



GOV. MSG. NO. 1287

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 6, 2021

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith HB774 HD1 SD2 CD1, without my approval and with the statement of objections relating to the measure.

HB774 HD1 SD2 CD1

RELATING TO DEVELOPMENT DISTRICTS.

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

EXECUTIVE CHAMBERS

HONOLULU

July 6, 2021

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 774

Honorable Members
Thirty-First Legislature
State of Hawai'i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai'i, I am returning herewith, without my approval, House Bill No. 774, entitled "A Bill for an Act Relating to Development Districts."

The purposes of this bill are to: (1) establish the Pulehunui community development district in the County of Maui to redevelop, renovate, and improve public lands in Pulehunui, Maui; (2) amend the composition of the Hawaii Community Development Authority (HCDA) to add the Director of the Office of Planning or the director's respective designee as an *ex officio*, voting member of the HCDA and the community development district authority boards and two at-large members with expertise in urban planning, infrastructure, or financing; (3) require that the terms of the Director of Finance, Director of Transportation, and the Director of the Office of Planning, or their respective designees, run concurrently with their respective official terms of office; (4) establish new separate community development district authority boards to oversee the existing Kaka'ako, Kalaeloa, and He'eia community development districts and the new Pulehunui community development district; and (5) amend the scope of the HCDA's exclusive powers including: (a) requiring the mutual consent of the HCDA and the appropriate community development district authority board prior to any sale or encumbrance of any real property or other financial assets or physical assets of the HCDA; (b) prohibiting the HCDA's transfer of any additional debts or liabilities or superior debts to any community development district authority board that would negatively impact the holders of bond notes; (c) adopting and revising bylaws relating to the internal management and organization of the HCDA and the community

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 774
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development district authority boards; and (d) adopting rules relating to the approval of reserved housing developed outside of a community development district.

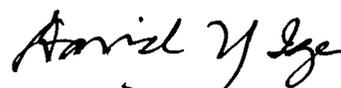
This bill is objectionable because it establishes four new community development district authority boards but does not place these new boards within one of the principal departments. Section 6 of article V of the Hawaii State Constitution requires that "[a]ll executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such manner as to group the same according to common purposes and related functions." Since the bill does not provide for placement of the new boards within a principal department, the bill will be subject to challenge as establishing the new boards in violation of the organizational placement requirement of section 6 of article V of the Hawai'i State Constitution.

Additionally, there are concerns about the prescribed requirements of more than one of the district authority boards. A lack of eligible nominees has the potential to hinder progress of the board.

This bill is also objectionable because it incorrectly lists Tax Map Key (TMK) number "2-3-8-009-038" as part of the new Pulehunui community development district. This TMK number refers to a privately-owned, residential-zoned parcel.

For the foregoing reasons, I am returning House Bill No. 774 without my approval.

Respectfully,



DAVID Y. IGE
Governor of Hawai'i

A BILL FOR AN ACT

RELATING TO DEVELOPMENT DISTRICTS.

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

1 PART I

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

5 "PART . PULEHUNUI COMMUNITY DEVELOPMENT DISTRICT

6 §206E-A Pulehunui community development district; purpose;
7 findings. The legislature finds that public lands in Pulehunui,
8 Maui, are underutilized. Redeveloping, renovating, or improving
9 these public lands to provide suitable recreational,
10 residential, educational, industrial, governmental, and
11 commercial areas where the public can live, congregate,
12 recreate, attend schools, and shop as part of a thoughtfully
13 integrated experience is in the best interest of the State.

14 §206E-B Definitions. As used in this part, unless the
15 context otherwise requires:

16 "District" means the Pulehunui community development
17 district established by this part.



1 "District authority board" means the Pulehunui community
2 development district board established by section 206E- .

3 **§206E-C District; established; boundaries.** The Pulehunui
4 community development district is established and shall be
5 composed of the following properties:

- 6 (1) TMK 2-3-8-008-001;
- 7 (2) TMK 2-3-8-008-007;
- 8 (3) TMK 2-3-8-008-037; and
- 9 (4) TMK 2-3-8-009-038.

10 **§206E-D Development policies.** The following development
11 policies shall govern the district authority board's actions in
12 the district:

- 13 (1) The district authority board may engage in planning,
14 designing, and construction activities within and
15 outside the district; provided that activities outside
16 the district shall be those the district authority
17 board deems necessary to carry out the development of
18 the district established in this part, including
19 infrastructure development, area-wide drainage
20 improvements, roadway realignment and improvements,
21 business and industrial relocation, and other related



1 activities. The district authority board may
 2 undertake studies or coordinating activities in
 3 conjunction with the county or appropriate state
 4 agencies and may address facility systems, the need
 5 for industrial relocation, and other issues;

6 (2) Archaeological, historical, and cultural sites shall
 7 be preserved and protected in accordance with
 8 chapter 6E;

9 (3) Endangered species of flora and fauna shall be
 10 preserved to the extent required by law;

11 (4) Land use and development activities within the
 12 district shall be coordinated with and, to the extent
 13 possible, complement existing county and state
 14 policies, plans, and programs affecting the district;
 15 and

16 (5) Public facilities within the district shall be
 17 planned, located, and developed to support the
 18 development policies established by this part and any
 19 rules adopted pursuant to this chapter.

