  
11 board of water supply's most current "Koolau Poko Watershed  
12 Management Plan" and the city and county of Honolulu's most  
13 current "Koolaupoko Sustainable Communities Plan". In addition  
14 to any other of its duties under this chapter, the authority  
15 shall:

16 (1) Consult with the following persons and entities:

- 17 (A) Recorded landowners in the district;  
18 (B) Recorded landowners in section 6 of zone 4 of the  
19 first tax map key division;  
20 (C) Koolaupoko Hawaiian Civic Club;  
21 (D) Kailua neighborhood board;  
22 (E) Kahaluu neighborhood board; and



1 (F) Kaneohe neighborhood board,  
2 to implement activities related to and supportive of  
3 cultural practices, agriculture, education, and  
4 natural-resource restoration and management;

5 (2) Assist land users to manage their properties and  
6 implement activities related to and supportive of  
7 cultural practices, agriculture, education, and  
8 natural-resource restoration and management;

9 (3) Work with federal, state, county, and other agencies  
10 to ensure that infrastructural support is provided for  
11 the district;

12 (4) Develop the infrastructure necessary to support the  
13 implementation of the Heeia community development  
14 district master plan; and

15 (5) Provide, to the extent feasible, maximum opportunity  
16 for the restoration and implementation of sustainable,  
17 culturally appropriate, biologically responsible, or  
18 agriculturally beneficial enterprises.

19 ~~[(c) Three additional voting members shall, except as~~  
20 ~~otherwise provided in this subsection, be appointed to the~~  
21 ~~authority by the governor pursuant to section 26-34 to represent~~  
22 ~~the district. These three members shall be considered in~~



~~1 determining quorum and majority only on issues relating to the~~  
~~2 district and may vote only on issues related to the district.~~  
~~3 The three members shall be residents of the district or the~~  
~~4 Keelaupeke district which consists of sections 1 through 9 of~~  
~~5 zone 4 of the first tax map key division.] "~~

6 SECTION 5. To ensure that the authority for each community  
7 development district established under chapter 206E, Hawaii  
8 Revised Statutes, will have the requisite number of members to  
9 achieve quorum to convene a meeting and conduct business, the  
10 three county members serving on the Hawaii community development  
11 authority on the day before the effective date of this Act shall  
12 serve as the initial county members for each designated district  
13 notwithstanding any failure to qualify as a small business  
14 representative or resident of the district, as applicable, and  
15 shall continue to serve as members for each designated district  
16 until their respective terms expire or their respective  
17 successors are appointed, whichever occurs sooner.

18 PART II

19 SECTION 6. Pursuant to chapter 206E, Hawaii Revised  
20 Statutes, the Hawaii community development authority is tasked  
21 with the redevelopment responsibilities for legislatively  
22 created community development districts. The legislature has



1 designated three community development districts: Kakaako,  
2 Kalaeloa, and Heeia.

3       Currently, section 206E-14, Hawaii Revised Statutes, allows  
4 the authority to sell or lease for a term not exceeding sixty-  
5 five years, all or any portion of its real or personal property  
6 constituting a redevelopment project if the authority finds that  
7 the sale or lease is in conformity with the community  
8 development plan. As defined in section 206E-2, Hawaii Revised  
9 Statutes, a redevelopment project may only be incidental in its  
10 commercial nature. The legislature finds that this limitation  
11 adversely impacts the authority's ability to attract long-term  
12 investors and tenants who seek to develop or redevelop primarily  
13 commercial projects within the Kakaako community development  
14 district. This conflicts with the authority's commitment to  
15 implement longer lasting change in the Kakaako community  
16 development district.

17       In addition, although section 206E-14, Hawaii Revised  
18 Statutes, provides that a sale may be made without recourse to  
19 public auction, the section is silent as to whether a lease may  
20 be made without recourse to public notice for sealed bids.

21       The purpose of this part is to provide greater flexibility  
22 to the authority in implementing its master plan for the Kakaako



1 community development district by allowing the authority to  
2 lease:

3 (1) For a term not exceeding sixty-five years, property  
4 constituting a project (as opposed to selling the  
5 project, or leasing or selling a redevelopment  
6 project); and

7 (2) A project without recourse to public notice for sealed  
8 bids;

9 in the Kakaako community development district.

10 The legislature further finds, that safeguards remain in  
11 place because all long-term leases require prior approval by the  
12 authority at a publicly noticed meeting and after opportunity  
13 for public comment.

14 SECTION 7. Chapter 206E, Hawaii Revised Statutes, is  
15 amended by adding a new section to part II to be appropriately  
16 designated and to read as follows:

17 "§206E- Lease of projects. (a) Notwithstanding any law  
18 to the contrary, including 206E-14, except as prohibited by  
19 section 206E-31.5, the authority may, without recourse to public  
20 auction or public notice for sealed bids, lease for a term not  
21 exceeding sixty-five years all or any portion of the real or  
22 personal property constituting a project to any person, upon



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

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

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

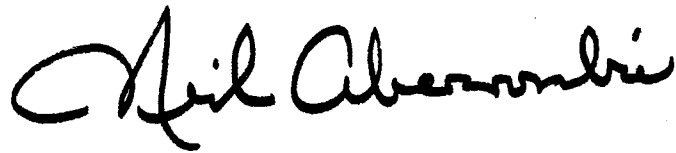
20 PART III

21 SECTION 8. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval.

APPROVED this 10 day of JUL, 2012

A handwritten signature in black ink, appearing to read "Neil Abernethy". The signature is fluid and cursive, with a large initial "N".

GOVERNOR OF THE STATE OF HAWAII