JAN 2 3 2014

A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1	SECT	ION 1. Section 206E-3, Hawaii Revised Statutes, is
2	amended by	y amending subsection (b) to read as follows:
3	" (b)	The authority shall consist of nine voting members
4	[for each	community development district established in this
5	chapter.	The director of finance, the director of business,
6	economic (development, and tourism, the comptroller, and the
7	director o	of transportation, or their respective designated
8	representa	atives, shall serve as ex officio, voting members of
9	the author	rity; provided that, in addition:
10	(1)	A cultural expert shall be appointed by the governor
11		pursuant to section 26-34 as a voting member;
12	(2)	One member shall be appointed by the governor pursuant
13		to section 26 34 as a voting member; provided further
14		that this paragraph shall not apply to the Kalaeloa
15		community development district; and
16	(3)	The chairperson of the Hawaiian homes commission or
17		the chairperson's designee, shall serve as an ex
18		officio, voting member for the Kalaeloa community

1	development district only, sharr be considered in
2	determining quorum and majority only on issues
3	relating to the Kalaeloa community development
4	district, and shall vote only on issues relating to
5	the Kalaeloa community development district.
6	Three additional members, hereinafter referred to as county
7	members, shall be selected by the governor from a list of ten
8	prospective appointees recommended by the local governing body
9	of the county in which each designated district is situated;
10	provided that when vacancies occur in any of the three positions
11	for which the members were selected from a list of county
12	recommendations, the governor shall fill such vacancies on the
13	basis of one from a list of four recommendations, two from a
14	list of seven recommendations, or three from a list of ten
15	recommendations. The list of recommendations shall be made by
16	the local governing body of the county. Of the three members
17	appointed as county members recommended by the local governing
18	body of the county in which each designated district is
19	situated, two members shall represent small businesses and shall
20	be designated as the small business representatives on the board
21	whose purpose, among other things, is to vote on matters before
22	the board that affect small businesses. The small business
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representatives shall be owners or active managers of a small
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    business with its principal place of operation located within
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    the physical boundaries of each designated district.
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    Notwithstanding section 84 14(a), the small business
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    representatives may vote on any matter concerning any district
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    under the board's jurisdiction other than matters concerning the
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    Heeia community development district; provided that the matter
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    is not limited to solely benefiting the specific interest of
9
    that member and the matter concerns broader interests within the
10
    district. One of the county members shall be a resident of the
11
    designated district; provided that for purposes of this section,
    the county member who is a resident of the Kalaeloa community
12
    development district shall be a resident of the Ewa zone (zone
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    9, sections 1 through 2), or the Waianae zone (zone 8, sections
14
15
    1 through 9) of the first tax map key division. The county
    members shall be considered in determining quorum and majority
16
    only on issues not relating to the Heeia community development
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18
    district and may only vote on issues not related to the Heeia
19
    community development district.
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         Three additional voting members shall be appointed to the
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    authority by the governor pursuant to section 26 34 to represent
    the Heeia community development district. These three members
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shall be considered in determining quorum and majority only on 1 issues relating to the Heeia community development district and 2 3 may vote only on issues related to the Heeia community 4 development district. The three members shall be residents of the Heeia community development district or the Koolaupoko 5 district which consists of sections 1 through 9 of zone 4 of the 6 first tax map key division. 7 If an additional district is designated by the legislature, 8 the governor shall appoint three county members as prescribed 9 above for each additional designated district.] to be appointed 10 11 by the governor, by and with the advice and consent of the senate; provided that one member each shall be appointed by the 12 governor from a list of three nominees submitted by each of the 13 14 following: 15 The president of the senate; (1) The speaker of the house of representatives; 16 (2) The minority leader of the senate; **17** (3) The minority leader of the house of representatives; 18 (4)19 The chief justice of the Hawaii supreme court; (5) The board of trustees of the office of Hawaiian 20 (6) 21 affairs; and

The president of the University of Hawaii.

