

JAN 22 2016

A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

1 SECTION 1. The legislature finds that the State has a
2 unique opportunity to address economic diversification and
3 affordable housing shortages through transit-oriented
4 development. However, despite being one of the largest
5 landowners alongside the rail transit stations, the State has
6 yet to formulate a master plan to develop these parcels so they
7 are transit-ready. Prior to any redevelopment effort, there is
8 a need to increase all infrastructure capacity along the transit
9 corridor, especially around each of the twenty transit stations.
10 In preparation for the completion of the Honolulu rail transit
11 project, the State must maximize the opportunities for
12 development of land around rail stations, thereby supporting the
13 local economy, improving access to transportation, and
14 increasing rail ridership.

15 In recognizing the need for a focused effort on
16 infrastructure capacity building to support redevelopment
17 efforts at each of the transit stations and avoiding the need to



1 create another government entity, the purpose of this Act is to
2 allow the Hawaii community development authority to use its
3 existing development and redevelopment authority to designate
4 transit-oriented development community districts to plan and
5 develop infrastructure capacity, pursuant to chapter 206E-6,
6 Hawaii Revised Statutes, at each of the transit stations that
7 will support the planned growth and density.

8 For the purposes of this Act, the initial focus shall be
9 limited to one transit station that is adjacent to state owned
10 lands. The Hawaii community development authority shall plan
11 and develop infrastructure to service lands within a one-half
12 mile radius from one of the following stations: Aloha stadium
13 transit station, Kapalama transit station, Iwilei transit
14 station, or Leeward community college transit station.

15 Furthermore, in order to facilitate the investment of
16 private capital in public infrastructure, chapter 206E, Hawaii
17 Revised Statutes, is being amended to allow the Hawaii community
18 development authority to enter into "public private
19 partnerships" established through a "lease back" arrangement
20 between the authority and private investors.



1 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 "PART . TRANSIT-ORIENTED DEVELOPMENT COMMUNITY DISTRICTS

5 §206E-A Transit-oriented development community districts;
6 purposes. The legislature finds that:

7 (1) The State has significant assets in four of the
8 transit station locations on Oahu. The twenty
9 stations proposed along the transit alignment are
10 intended to provide for much of the planned growth and
11 urban expansion through increased density concentrated
12 within the urban core. The State must take
13 appropriate steps to ensure its land assets along the
14 transit corridor can be used in the most efficient and
15 economic manner to support the best interest of the
16 State;

17 (2) Due to its present low density function, the districts
18 are relatively underdeveloped and underutilized
19 especially in view of their proximity to the proposed
20 Honolulu area rapid transit system. The urban core,
21 where the pressure for all land uses is strong, has



1 the potential for increased growth and development
2 that can alleviate community needs such as workforce
3 and affordable housing, parks and open space, public
4 facilities, and commercial and industrial facilities;

5 (3) The districts, if not redeveloped or renewed, have the
6 potential to become a blighted and deteriorated area.

7 Due to the districts' present economic importance to
8 the State in terms of industry and subsequent
9 employment, there is a need to preserve and enhance
10 their value and potential; and

11 (4) The transit stations have the potential, if properly
12 developed and improved, to become planned, new
13 communities in consonance with surrounding urban
14 areas.

15 In coordinating community development at each of the
16 transit-oriented development community districts, the authority
17 shall plan a mixed-use district whereby industrial, commercial,
18 residential, and public uses may coexist compatibly within the
19 same area.

20 The authority shall plan for the above uses, but shall also
21 respect and support the present function of each of the transit



1 stations as major economic centers, providing significant
2 employment in such areas as light industrial, wholesaling,
3 service, and commercial activity.

4 **§206E-B Districts established; boundaries.** The transit-
5 oriented development community districts are hereby established.
6 The districts shall include the area within the boundaries of
7 transit stations where there are significant state owned land
8 interests, with each district encompassing a one-half mile
9 radius around each of the following transit stations:

- 10 (1) Iwilei transit station;
11 (2) Kapalama transit station;
12 (3) Aloha stadium transit station; and
13 (4) Leeward community college transit station.