20 **§206E-E Financial aid from and contracts with the federal**
 21 **government.** (a) The district authority board may:



- 1 (1) Borrow money or accept grants from the federal
2 government for or in aid of any development project
3 the district authority board is authorized to
4 undertake pursuant to this part;
- 5 (2) Issue bonds or other evidence of indebtedness and
6 pledge revenues and other assets as security for
7 indebtedness incurred pursuant to this section;
- 8 (3) Repay any indebtedness incurred pursuant to this
9 section, including any interest thereon;
- 10 (4) Procure insurance or loan guarantees from the federal
11 government for the payment of any debts or parts
12 thereof secured by mortgages made or held by the
13 district authority board;
- 14 (5) Comply with any conditions required by the federal
15 government in any contract for federal assistance; and
- 16 (6) Execute contracts with the federal government.
- 17 (b) It is the purpose and intent of this section to
18 authorize the district authority board to do all things
19 necessary to secure the cooperation of and financial aid from
20 the federal government for any planning, design, construction,



1 maintenance, and development that the district authority board
2 is authorized to undertake pursuant to this part.

3 **§206E-F Development district governance; memorandum of**
4 **agreement.** Notwithstanding section 206E-3, for matters
5 affecting the district, the district authority board and the
6 comptroller shall execute a memorandum of agreement with the
7 appropriate state agencies; provided that for matters affecting
8 TMK 2-3-8-008-037, the executive director of the Hawaii
9 community development authority shall execute a memorandum of
10 agreement with the appropriate state agencies.

11 **§206E-G Annual comprehensive report.** Not less than twenty
12 days prior to the convening of each regular session of the
13 legislature, the district authority board shall submit to the
14 legislature an annual comprehensive report on the progress of
15 development within the district."

16 PART II

17 SECTION 2. Chapter 206E, Hawaii Revised Statutes, is
18 amended by adding a new section to part I to be appropriately
19 designated and to read as follows:

20 **"§206E- Community development district authority**
21 **boards; established.** (a) There are established community



1 development district authority boards to govern each of the
2 community development districts specified in chapter 206E. The
3 district authority boards shall carry out the duties and
4 responsibilities set forth in this chapter and as further
5 delegated by the department of business, economic development,
6 and tourism and the authority.

7 (b) Except as otherwise provided by law, the district
8 authority boards may make and execute contracts and all other
9 instruments necessary or convenient for planning and developing
10 the respective community development districts.

11 (c) Upon establishment, a district authority board shall
12 assume custodial care of all:

13 (1) Financial assets;

14 (2) Real property, including land, structures, and
15 fixtures; and

16 (3) Other physical assets, such as personal property,
17 including furnishings, equipment, and inventory,
18 of the authority within its regional system.

19 No sale or encumbrance of any real property or other
20 financial assets or physical assets of the authority shall be
21 permitted without the mutual consent of the authority and the



1 appropriate district authority board. No additional debts or
2 liabilities or superior debts shall be added by the authority to
3 any district authority board that would negatively impact the
4 holders of bond notes. Each district authority board shall be
5 liable for any liabilities arising from financial assets, real
6 property, or personal property within its custodial care.

7 (d) Each district authority board shall comprise
8 nine members to be appointed by the governor pursuant to
9 section 26-34, or as provided in this section, as follows:

10 (1) The governor shall appoint the following members from
11 a list of three nominees submitted for each position
12 by the president of the senate and a list of
13 three nominees submitted for each position by the
14 speaker of the house of representatives. When more
15 than one member from a representative group is
16 required, the governor shall appoint members from both
17 lists. If only one member is required, the governor
18 may appoint the member from either list. The
19 appointed members shall serve for a term of
20 four years; provided that the governor shall provide
21 for staggered terms of the initially appointed voting



1 members so that the initial terms of two members
2 selected by lot shall be for two years, the initial
3 terms of two members selected by lot shall be for
4 three years, and the initial terms of the remaining
5 member shall be for four years:

6 (A) Two residents of the district; provided that for
7 any development district within the county of
8 Maui, the members need not reside within the
9 development district, but shall reside on the
10 island of Maui;

11 (B) One cultural specialist; and

12 (C) Two members representing small businesses or
13 non-profit organizations located and operating in
14 the respective development district; provided
15 that for any development district within the
16 county of Maui, the small businesses or non-
17 profit organizations need not be located within
18 the development district but shall be located and
19 operating on the island of Maui;

20 (2) The director of planning and permitting of the county
21 in which the community development district is



1 located, or the director's designee, who shall serve
2 for a term to run concurrently with the official's
3 term of office; and

4 (3) The director of finance, or the director's designee;
5 director of transportation, or the director's
6 designee; and director of the office of planning, or
7 the director's designee, who shall serve as ex
8 officio, voting members for terms to run concurrently
9 with each official's term of office.