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(7)

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- 1 In the event of a vacancy, the governor shall appoint a member
- 2 to fill the vacancy within thirty days of the vacancy or within
- 3 thirty days of the submission of the list of nominees to the
- 4 governor, as applicable.
- 5 If the governor fails to make any appointment within the
- 6 thirty-day period specified in this subsection or within ten
- 7 days of the senate's rejection of any previous appointment, the
- 8 appointment shall be made by the applicable appointing authority
- 9 from the list with the consent of the senate. The same
- 10 appointment and consent procedure shall be followed until a
- 11 valid appointment has been made.
- The terms of the members shall be for four years,
- 13 commencing on July 1 and expiring on June 30; provided that the
- 14 governor may reduce the terms of those initially appointed so as
- 15 to provide, as nearly as can be, for the expiration of an equal
- 16 number of terms at intervals of one year. The governor may
- 17 remove or suspend for cause any member after due notice and
- 18 public hearing.
- In addition to the members specified in this subsection,
- 20 the mayor or other designee of the governing body of each of the
- 21 counties may serve as an ex officio, nonvoting member of the



- 1 authority at the discretion of the governing bodies of the
- 2 respective counties.
- 3 Notwithstanding section 92-15, a two-thirds' majority of
- 4 all members shall constitute a quorum to do business, and the
- 5 concurrence of a majority of all members shall be necessary to
- 6 make any action of the authority valid; except 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 a
- 13 business which is independently owned and which is not dominant
- 14 in its field of operation.]"
- 15 SECTION 2. Section 206E-4, Hawaii Revised Statutes, is
- 16 amended to read as follows:
- 17 "\$206E-4 Powers; generally. Except as otherwise limited
- 18 by this chapter, the authority may:
- 19 (1) Sue and be sued;
- 20 (2) Have a seal and alter the same at pleasure;

1	(3)	Make and execute contracts and all other instruments
2		necessary or convenient for the exercise of its powers
3		and functions under this chapter;
4	(4)	Make and alter bylaws for its organization and
5		internal management;
6	(5)	Make rules with respect to its projects, operations,
7		properties, and facilities, which rules shall be in
8		conformance with chapter 91[+] and shall be subject to
9		prior approval by the legislature by concurrent
10		resolution adopted by each house by at least a two-
11		thirds majority vote of the members to which that
12	•	house is entitled;
13	(6)	Through its executive director appoint officers,
14		agents, and employees, prescribe their duties and
15	.*	qualifications, and fix their salaries, without regard
16		to chapter 76;
17	(7)	Prepare or cause to be prepared a community
18		development plan for all designated community
19		development districts;
20	(8)	Acquire, reacquire, or contract to acquire or
21		reacquire by grant or purchase real, personal, or
22		mixed property or any interest therein; to own, hold,

1		clear, improve, and rehabilitate, and to sell, assign,
2		exchange, transfer, convey, lease, or otherwise
3		dispose of or encumber the same[+], subject to prior
4		approval by the legislature by concurrent resolution
5		adopted by each house by at least a two-thirds
6		majority vote of the members to which that house is
7		entitled;
8	(9)	Acquire or reacquire by condemnation real, personal,
9		or mixed property or any interest therein for public
10		facilities, including but not limited to streets,
11		sidewalks, parks, schools, and other public
12		improvements;
13	(10)	By itself, or in partnership with qualified persons,
14		acquire, reacquire, construct, reconstruct,
15		rehabilitate, improve, alter, or repair or provide for
16		the construction, reconstruction, improvement,
17		alteration, or repair of any project; own, hold, sell,
18	/	assign, transfer, convey, exchange, lease, or
19		otherwise dispose of or encumber any project, and in
20		the case of the sale of any project, accept a purchase
21		money mortgage in connection therewith; and repurchase
22		or otherwise acquire any project that the authority