14 **§206E-C Transit-oriented development community districts;**
15 **development guidance policies.** The following shall be the
16 development guidance policies generally governing the
17 authority's action in the transit-oriented development community
18 districts:

- 19 (1) Development shall result in a community that permits
20 an appropriate land mixture of residential,
21 commercial, industrial, and other uses. In view of



1 the innovative nature of the mixed use approach, urban
2 design policies shall be established to provide
3 guidelines for the public and private sectors in the
4 proper development of these districts; provided that
5 the authority's development responsibilities apply
6 only to the area within the districts; provided
7 further that the authority may engage in any studies
8 or coordinative activities permitted in this part that
9 affect areas lying outside the districts where the
10 authority in its discretion decides that those
11 activities are necessary to implement the intent of
12 this part. The studies or coordinative activities
13 shall be limited to facility systems, resident and
14 industrial relocation, and other activities with the
15 counties and appropriate state agencies. The
16 authority may engage in construction activities
17 outside of the districts; provided that such
18 construction relates to infrastructure development or
19 residential or business relocation activities;
20 provided further, notwithstanding section 206E-7, that
21 such construction shall comply with the general plan,



development plan, ordinances, and rules of the county
in which the districts are located;

(2) Existing and future industrial uses shall be permitted
and encouraged in appropriate locations within the
districts. No plan or implementation strategy shall
prevent continued activity or redevelopment of
industrial and commercial uses that 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
districts 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;

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



1 (7) Land use activities within the districts, where
2 compatible, shall to the greatest possible extent be
3 mixed horizontally, that is, within blocks or other
4 land areas, and vertically, as integral units of
5 multi-purpose structures;

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

19 (9) Public facilities within the districts shall be
20 planned, located, and developed so as to support the
21 redevelopment policies for the districts established



1 by this part and plans and rules adopted pursuant to
2 this part.

3 **§206E-D Prohibitions.** Anything contained in this chapter
4 to the contrary notwithstanding, the authority is prohibited
5 from selling or otherwise assigning the fee simple interest in
6 any lands in the transit-oriented development community
7 districts to which the authority in its corporate capacity holds
8 title, except with respect to:

9 (1) Utility easements;

10 (2) Remnants as defined in section 171-52;

11 (3) Grants to any state or county department or agency;

12 (4) Private entities for purposes of any easement,
13 roadway, or infrastructure improvements; or

14 (5) Reserved housing as defined in section 206E-101.

15 **§206E-E Lease of projects.** (a) Notwithstanding any law
16 to the contrary, including section 206E-14, except as prohibited
17 by section 206E-D, the authority may, without recourse to public
18 auction or public notice for sealed bids, lease for a term not
19 exceeding ninety-nine years all or any portion of the real or
20 personal property constituting a project to any person, upon
21 such terms and conditions as may be approved by the authority,



1 if the authority finds that the lease is in conformity with the
2 community development plan.

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

15 **§206E-F Rules; adoption.** The authority shall adopt rules
16 in accordance with chapter 91 to carry out the purposes of this
17 part."

18 SECTION 3. Section 206E-6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§206E-6 District-wide improvement program.** (a) The
21 authority shall develop a district-wide improvement program to



1 identify necessary district-wide public facilities within a
2 community development district.

3 (b) Whenever the authority shall determine to undertake,
4 or cause to be undertaken, any public facility as part of the
5 district-wide improvement program, the cost of providing the
6 public facilities shall be assessed against the real property in
7 the community development district specially benefiting from
8 such public facilities. The authority shall determine the areas
9 of the community development district which will benefit from
10 the public facilities to be undertaken and, if less than the
11 entire community development district benefits, the authority
12 may establish assessment areas within the community development
13 district. The authority may issue and sell bonds in such
14 amounts as may be authorized by the legislature to provide funds
15 to finance such public facilities. The authority shall fix the
16 assessments against real property specially benefited. All
17 assessments made pursuant to this section shall be a statutory
18 lien against each lot or parcel of land assessed from the date
19 of the notice declaring the assessment until paid and such lien
20 shall have priority over all other liens except the lien of



1 property taxes. As between liens of assessments, the earlier
2 lien shall be superior to the later lien.

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

17 (d) Any other law to the contrary notwithstanding, in
18 assessing real property for public facilities, the authority
19 shall assess the real property within an assessment area
20 according to the special benefits conferred upon the real
21 property by the public facilities. These methods may include



1 assessment on a frontage basis or according to the area of real
2 property within an assessment area or any other assessment
3 method which assesses the real property according to the special
4 benefit conferred, or any combination thereof. No such
5 assessment levied against real property specially benefited as
6 provided by this chapter shall constitute a tax on real property
7 within the meanings of any constitutional or statutory
8 provisions.