10 (e) Each district authority board shall select one member
11 to represent the community development district on the authority
12 for a term to be determined by each district authority board.

13 (f) If a vacancy occurs, a member shall be appointed to
14 fill the vacancy in the same manner as the original appointment
15 within thirty days of the vacancy or within ten days of the
16 senate's rejection of a previous appointment, as applicable.

17 (g) The governor may remove or suspend for cause any
18 member after due notice and a public hearing.

19 (h) Notwithstanding section 92-15, a majority of all
20 eligible voting members as specified in this section shall
21 constitute a quorum to do business, and the concurrence of a



1 majority of all eligible voting members as specified in this
2 section shall be necessary to make any action of a district
3 authority board valid. Except as herein provided, no member
4 appointed under this section shall be an officer or employee of
5 the State or its political subdivisions.

6 (i) The members of each district authority board shall
7 serve without compensation, but each shall be reimbursed for
8 expenses, including travel expenses, incurred in the performance
9 of their duties.

10 (j) For the purposes of this section, "small business"
11 means a business that is independently owned and that is not
12 dominant in its field of operation."

13 SECTION 3. Section 206E-2, Hawaii Revised Statutes, is
14 amended as follows:

15 1. By adding a new definition to be appropriately inserted
16 and to read:

17 "District authority board" means a community development
18 district authority board established by section 206E- ."



1 2. By amending the definition of "authority" to read:
2 ""Authority" means the Hawaii community development
3 authority established by section 206E-3[-], except if the
4 context clearly indicates otherwise in this chapter."

5 SECTION 4. Section 206E-3, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§206E-3 Hawaii community development authority;**
8 **established.** (a) There is established the Hawaii community
9 development authority, which shall be a body corporate and a
10 public instrumentality of the State, for the purpose of
11 implementing this chapter. The authority shall be placed within
12 the department of business, economic development, and tourism
13 for administrative purposes.

14 ~~[(b) The authority shall consist of the director of~~
15 ~~finance or the director's designee; the director of~~
16 ~~transportation or the director's designee; a cultural~~
17 ~~specialist; an at-large member; an at-large member nominated by~~
18 ~~the senate president; an at-large member nominated by the~~
19 ~~speaker of the house; three representatives of the Heeia~~
20 ~~community development district, comprising two residents of that~~
21 ~~district or the Koolaupeke district, which consists of~~



1 ~~sections 1 through 9 of zone 4 of the first tax map key~~
2 ~~division, and one owner of a small business or one officer or~~
3 ~~director of a nonprofit organization in the Heeia community~~
4 ~~development district or Koolaupoko district, nominated by the~~
5 ~~county council of the county in which the Heeia community~~
6 ~~development district is located; three representatives of the~~
7 ~~Kalaeloa community development district, comprising two~~
8 ~~residents of the Ewa zone (zone 9, sections 1 through 2) or the~~
9 ~~Waianae zone (zone 8, sections 1 through 9) of the first tax map~~
10 ~~key division, and one owner of a small business or one officer~~
11 ~~or director of a nonprofit organization in the Ewa or Waianae~~
12 ~~zone, nominated by the county council of the county in which the~~
13 ~~Kalaeloa community development district is located; three~~
14 ~~representatives of the Kakaako community development district,~~
15 ~~comprising two residents of the district and one owner of a~~
16 ~~small business or one officer or director of a nonprofit~~
17 ~~organization in the district, nominated by the county council of~~
18 ~~the county in which the Kakaako community development district~~
19 ~~is located; the director of planning and permitting of each~~
20 ~~county in which a community development district is located or~~
21 ~~the director's designee, who shall serve in an ex officio,~~



1 ~~nonvoting capacity, and the chairperson of the Hawaiian homes~~
2 ~~commission or the chairperson's designee, who shall serve in an~~
3 ~~ex officio, nonvoting capacity.~~

4 ~~All members except the director of finance, director of~~
5 ~~transportation, county directors of planning and permitting, and~~
6 ~~chairperson of the Hawaiian homes commission or their designees~~
7 ~~shall be appointed by the governor pursuant to section 26-34.~~
8 ~~The two at-large members nominated by the senate president and~~
9 ~~speaker of the house and the nine representatives of the~~
10 ~~respective community development districts shall each be~~
11 ~~appointed by the governor from a list of three nominees~~
12 ~~submitted for each position by the nominating authority~~
13 ~~specified in this subsection.~~

14 ~~The authority shall be organized and shall exercise~~
15 ~~jurisdiction as follows:~~

16 ~~(1) For matters affecting the Heeia community development~~
17 ~~district, the following members shall be considered in~~
18 ~~determining quorum and majority and shall be eligible~~
19 ~~to vote:~~