1		has theretofore sold or otherwise conveyed,
2		transferred, or disposed of[+], subject to prior
3		approval by the legislature by concurrent resolution
4		adopted by each house by at least a two-thirds
5		majority vote of the members to which that house is
6		entitled;
7	(11)	Arrange or contract for the planning, replanning,
8		opening, grading, or closing of streets, roads,
9		roadways, alleys, or other places, or for the
10		furnishing of facilities or for the acquisition of
l1		property or property rights or for the furnishing of
12		property or services in connection with a project;
13	, (12)	Grant options to purchase any project or to renew any
14		lease entered into by it in connection with any of its
15		projects, on terms and conditions as it deems
l6		advisable;
l 7	(13)	Prepare or cause to be prepared plans, specifications,
18		designs, and estimates of costs for the construction,
19		reconstruction, rehabilitation, improvement,
20		alteration, or repair of any project, and from time to
21		time to modify the plans, specifications, designs, or
22		estimates;

1	(14)	Provide advisory, consultative, training, and
2		educational services, technical assistance, and advice
3		to any person, partnership, or corporation, either
4		public or private, to carry out the purposes of this
5		chapter, and engage the services of consultants on a
6		contractual basis for rendering professional and
7		technical assistance and advice;
8	(15)	Procure insurance against any loss in connection with
9		its property and other assets and operations in
10		amounts and from insurers as it deems desirable; and
11	(16)	Contract for and accept gifts or grants in any form
12		from any public agency or from any other source[+]
13	[(17)	Do any and all things necessary to carry out its
14		purposes and exercise the powers given and granted in
15		this chapter; and
16	(18)	Allow satisfaction of any affordable housing
17		requirements imposed by the authority upon any
18		proposed development project through the construction
19		of reserved housing, as defined in section 206E 101,
20		by a person on land located outside the geographic
21		boundaries of the authority's jurisdiction; provided
22		that the authority shall not permit any person to make

1	cash payments in lieu of providing reserved housing,
2	except to account for any fractional unit that results
3	after calculating the percentage requirement against
4	residential floor space or total number of units
5	developed. The substituted housing shall be located
6	on the same island as the development project and
7	shall be substantially equal in value to the required
8	reserved housing units that were to be developed on
9	site. The authority shall establish the following
10	priority in the development of reserved housing:
11	(A) Within the community development district;
12	(B) Within areas immediately surrounding the
13	community development district;
14	(C) Areas within the central urban core;
15	(D) In outlying areas within the same island as the
16	 development project.
17	The Hawaii community development authority shall
18	adopt rules relating to the approval of reserved
19	housing that are developed outside of a community
20	development district. The rules shall include, but
21	are not limited to, the establishment of guidelines to
22	ensure compliance with the above priorities]."

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         SECTION 3. Section 206E-8, Hawaii Revised Statutes, is
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    amended to read as follows:
 3
         "[+]$206E-8[+] Use of public lands; acquisition of state
 4
    lands.
            (a) Any provision of chapter 171 to the contrary
 5
    notwithstanding, the governor may set aside public lands located
    within community development districts to the authority for its
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    use[-], subject to prior approval by the legislature by
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    concurrent resolution adopted by each house by at least a two-
9
    thirds majority vote of the members to which that house is
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    entitled.
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              If state lands under the control and management of
         (b)
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    other public agencies are required by the authority for its
13
    purposes, the agency having the control and management of those
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    required lands shall, upon request by the authority and with the
    approval of the governor, convey[\tau] or lease such lands to the
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    authority upon such terms and conditions as may be agreed to by
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    the parties[-], subject to prior approval by the legislature by
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    concurrent resolution adopted by each house by at least a two-
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    thirds majority vote of the members to which that house is
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    entitled.
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         (c) Notwithstanding the foregoing, no public lands shall
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    be set aside, conveyed, or leased to the authority as above
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- 1 provided if such setting aside, conveyance, or lease would
- 2 impair any covenant between the State or any county or any
- 3 department or board thereof and the holders of bonds issued by
- 4 the State or such county, department, or board."
- 5 SECTION 4. Section 206E-14, Hawaii Revised Statutes, is
- 6 amended to read as follows:
- 7 "S206E-14 Sale or lease of redevelopment projects. (a)
- 8 The authority may, without recourse to public auction, sell, or
- 9 lease for a term not exceeding sixty-five years, all or any
- 10 portion of the real or personal property constituting a
- 11 redevelopment project to any person, upon such terms and
- 12 conditions as may be approved by the authority, if the authority
- 13 finds that the sale or lease is in conformity with the community
- 14 development plan[-], subject to prior approval by the
- 15 legislature by concurrent resolution adopted by each house by at
- 16 least a two-thirds majority vote of the members to which that
- 17 house is entitled.
- 18 (b) In the case of residential projects or redevelopment
- 19 projects, the terms of the sale shall provide for the repurchase
- 20 of the property by the authority at its option, in the event
- 21 that the purchaser, if other than a state agency, desires to
- 22 sell the property within ten years[, provided that this