9 (e) The authority shall adopt rules pursuant to chapter
10 91, and may amend the rules from time to time, providing for the
11 method of undertaking and financing public facilities in an
12 assessment area or an entire community development district.
13 The rules adopted pursuant to this section shall include, but
14 are not limited to, the following: methods by which the
15 authority shall establish assessment areas; the method of
16 assessment of real properties specially benefited; the costs to
17 be borne by the authority, the county in which the public
18 facilities are situated, and the property owners; the procedures
19 before the authority relating to the creation of the assessment
20 areas by the owners of real property therein, including
21 provisions for petitions, bids, contracts, bonds, and notices;



1 provisions relating to assessments; provisions relating to
2 financing, such as bonds, revolving funds, advances from
3 available funds, special funds for payment of bonds, payment of
4 principal and interest, and sale and use of bonds; provisions
5 relating to funds and refunding of outstanding debts; and
6 provisions relating to limitations on time to sue, and other
7 related provisions.

8 (f) Any provisions to the contrary notwithstanding, the
9 authority may, in its discretion, enter into any agreement with
10 the county in which the public facilities are located, to
11 implement all or part of the purposes of this section.

12 (g) All sums collected under this section shall be
13 deposited in the Hawaii community development revolving fund
14 established by section 206E-16; except that notwithstanding
15 section 206E-16, all moneys collected on account of assessments
16 and interest thereon for any specific public facilities financed
17 by the issuance of bonds shall be set apart in a separate
18 special fund and applied solely to the payment of the principal
19 and interest on these bonds, the cost of administering,
20 operating, and maintaining the program, the establishment of
21 reserves, and other purposes as may be authorized in the



1 proceedings providing for the issuance of the bonds. If any
2 surplus remains in any special fund after the payment of the
3 bonds chargeable against such fund, it shall be credited to and
4 become a part of the Hawaii community development revolving
5 fund. Moneys in the Hawaii community development revolving fund
6 may be used to make up any deficiencies in the special fund.

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

12 (i) Notwithstanding any law to the contrary, whenever as
13 part of a district-wide improvement program it becomes necessary
14 to remove, relocate, replace, or reconstruct public utility
15 facilities, the authority shall establish by rule the allocation
16 of cost between the authority, the affected public utilities,
17 and properties that may specially benefit from such improvement,
18 if any. In determining the allocation of cost, the authority
19 shall consider the cost allocation policies for improvement
20 districts established by the county in which the removal,
21 relocation, replacement, or reconstruction is to take place.



1 (j) Notwithstanding any law to the contrary, the authority
2 may enter into a partnership agreement with any private investor
3 for the leasing of public infrastructure to the private
4 investor; provided that the partnership agreement contains the
5 following requirements:

6 (1) The authority shall lease the infrastructure facility
7 to the private investor, who shall:

8 (A) Renovate, improve, or construct for the authority
9 public infrastructure, pursuant to a ground lease
10 or easement, and may maintain the facility; and

11 (B) Lease back the public infrastructure to the
12 authority, pursuant to a lease or easement;

13 (2) The land upon which the public infrastructure rests
14 shall not be sold to the private investor; provided
15 that the land may be leased at a nominal rate to the
16 private investor for a term that would, at a minimum,
17 allow the private investor to recover the capital
18 investment that has been made to the public
19 infrastructure, including depreciation; and

20 (3) The authority shall have the option of purchasing the
21 public infrastructure from the private investor for

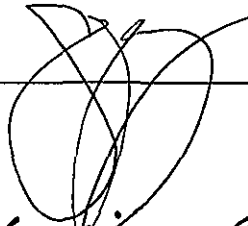

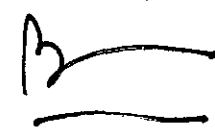


1 the remaining balance of the debt service costs
2 incurred by the private investor at any time; provided
3 that the lease shall terminate concurrently."

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2016.

6 INTRODUCED BY: _____


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Report Title:

Transit-Oriented Development Community Districts; Hawaii
Community Development Authority; Transit Stations

Description:

Allows the Hawaii community development authority to designate transit-oriented development community districts around certain transit stations to support planned growth and density.
Authorizes the Hawaii community development authority to enter into partnerships with private investors for the leasing of public infrastructure to the investors under certain conditions.

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