20 ~~(A) The director of finance or the director's~~
21 ~~designee;~~



- 1 ~~(B) The director of transportation or the director's~~
- 2 ~~designee;~~
- 3 ~~(C) The cultural specialist;~~
- 4 ~~(D) The three at-large members; and~~
- 5 ~~(E) The three representatives of the Heeia community~~
- 6 ~~development district;~~
- 7 ~~provided that the director of planning and permitting~~
- 8 ~~of the relevant county or the director's designee~~
- 9 ~~shall participate in these matters as an ex officio,~~
- 10 ~~nonvoting member and shall not be considered in~~
- 11 ~~determining quorum and majority;~~
- 12 ~~(2) For matters affecting the Kalaeloa community~~
- 13 ~~development district, the following members shall be~~
- 14 ~~considered in determining quorum and majority and~~
- 15 ~~shall be eligible to vote:~~
- 16 ~~(A) The director of finance or the director's~~
- 17 ~~designee;~~
- 18 ~~(B) The director of transportation or the director's~~
- 19 ~~designee;~~
- 20 ~~(C) The cultural specialist;~~
- 21 ~~(D) The three at-large members; and~~



1 ~~(E) The three representatives of the Kalaeloa~~
2 ~~community development district;~~
3 ~~provided that the director of planning and permitting~~
4 ~~of the relevant county and the chairperson of the~~
5 ~~Hawaiian homes commission, or their respective~~
6 ~~designees, shall participate in these matters as ex~~
7 ~~officio, nonvoting members and shall not be considered~~
8 ~~in determining quorum and majority;~~
9 ~~(3) For matters affecting the Kakaako community~~
10 ~~development district, the following members shall be~~
11 ~~considered in determining quorum and majority and~~
12 ~~shall be eligible to vote:~~
13 ~~(A) The director of finance or the director's~~
14 ~~designee;~~
15 ~~(B) The director of transportation or the director's~~
16 ~~designee;~~
17 ~~(C) The cultural specialist;~~
18 ~~(D) The three at-large members; and~~
19 ~~(E) The three representatives of the Kakaako~~
20 ~~community development district;~~



1 ~~provided that the director of planning and permitting~~
2 ~~of the relevant county or the director's designee~~
3 ~~shall participate in these matters as an ex officio,~~
4 ~~nonvoting member and shall not be considered in~~
5 ~~determining quorum and majority.~~

6 ~~In the event of a vacancy, a member shall be appointed to~~
7 ~~fill the vacancy in the same manner as the original appointment~~
8 ~~within thirty days of the vacancy or within ten days of the~~
9 ~~senate's rejection of a previous appointment, as applicable.~~

10 ~~The terms of the director of finance, director of~~
11 ~~transportation, county directors of planning and permitting, and~~
12 ~~chairperson of the Hawaiian homes commission or their respective~~
13 ~~designees shall run concurrently with each official's term of~~
14 ~~office. The terms of the appointed voting members shall be for~~
15 ~~four years, commencing on July 1 and expiring on June 30;~~
16 ~~provided that the initial terms of all voting members initially~~
17 ~~appointed pursuant to Act 61, Session Laws of Hawaii 2014, shall~~
18 ~~commence on March 1, 2015. The governor shall provide for~~
19 ~~staggered terms of the initially appointed voting members so~~
20 ~~that the initial terms of four members selected by lot shall be~~
21 ~~for two years, the initial terms of four members selected by lot~~



1 ~~shall be for three years, and the initial terms of the remaining~~
2 ~~five members shall be for four years.]~~

3 (b) The authority shall oversee administration and staff
4 and shall carry out the duties and responsibilities set forth in
5 this chapter and as further delegated by the department of
6 business, economic development, and tourism.

7 (c) The authority shall comprise:

8 (1) One member from each of the community development
9 district authority boards, to be selected by the
10 members of each respective district authority board;

11 (2) Two at-large members having expertise in urban
12 planning, infrastructure, or financing, one to be
13 appointed by the governor from a list of three
14 nominees submitted by the president of the senate and
15 one from a list of three nominees submitted by the
16 speaker of the house of representatives; and

17 (3) The director of finance, or the director's designee;
18 director of transportation, or the director's
19 designee; and director of the office of planning, or
20 the director's designee, who shall serve as ex



1 officio, voting members for terms to run concurrently
2 with each official's term of office.

3 (d) The governor may remove or suspend for cause any
4 member after due notice and public hearing.

5 (e) Notwithstanding section 92-15, a majority of all
6 eligible voting members as specified in this subsection shall
7 constitute a quorum to do business, and the concurrence of a
8 majority of all eligible voting members as specified in this
9 subsection shall be necessary to make any action of the
10 authority valid. All members shall continue in office until
11 their respective successors have been appointed and qualified.
12 Except as herein provided, no member appointed under this
13 subsection shall be an officer or employee of the State or its
14 political subdivisions.

15 ~~[For purposes of this section, "small business" means a~~
16 ~~business which is independently owned and which is not dominant~~
17 ~~in its field of operation.~~

18 ~~(e)~~ (f) The authority shall appoint the executive
19 director who shall be the chief executive officer. The
20 authority shall set the salary of the executive director, who



1 shall serve at the pleasure of the authority and shall be exempt
2 from chapter 76.