- 1 requirement may be waived by the authority if the authority
- 2 determines that a waiver will not be contrary to the community
- 3 development plan]. The authority shall establish at the time of
- 4 original sale a formula setting forth a basis for a repurchase
- 5 price based on market considerations including but not being
- 6 limited to interest rates, land values, construction costs, and
- 7 federal tax laws.
- 8 If the purchaser in a residential project is a state
- 9 agency, the authority may include as a term of the sale a
- 10 provision for the repurchase of the property in conformance with
- 11 this section."
- 12 SECTION 5. Section 206E-16.5, Hawaii Revised Statutes, is
- 13 amended to read as follows:
- 14 "[+] \$206E-16.5[+] Expenditures of revolving funds under
- 15 the authority not exempt from appropriation and allotment.
- 16 [Except as to administrative expenditures, and except as
- 17 otherwise provided by law, expenditures Expenditures from any
- 18 revolving fund administered by the authority [may] shall be made
- 19 by the authority [without] pursuant to appropriation [or] and
- 20 allotment of the legislature[; provided that no expenditure
- 21 shall be made from and no obligation shall be incurred against
- 22 any revolving fund in excess of the amount standing to the



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    credit of the fund or for any purpose for which the fund may not
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    lawfully be expended. Nothing in sections 37 31 to 37 41 shall
    require the proceeds of any revolving fund administered by the
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    authority to be reappropriated annually]."
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         SECTION 6. Section 206E-31.6, Hawaii Revised Statutes, is
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6
    amended to read as follows:
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         "[+] § 206E-31.6[+] Lease of projects. (a) Notwithstanding
    any law to the contrary, including [f]section[f] 206E-14, except
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    as prohibited by section 206E-31.5, the authority may, [without
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    recourse] pursuant to public auction or public notice for sealed
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    bids, lease for a term not exceeding sixty-five years all or any
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    portion of the real or personal property constituting a project
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13
    to any person, upon such terms and conditions as may be approved
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    by the authority, if the authority finds that the lease is in
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    conformity with the community development plan[-], subject to
    prior approval by the legislature by concurrent resolution
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17
    adopted by each house by at least a two-thirds majority vote of
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    the members to which that house is entitled.
19
              In the case of any sale of the leasehold interest in
         (b)
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    the project, the terms of the sale shall provide for the
21
    repurchase of the leasehold property by the authority at its
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option, in the event that the purchaser, if other than a state

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I	agency, desires to sell the property within ten years; provided
2	that this requirement may be waived by the authority if the
3	authority determines that a waiver will not be contrary to the
4	community development plan]. The authority shall establish at
5	the time of original sale a formula setting forth a basis for a
6	repurchase price based on market considerations, including but
7	not limited to interest rates, land values, construction costs,
8	and federal tax laws.
9	If the purchaser in a residential project is a state
10	agency, the authority may include as a term of the sale a
11	provision for the repurchase of the property in conformance with
12	this section."
13	SECTION 7. Section 206E-182, Hawaii Revised Statutes, is
14	amended to read as follows:
15	"§206E-182 Powers. In addition and supplemental to the
16	powers granted to the authority by law, the authority may:
17	(1) With the approval of the governor, and subject to
18	prior approval by the legislature by concurrent
19	resolution adopted by each house by at least a two-
20	thirds majority vote of the members to which that
21	house is entitled, enter into a special facility lease
22	or an amendment or supplement thereto whereby the



