

JAN 19 2018

A BILL FOR AN ACT

RELATING TO RENTAL HOUSING ON GOVERNMENT LANDS IN PROPOSED
TRANSIT ORIENTED DEVELOPMENT COMMUNITY DISTRICTS.

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

PART I

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SECTION 1. The legislature finds that the State has a unique opportunity to address economic diversification and affordable housing shortages through transit-oriented development. The majority of the state-owned lands along the transit corridor should be used in the development of rental housing at all price points. However, despite being one of the largest landowners alongside the rail transit stations, the State has yet to formulate a master plan to develop these parcels so they are transit-ready.

The legislature further finds that, before any redevelopment effort, there is a need to increase all infrastructure capacity along the transit corridor, especially around each of the twenty transit stations. In preparation for the completion of the Honolulu rail transit project, the State must maximize the opportunities for development of land around



1 rail stations, thereby supporting the local economy, improving
2 access to transportation, and increasing rail ridership.

3 The legislature recognizes the need for a focused effort on
4 infrastructure capacity building to support redevelopment
5 efforts at each of the transit stations, but wishes to avoid the
6 creation of another government entity. Therefore, the purpose
7 of this Act is to have the Hawaii community development
8 authority use its existing development and redevelopment
9 authority to designate transit oriented development
10 infrastructure capacity building development districts, then to
11 plan and develop infrastructure capacity pursuant to section
12 206E-6, Hawaii Revised Statutes, at each of the transit stations
13 that will support the planned growth and density at each of the
14 transit stations.

15 The authority shall plan and develop infrastructure to
16 service state owned lands within a one-half mile radius from the
17 following stations: Aloha Stadium transit station, Kalihi
18 transit station, Iwilei transit station, or Leeward Community
19 College transit station.

20 Further, in order to facilitate the investment of private
21 capital in public infrastructure, chapter 206E, Hawaii Revised



1 Statutes, will be amended to allow the authority to enter into
2 public private partnerships established through a lease back
3 arrangement between the authority and private investors.

4 **PART II**

5 SECTION 2. Section 206E-1, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§206E-1 Findings and purpose.** The legislature finds that
8 many areas of the State are substantially undeveloped, blighted,
9 or economically depressed, and are or are potentially in need of
10 renewal, renovation, or improvement to alleviate such conditions
11 as dilapidation, deterioration, age, and other such factors or
12 conditions which make such areas an economic or social
13 liability.

14 The legislature further finds that there exists within the
15 State vast, unmet community development needs. These include,
16 but are not limited to, a lack of suitable affordable housing;
17 insufficient commercial and industrial facilities for rent;
18 residential areas which do not have facilities necessary for
19 basic livability, such as parks and open space; and areas which
20 are planned for extensive land allocation to one, rather than
21 mixed uses.



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

6 The legislature finds that a new and comprehensive
7 authority for community development must be created to join the
8 strengths of private enterprise, public development and
9 regulation into a new form capable of long-range planning and
10 implementation of improved community development. The purpose
11 of this chapter is to establish such a mechanism in the Hawaii
12 community development authority, a public entity which shall
13 determine community development programs and cooperate with
14 private enterprise and the various components of federal, state,
15 and county governments in bringing plans to fruition. For such
16 areas designated as community development districts, the
17 legislature believes that the planning and implementation
18 program of the Hawaii community development authority will
19 result in communities which serve the highest needs and
20 aspirations of Hawaii's people.



1 The legislature finds that the creation of the Hawaii
2 community development authority, the establishment of community
3 development districts, and the issuance of bonds pursuant to
4 this chapter to finance public facilities serve the public
5 interest and are matters of statewide concern.

6 The legislature further 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 transit
18 oriented development districts are relatively
19 underdeveloped and underutilized especially in view of
20 their proximity to the proposed Honolulu area rapid
21 transit system. In the urban core, where the pressure



1 for all land uses is strong, the transit oriented
2 development districts have the potential for increased
3 growth and development that can alleviate community
4 needs such as workforce and affordable housing, parks
5 and open space, public facilities, and commercial and
6 industrial facilities;

7 (3) The transit oriented development districts, if not
8 redeveloped or renewed, have the potential to become
9 blighted and deteriorated areas. Due to their present
10 economic importance to the State in terms of industry
11 and subsequent employment, there is a need to preserve
12 and enhance their value and potential; and

13 (4) The transit oriented development districts have the
14 potential, if properly developed and improved, to
15 become planned new communities in consonance with
16 surrounding urban areas."

17 SECTION 3. Section 206E-2, Hawaii Revised Statutes, is
18 amended by adding a new definition to be appropriately inserted
19 and to read as follows:

20 "Transit oriented development district" means a transit
21 oriented development community development district."



1 SECTION 4. Section 206E-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§206E-6 District-wide improvement program. (a) The
4 authority shall develop a district-wide improvement program to
5 identify necessary district-wide public facilities within a
6 community development district.

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



1 lien against each lot or parcel of land assessed from the date
2 of the notice declaring the assessment until paid and such lien
3 shall have priority over all other liens except the lien of
4 property taxes. As between liens of assessments, the earlier
5 lien shall be superior to the later lien.