3 ~~[(d)]~~ (g) The authority shall annually elect the
4 chairperson and vice chairperson from among its members.

5 ~~[(e)]~~ (h) The members of the authority ~~[appointed]~~
6 selected or designated under subsection ~~[(b)]~~ (c) shall serve
7 without compensation, but each shall be reimbursed for expenses,
8 including travel expenses, incurred in the performance of their
9 duties."

10 SECTION 5. Section 206E-4, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§206E-4 Powers; generally**~~[-];~~ **district authority boards;**
13 **authority.** (a) Except as otherwise ~~[limited]~~ provided by this
14 chapter, ~~[the authority may:]~~ a district authority board, within
15 its respective community development district may:

- 16 (1) Sue and be sued;
- 17 (2) Have a seal and alter the same at pleasure;
- 18 (3) Make and execute contracts and all other instruments
19 necessary or convenient for the exercise of its powers
20 and functions under this chapter;



- 1 ~~[(4) Make and alter bylaws for its organization and~~
2 ~~internal management;~~
- 3 ~~+(5)]~~ (4) Make rules with respect to its projects,
4 operations, properties, and facilities~~[, which rules~~
5 ~~shall be]~~ in conformance with chapter 91;
- 6 ~~[(6) Through its executive director appoint officers,~~
7 ~~agents, and employees, prescribe their duties and~~
8 ~~qualifications, and fix their salaries, without regard~~
9 ~~to chapter 76;~~
- 10 ~~+(7)]~~ (5) Prepare or cause to be prepared a community
11 development plan for ~~[all designated]~~ its community
12 development ~~[districts,]~~ district;
- 13 ~~+(8)]~~ (6) Acquire, reacquire, or contract to acquire or
14 reacquire by grant or purchase real, personal, or
15 mixed property or any interest therein; to own, hold,
16 clear, improve, and rehabilitate, and to sell, assign,
17 exchange, transfer, convey, lease, or otherwise
18 dispose of or encumber the same;
- 19 ~~+(9)]~~ (7) Acquire or reacquire by condemnation real,
20 personal, or mixed property or any interest therein
21 for public facilities, including but not limited to



1 streets, sidewalks, parks, schools, and other public
2 improvements;

3 ~~(10)~~ (8) By itself, or in partnership with qualified
4 persons, acquire, reacquire, construct, reconstruct,
5 rehabilitate, improve, alter, or repair or provide for
6 the construction, reconstruction, improvement,
7 alteration, or repair of any project; own, hold, sell,
8 assign, transfer, convey, exchange, lease, or
9 otherwise dispose of or encumber any project, and in
10 the case of the sale of any project, accept a purchase
11 money mortgage in connection therewith; and repurchase
12 or otherwise acquire any project that the authority
13 has theretofore sold or otherwise conveyed,
14 transferred, or disposed of;

15 ~~(11)~~ (9) Arrange or contract for the planning, replanning,
16 opening, grading, or closing of streets, roads,
17 roadways, alleys, or other places, or for the
18 furnishing of facilities or for the acquisition of
19 property or property rights or for the furnishing of
20 property or services in connection with a project;



1 [~~(12)~~] (10) Grant options to purchase any project or to renew
2 any lease entered into by it in connection with any of
3 its projects, on terms and conditions as it deems
4 advisable;

5 [~~(13)~~] (11) Prepare or cause to be prepared plans,
6 specifications, designs, and estimates of costs for
7 the construction, reconstruction, rehabilitation,
8 improvement, alteration, or repair of any project, and
9 from time to time to modify the plans, specifications,
10 designs, or estimates;

11 [~~(14)~~] (12) Provide advisory, consultative, training, and
12 educational services, technical assistance, and advice
13 to any person, partnership, or corporation, either
14 public or private, to carry out the purposes of this
15 chapter, and engage the services of consultants on a
16 contractual basis for rendering professional and
17 technical assistance and advice;

18 [~~(15)~~] (13) Procure insurance against any loss in connection
19 with its property and other assets and operations in
20 amounts and from insurers as it deems desirable;



1 ~~[(16)]~~ (14) Contract for and accept gifts or grants in any
2 form from any public agency or from any other source;
3 ~~[(17)]~~ (15) Do any and all things necessary to carry out its
4 purposes and exercise the powers given and granted to
5 a district authority board in this chapter; ~~[and~~
6 ~~[(18)]~~ (16) Allow satisfaction of any affordable housing
7 requirements imposed by the district authority board
8 upon any proposed development project through the
9 construction of reserved housing, as defined in
10 section 206E-101, by a person on land located outside
11 the geographic boundaries of the ~~[authority's]~~
12 jurisdiction~~[+]~~ of the district authority board;
13 provided that the ~~[authority]~~ district authority board
14 may permit cash payments in lieu of providing reserved
15 housing. The substituted housing shall be located on
16 the same island as the development project and shall
17 be substantially equal in value to the required
18 reserved housing units that were to be developed on
19 site. The ~~[authority]~~ district authority board shall
20 establish the following priority in the development of
21 reserved housing:



- 1 (A) Within the community development district;
- 2 (B) Within areas immediately surrounding the
- 3 community development district;
- 4 (C) Areas within the central urban core; and
- 5 (D) In outlying areas within the same island as the
- 6 development project[-

7 ~~The Hawaii community development authority shall~~
 8 ~~adopt rules relating to the approval of reserved~~
 9 ~~housing that are developed outside of a community~~
 10 ~~development district. The rules shall include, but~~
 11 ~~are not limited to, the establishment of guidelines to~~
 12 ~~ensure compliance with the above priorities.]; and~~

13 (17) Exercise all powers assigned in this part to the
 14 authority, except as otherwise provided.

15 (b) The authority may:

16 (1) Sue and be sued;

17 (2) Have a seal and alter the same at pleasure;

18 (3) Make and execute contracts and all other instruments
 19 necessary or convenient for the exercise of its powers
 20 and functions under this chapter;



- 1 (4) Make rules with respect to its projects, operations,
2 properties, and facilities, in conformance with
3 chapter 91;
- 4 (5) Procure insurance against any loss in connection with
5 its property and other assets and operations in
6 amounts and from insurers as it deems desirable; and
- 7 (6) Do any and all things necessary to carry out its
8 purpose and exercise the powers given and granted in
9 this chapter.
- 10 (c) The authority shall have the exclusive power to:
- 11 (1) Make and alter bylaws for the organization and
12 internal management of the authority and district
13 authority boards;
- 14 (2) Through its executive director, appoint officers,
15 agents, and employees; prescribe their duties and
16 qualifications; and fix their salaries, without regard
17 to chapter 76; and
- 18 (3) Adopt rules relating to the approval of reserved
19 housing that is developed outside of a community
20 development district. The rules shall include the
21 establishment of guidelines to ensure compliance with



1 the priorities for reserved housing development as
2 outlined in subsection (a)."

3 SECTION 6. Section 206E-4.1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[f]~~**S206E-4.1**~~[j]~~ **Assignment of powers and duties**
6 **prohibited.** Notwithstanding anything contained in this chapter
7 to the contrary, the authority and district authority boards
8 shall not assign to any person or agency, including the
9 executive director of the authority, any of ~~[its]~~ the authority
10 or district authority board's powers and duties related to the
11 approval of any variance, exemption, or modification of any
12 provision of a community development plan or community
13 development rules."

14 SECTION 7. Section 206E-1, Hawaii Revised Statutes, is
15 repealed.

16 "~~**S206E-1 Findings and purpose.** The legislature finds~~
17 ~~that many areas of the State are substantially undeveloped,~~
18 ~~blighted, or economically depressed, and are or are potentially~~
19 ~~in need of renewal, renovation, or improvement to alleviate such~~
20 ~~conditions as dilapidation, deterioration, age, and other such~~



1 ~~factors or conditions which make such areas an economic or~~
2 ~~social liability.~~

3 ~~The legislature further finds that there exists within the~~
4 ~~State vast, unmet community development needs. These include,~~
5 ~~but are not limited to, a lack of suitable affordable housing,~~
6 ~~insufficient commercial and industrial facilities for rent,~~
7 ~~residential areas which do not have facilities necessary for~~
8 ~~basic liveability, such as parks and open space, and areas which~~
9 ~~are planned for extensive land allocation to one, rather than~~
10 ~~mixed uses.~~

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

16 ~~The legislature finds that a new and comprehensive~~
17 ~~authority for community development must be created to join the~~
18 ~~strengths of private enterprise, public development and~~
19 ~~regulation into a new form capable of long-range planning and~~
20 ~~implementation of improved community development. The purpose~~
21 ~~of this chapter is to establish such a mechanism in the Hawaii~~



1 ~~community development authority, a public entity which shall~~
2 ~~determine community development programs and cooperate with~~
3 ~~private enterprise and the various components of federal, state,~~
4 ~~and county governments in bringing plans to fruition. For such~~
5 ~~areas designated as community development districts, the~~
6 ~~legislature believes that the planning and implementation~~
7 ~~program of the Hawaii community development authority will~~
8 ~~result in communities which serve the highest needs and~~
9 ~~aspirations of Hawaii's people.~~

10 ~~The legislature finds that the creation of the Hawaii~~
11 ~~community development authority, the establishment of community~~
12 ~~development districts, and the issuance of bonds pursuant to~~
13 ~~this chapter to finance public facilities serve the public~~
14 ~~interest and are matters of statewide concern."]~~

15 SECTION 8. Section 201H-23(a), Hawaii Revised Statutes, is
16 amended by substituting the phrase "section 206E-4(16)" wherever
17 the phrase "section 206E-4(18)" appears.