1		authority agrees to construct, acquire, or remodel and
. 2		furnish or equip a special facility solely for the use
3		by another person to a special facility lease;
4	(2)	With the approval of the governor, and subject to
5		prior approval by the legislature by concurrent
6		resolution adopted by each house by at least a two-
7		thirds majority vote of the members to which that
8		house is entitled, issue special facility revenue
9		bonds in principal amounts, not to exceed the total
10		amount of bonds authorized by the legislature, that
11		may be necessary to yield all or a portion of the cost
12		of any construction, acquisition, remodeling,
13		furnishing, and equipping of any special facility;
14	(3)	With the approval of the governor, issue refunding
15		special facility revenue bonds, in principal amounts
16		not to exceed the total amount of bonds authorized by
17		the legislature, with which to provide for the payment
18		of outstanding special facility revenue bonds
19		(including any special facility revenue bonds
20		theretofore issued for this purpose) or any part
21		thereof; provided any issuance of refunding special
22		facility revenue bonds shall not reduce the principal

•		amount of the bonds which may be issued as provided i
2		paragraph (2);
3	(4)	Perform and carry out the terms and provisions of any
4		special facility lease;
5	(5)	Notwithstanding section 103-7 or any other law to the
6		contrary, acquire, construct, or remodel and furnish
7		or equip any special facility, or accept the
8		assignment of any contract therefor entered into by
9		the other person to the special facility lease;
10	(6)	Construct any special facility on land owned by the
11		State; provided that no funds derived herein will be
12		expended for land acquisition; and
13	(7)	Agree with the other person to the special facility
14		lease whereby any acquisition, construction,
15		remodeling, furnishing, or equipping of the special
16		facility and the expenditure of moneys therefor shall
17		be undertaken or supervised by another person."
18	SEC	FION 8. Section 206E-185, Hawaii Revised Statutes, is
19	amended t	to read as follows:
20	" [-[]	S206E-185[] Special facility revenue bonds. All
21	special i	facility revenue bonds authorized to be issued, in
22	principa	amounts not to exceed the total amount of bonds
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2	III of ch	apter 39, except as follows:
3	(1)	No revenue bonds shall be issued unless at the time of
4		issuance the authority shall have entered into a
5		special facility lease with respect to the special
6		facility for which the revenue bonds are to be issued;
7	(2)	The revenue bonds shall be issued in the name of the
8.		authority, and not in the name of the State;
9	(3)	The revenue bonds shall be payable solely from and
10		secured solely by the revenues derived by the
11		authority from the special facility for which they are
12		issued;
13	(4)	The final maturity date of the revenue bonds shall not
14		be later than either the estimated life of the special
15		facility for which they are issued or the initial term
16	•	of the special facility lease;
17	(5)	If deemed necessary or advisable by the authority, or
18	·	to permit the obligations of the other person to the

special facility lease to be registered under the U.S.

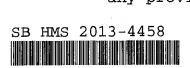
Securities Act of 1933, the authority, with the

approval of the director of finance, may appoint a

national or state bank within or without the State to

authorized by the legislature, shall be issued pursuant to part

serve as trustee for the holders of the revenue bonds	3
and may enter into a trust indenture or trust	
agreement with the trustee. The trustee may be	
authorized by the authority to collect, hold, and	
administer the revenues derived from the special	
facility for which the revenue bonds are issued and t	:0
apply the revenues to the payment of the principal ar	ıd
interest on the revenue bonds. If any trustee shall	
be appointed, any trust indenture or agreement entere	ed
into by the authority with the trustee may contain the	ıe
covenants and provisions authorized by part III of	
chapter 39 to be inserted in a resolution adopted or	
certificate issued, as though the words "resolution"	
or "certificate" as used in that part read "trust	
indenture or agreement". The covenants and provision	ıs
shall not be required to be included in the resolution	on
or certificate authorizing the issuance of the revenue	ıе
bonds if included in the trust agreement or indenture	Э.
Any resolution or certificate, trust indenture, or	
trust agreement adopted, issued, or entered into by	
the authority pursuant to this part may also contain	
any provisions required for the qualification thereog	£