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

20 (d) Any other law to the contrary notwithstanding, in
21 assessing real property for public facilities, the authority



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

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



1 before the authority relating to the creation of the assessment
2 areas by the owners of real property therein, including
3 provisions for petitions, bids, contracts, bonds, and notices;
4 provisions relating to assessments; provisions relating to
5 financing, such as bonds, revolving funds, advances from
6 available funds, special funds for payment of bonds, payment of
7 principal and interest, and sale and use of bonds; provisions
8 relating to funds and refunding of outstanding debts; and
9 provisions relating to limitations on time to sue, and other
10 related provisions.

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

15 (g) All sums collected under this section shall be
16 deposited in the Hawaii community development revolving fund
17 established by section 206E-16; except that notwithstanding
18 section 206E-16, all moneys collected on account of assessments
19 and interest thereon for any specific public facilities financed
20 by the issuance of bonds shall be set apart in a separate
21 special fund and applied solely to the payment of the principal



1 and interest on these bonds, the cost of administering,
2 operating, and maintaining the program, the establishment of
3 reserves, and other purposes as may be authorized in the
4 proceedings providing for the issuance of the bonds. If any
5 surplus remains in any special fund after the payment of the
6 bonds chargeable against such fund, it shall be credited to and
7 become a part of the Hawaii community development revolving
8 fund. Moneys in the Hawaii community development revolving fund
9 may be used to make up any deficiencies in the special fund.

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

15 (i) Notwithstanding any law to the contrary, whenever as
16 part of a district-wide improvement program it becomes necessary
17 to remove, relocate, replace, or reconstruct public utility
18 facilities, the authority shall establish by rule the allocation
19 of cost between the authority, the affected public utilities,
20 and properties that may specially benefit from such improvement,
21 if any. In determining the allocation of cost, the authority



1 shall consider the cost allocation policies for improvement
2 districts established by the county in which the removal,
3 relocation, replacement, or reconstruction is to take place.

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

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

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

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

16 (2) The land upon which the public infrastructure rests
17 shall not be sold to the private investor; provided
18 further that the land may be leased at a nominal rate
19 to the private investor for a term that would, at a
20 minimum, allow the private investor to recover the



1 significant employment in such areas as light industrial,
2 wholesaling, service, and commercial activity.

3 **§206E- 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 districts to which
7 the authority in its corporate capacity holds title, except with
8 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- Lease of transit oriented development districts.**

16 (a) Notwithstanding any law to the contrary, including section
17 206E-14, except as prohibited by section 206E-31.5, the
18 authority may, without recourse to public auction or public
19 notice for sealed bids, lease for a term not exceeding ninety-
20 nine years all or any portion of the real or personal property
21 constituting a project to any person, upon such terms and



1 conditions as may be approved by the authority, if the authority
2 finds that the lease is in conformity with the community
3 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 **§206E- Districts established; boundaries.** (a) The
21 transit oriented development community district is established



1 and designated as a community development district. The
2 district shall include the area within the boundaries of a
3 transit station where there are significant state owned land
4 interests, described as a one-half mile radius around each of
5 the following transit stations;

- 6 (1) Iwilei transit station;
- 7 (2) Kapalama transit station;
- 8 (3) Aloha Stadium transit station; and
- 9 (4) Leeward Community College transit station.

10 **§206E- Transit oriented development districts;**

11 **development guidance policies.** The following shall be the
12 development guidance policies generally governing the
13 authority's action in the transit oriented development
14 districts:

- 15 (1) Development shall result in a community which permits
16 an appropriate land mixture of residential,
17 commercial, industrial, and other uses. A majority of
18 the state-owned lands within each transit oriented
19 development district shall be used for the development
20 of rental housing at all price points. In view of the
21 innovative nature of the mixed use approach, urban



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



- 1 (2) Existing and future industrial uses shall be permitted
2 and encouraged in appropriate locations within the
3 district. No plan or implementation strategy shall
4 prevent continued activity or redevelopment of
5 industrial and commercial uses which meet reasonable
6 performance standards;
- 7 (3) Activities shall be located so as to provide primary
8 reliance on public transportation and pedestrian
9 facilities for internal circulation within the
10 district or designated subareas;
- 11 (4) Major view planes, view corridors, and other
12 environmental elements such as natural light and
13 prevailing winds, shall be preserved through necessary
14 regulation and design review;
- 15 (5) Redevelopment of the district shall be compatible with
16 plans and special districts established for the Hawaii
17 capital district;
- 18 (6) Historic sites and culturally significant facilities,
19 settings, or locations shall be preserved;
- 20 (7) Land use activities within the district, where
21 compatible, shall to the greatest possible extent be



1 mixed horizontally, that is, within blocks or other
2 land areas, and vertically, as integral units of
3 multi-purpose structures;

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

17 (9) Public facilities within the district shall be
18 planned, located, and developed so as to support the
19 redevelopment policies for the district established by
20 this chapter and plans and rules adopted pursuant to
21 it.



S.B. NO. 2214

1 §206E- Rules; adoption. The authority shall adopt rules
 2 in accordance with chapter 91 to carry out the purposes of this
 3 part."

4 SECTION 6. New statutory material is underscored.

5 SECTION 7. This Act shall take effect upon its approval.

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INTRODUCED BY:

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S.B. NO. 2214

Report Title:

Transit Oriented Development Districts; Hawaii Community Development Authority; Infrastructure; Public-private Partnerships

Description:

Establishes transit oriented development districts along transit corridors as a community development district, empowers Hawaii community development authority to develop infrastructure in transit oriented development districts, and allows Hawaii community development authority to form public-private partnerships through a lease back arrangement.

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