18 PART III

19 SECTION 9. Chapter 206E, Hawaii Revised Statutes, is
20 amended by adding a new section to part II to be appropriately
21 designated and to read as follows:



1 "§206E- Authority; defined. For the purposes of this
2 part, "authority" means the Kakaako community development
3 district authority board established by section 206E- ."

4 SECTION 10. Section 206E-34, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By amending subsection (a) to read:

7 "(a) There shall be established within the [~~Hawaii~~
8 ~~community development~~] authority a state cultural public
9 market."

10 2. By amending subsection (c) to read:

11 "(c) The [~~Hawaii community development~~] authority shall:

12 (1) Designate and develop the state-owned land for the
13 cultural public market;

14 (2) Accept, for consideration, input regarding the
15 establishment of the cultural public market from the
16 following departments and agencies:

17 (A) The department of agriculture;

18 (B) The department of business, economic development,
19 and tourism;

20 (C) The department of land and natural resources;



- 1 (D) The department of labor and industrial relations;
- 2 and
- 3 (E) The Hawaii tourism authority;
- 4 (3) Consider and determine the propriety of using
- 5 public-private partnerships in the development and
- 6 operation of the cultural public market;
- 7 (4) Develop, distribute, and accept requests for proposals
- 8 from private entities for plans to develop and operate
- 9 the cultural public market; and
- 10 (5) Ensure that the Hawaiian culture is the featured
- 11 culture in the cultural public market."

PART IV

13 SECTION 11. Section 206E-181, Hawaii Revised Statutes, is
14 amended by adding a new definition to be appropriately inserted
15 and to read as follows:

16 ""Authority" means the Hawaii community development
17 authority established by section 206E-3."

PART V

19 SECTION 12. Chapter 206E, Hawaii Revised Statutes, is
20 amended by adding a new section to part VII to be appropriately
21 designated and to read as follows:



1 SECTION 16. Section 84-17, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) The financial disclosure statements of the following
4 persons shall be public records and available for inspection and
5 duplication:

6 (1) The governor, the lieutenant governor, the members of
7 the legislature, candidates for and delegates to the
8 constitutional convention, the trustees of the office
9 of Hawaiian affairs, and candidates for state elective
10 offices;

11 (2) The directors of the state departments and their
12 deputies, regardless of the titles by which the
13 foregoing persons are designated; provided that with
14 respect to the department of the attorney general, the
15 foregoing shall apply only to the attorney general and
16 the first deputy attorney general;

17 (3) The administrative director of the State;

18 (4) The president, the vice presidents, the assistant vice
19 presidents, the chancellors, members of the board of
20 regents, and the provosts of the University of Hawaii;



- 1 (5) The members of the board of education and the
2 superintendent, the deputy superintendent, the state
3 librarian, and the deputy state librarian of the
4 department of education;
- 5 (6) The administrative director and the deputy director of
6 the courts;
- 7 (7) The administrator and the assistant administrator of
8 the office of Hawaiian affairs; and
- 9 (8) The members of the following state boards,
10 commissions, and agencies:
- 11 (A) The board of directors of the agribusiness
12 development corporation established under
13 section 163D-3;
- 14 (B) The board of agriculture established under
15 section 26-16;
- 16 (C) The state ethics commission established under
17 section 84-21;
- 18 (D) The Hawaii community development authority and
19 community development district authority boards
20 established under [~~section 206E-3;~~] chapter 206E;



- 1 (E) The Hawaiian homes commission established under
- 2 the Hawaiian Homes Commission Act of 1920, as
- 3 amended, and section 26-17;
- 4 (F) The board of directors of the Hawaii housing
- 5 finance and development corporation established
- 6 under section 201H-3;
- 7 (G) The board of land and natural resources
- 8 established under section 171-4;
- 9 (H) The state land use commission established under
- 10 section 205-1;
- 11 (I) The legacy land conservation commission
- 12 established under section 173A-2.4;
- 13 (J) The natural area reserves system commission
- 14 established under section 195-6;
- 15 (K) The board of directors of the natural energy
- 16 laboratory of Hawaii authority established under
- 17 section 227D-2;
- 18 (L) The board of directors of the Hawaii public
- 19 housing authority established under
- 20 section 356D-3;



1 (M) The public utilities commission established under
2 section 269-2; and

3 (N) The commission on water resource management
4 established under section 174C-7."