1		under the U.S. Trust Indenture Act of 1939. The
2		authority may pledge and assign to the trustee the
3		special facility lease and the rights of the authority
4		including the revenues thereunder;
5	(6)	If the authority, with the approval of the director of
6		finance, shall have appointed or shall appoint a
7		trustee for the holders of the revenue bonds, then
8		notwithstanding the provisions of the second sentence
9		of section 39-68, the director of finance may elect
10		not to serve as fiscal agent for the payment of the
11		principal and interest, and for the purchase,
12		registration, transfer, exchange, and redemption, of
13		the revenue bonds, or may elect to limit the functions
14		the director of finance shall perform as the fiscal
15		agent. The authority, with the approval of the
16		director of finance, may appoint the trustee to serve
17		as the fiscal agent, and may authorize and empower the
18		trustee to perform the functions with respect to
19		payment, purchase, registration, transfer, exchange,
20		and redemption, that the authority may deem necessary,
21		advisable, or expedient, including, without
22	•	limitation, the holding of the revenue bonds and

coupons which have been paid and the supervision and
conduction of the destruction thereof in accordance
with sections 40-10 and 40-11. Nothing in this
paragraph shall be a limitation upon or construed as a
limitation upon the powers granted in the preceding
paragraph to the authority, with the approval of the
director of finance, to appoint the trustee, or
granted in sections 36-3 and 39-13 and the third
sentence of section 39-68 to the director of finance
to appoint the trustee or others, as fiscal agents,
paying agents, and registrars for the revenue bonds or
to authorize and empower the fiscal agents, paying
agents, and registrars to perform the functions
referred to in that paragraph and sections, it being
the intent of this paragraph to confirm that the
director of finance as aforesaid may elect not to
serve as fiscal agent for the revenue bonds or may
elect to limit the functions the director of finance
shall perform as the fiscal agent, that the director
of finance may deem necessary, advisable, or
expedient;

1	(7)	The authority may sell the revenue bonds either at
2		public or private sale;
3	(8)	If no trustee shall be appointed to collect, hold, and
4		administer the revenues derived from the special
5		facility for which the revenue bonds are issued, the
6		revenues shall be held in a separate account in the
7		treasury of the State, separate and apart from the
8		Hawaii community development revolving fund, to be
9		applied solely to the carrying out of the resolution,
10		certificate, trust indenture, or trust agreement
11		authorizing or securing the revenue bonds;
12	(9)	If the resolution, certificate, trust indenture, or
13		trust agreement shall provide that no revenue bonds
14		issued thereunder shall be valid or obligatory for any
15		purpose unless certified or authenticated by the
16		trustee for the holders of the revenue bonds,
17		signatures of the officers of the State upon the bonds
18		required by section 39-56 may be facsimiles of their
19		signatures;
20	(10)	Proceeds of the revenue bonds may be used and applied
21		by the authority to reimburse the other person to the

1		special facility lease for all preliminary costs and
2		expenses, including architectural and legal costs; and
3	(11)	If the special facility lease shall require the other
4		person to operate, maintain, and repair the special
5		facility which is the subject of the lease, at the
6		other person's expense, the requirement shall
7		constitute compliance by the authority with section
8		39-61(a)(2), and none of the revenues derived by the
9		authority from the special facility shall be required
10		to be applied to the purposes of section 39-62(2).
11		Sections 39-62(4), 39-62(5), and 39-62(6) shall not
12		apply to the revenues derived from a special facility
13		lease."
14	SECT	ION 9. All existing members of the Hawaii community
15	developmen	nt authority in office as of the effective date of this
16	Act shall	be removed immediately, and new members shall be
17	appointed	pursuant to section 206E-3, Hawaii Revised Statutes.
18	SECT	ION 10. This Act does not affect rights and duties
19	that matu	red, penalties that were incurred, and proceedings that
20	were begun	n before its effective date.
21	SECT	ION 11. Statutory material to be repealed is bracketed
22	and stric	ken. New statutory material is underscored.

1 SECTION 12. This Act shall take effect on July 1, 2014.

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INTRODUCED BY:

Report Title:

Hawaii Community Development Authority

Description:

Amends the manner in which members are appointed to the Hawaii Community Development Authority. Enhances legislative oversight of the Authority.

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