5 SECTION 17. Section 171-2, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§171-2 Definition of public lands.** "Public lands" means
8 all lands or interest therein in the State classed as government
9 or crown lands previous to August 15, 1895, or acquired or
10 reserved by the government upon or subsequent to that date by
11 purchase, exchange, escheat, or the exercise of the right of
12 eminent domain, or in any other manner; including lands accreted
13 after May 20, 2003, and not otherwise awarded, submerged lands,
14 and lands beneath tidal waters that are suitable for
15 reclamation, together with reclaimed lands that have been given
16 the status of public lands under this chapter, except:

17 (1) Lands designated in section 203 of the Hawaiian Homes
18 Commission Act, 1920, as amended;

19 (2) Lands set aside pursuant to law for the use of the
20 United States;

21 (3) Lands being used for roads and streets;



- 1 (4) Lands to which the United States relinquished the
2 absolute fee and ownership under section 91 of the
3 Hawaiian Organic Act prior to the admission of Hawaii
4 as a state of the United States unless subsequently
5 placed under the control of the board of land and
6 natural resources and given the status of public lands
7 in accordance with the state constitution, the
8 Hawaiian Homes Commission Act, 1920, as amended, or
9 other laws;
- 10 (5) Lands to which the University of Hawaii holds title;
- 11 (6) Lands to which the Hawaii housing finance and
12 development corporation in its corporate capacity
13 holds title;
- 14 (7) Lands to which the Hawaii community development
15 authority and community development district authority
16 boards in [~~its~~] their corporate [~~capacity holds~~]
17 capacities hold title;
- 18 (8) Lands set aside by the governor to the Hawaii public
19 housing authority or lands to which the Hawaii public
20 housing authority in its corporate capacity holds
21 title;



- 1 (9) Lands to which the department of agriculture holds
2 title by way of foreclosure, voluntary surrender, or
3 otherwise, to recover moneys loaned or to recover
4 debts otherwise owed the department under chapter 167;
- 5 (10) Lands that are set aside by the governor to the Aloha
6 Tower development corporation; lands leased to the
7 Aloha Tower development corporation by any department
8 or agency of the State; or lands to which the Aloha
9 Tower development corporation holds title in its
10 corporate capacity;
- 11 (11) Lands that are set aside by the governor to the
12 agribusiness development corporation; lands leased to
13 the agribusiness development corporation by any
14 department or agency of the State; or lands to which
15 the agribusiness development corporation in its
16 corporate capacity holds title;
- 17 (12) Lands to which the Hawaii technology development
18 corporation in its corporate capacity holds title; and
- 19 (13) Lands to which the department of education holds
20 title;



1 provided that, except as otherwise limited under federal law and
2 except for state land used as an airport as defined in
3 section 262-1, public lands shall include the air rights over
4 any portion of state land upon which a county mass transit
5 project is developed after July 11, 2005."

6 SECTION 18. Section 171-64.7, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) Notwithstanding any law to the contrary, no sale of
9 lands described in subsection (a) in fee simple including land
10 sold for roads and streets, or gift of lands described in
11 subsection (a) in fee simple to the extent such gift is
12 otherwise permitted by law, shall occur without the prior
13 approval of the sale or gift by the legislature by concurrent
14 resolution to be adopted by each house by at least a two-thirds
15 majority vote of the members to which each house is entitled in
16 a regular or special session at which a concurrent resolution is
17 submitted for approval of the sale; provided that the provisions
18 of this section shall not apply to remnants, as that term is
19 defined in section 171-52, or portions thereof; provided further
20 that this section shall not apply to the issuance of licenses,
21 permits, easements, and leases executed in conformance with the



1 laws applicable to the lands listed in subsection (a); provided
2 further that this section shall not apply to non-ceded lands
3 conveyed to the University of Hawaii after December 31, 1989, to
4 which the University of Hawaii holds title; provided further
5 that this section shall not apply to reserved housing, as that
6 term is defined in section 206E-101, conveyed by the Hawaii
7 community development authority[-] or community development
8 district authority boards."

9 PART VIII

10 SECTION 19. All rules, policies, procedures, guidelines,
11 and other materials adopted or developed by the Hawaii community
12 development authority prior to July 1, 2022, that implement
13 provisions of the Hawaii Revised Statutes shall remain in full
14 force and effect until amended or repealed by the Hawaii
15 community development authority or a community development
16 district authority board pursuant to chapter 91, Hawaii Revised
17 Statutes.

18 SECTION 20. All actions taken by the Hawaii community
19 development authority prior to July 1, 2022, shall remain in
20 full force and effect until amended or repealed by the Hawaii



1 community development authority or a community development
2 district authority board.

3 PART IX

4 SECTION 21. If any provision of this Act, or the
5 application thereof to any person or circumstance, is held
6 invalid, the invalidity does not affect other provisions or
7 applications of the Act that can be given effect without the
8 invalid provision or application, and to this end the provisions
9 of this Act are severable.

10 SECTION 22. In codifying the new sections added by
11 section 1 of this Act, the revisor of statutes shall substitute
12 appropriate section numbers for the letters used in designating
13 the new sections in this Act.

14 SECTION 23. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 24. This Act, upon its approval, shall take effect
17 as follows:

18 (1) The following shall take effect on July 1, 2021:

19 (A) Parts I, VIII, and IX; and

20 (B) Any amendments made to chapter 206E, Hawaii

21 Revised Statutes, pursuant to parts II and IV,



HB No. 774, HD 1, SD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives

THE SENATE OF THE STATE OF HAWAI'I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai'i, Regular Session of 2021.


President of the Senate


Clerk of the Senate