

ACT 8

S.B. NO. 318

A Bill for an Act Relating to the Hawaii Community Development Authority.

Be It Enacted by the Legislature of the State of Hawaii:

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

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

(b) Whenever the authority shall determine to undertake, or cause to be undertaken, any public facility as part of the district-wide improvement program, the cost of providing the public facilities shall be assessed against the real property in the community development district specially benefiting from such public facilities. The authority shall determine the areas of the community development district which will benefit from the public facilities to be undertaken and, if less than the entire community development district benefits, the authority may establish assessment areas within the community development district. The authority may issue and sell bonds in such amounts as may be authorized by the legislature to provide funds to finance such public facilities. The authority shall fix the assessments against real property specially benefited. All assessments made pursuant to this section shall be a statutory lien against each lot or parcel of land assessed from the date of the notice declaring the assessment until paid and such lien shall have priority over all other liens except the lien of property taxes. As between liens of assessments, the earlier lien shall be superior to the later lien.

(c) Bonds issued to provide funds to finance public facilities shall be secured solely by the real properties benefited or improved, the assessments thereon, or by the revenues derived from the program for which the bonds

are issued, including reserve accounts and earnings thereon, insurance proceeds, and other revenues, or any combination thereof. The bonds may be additionally secured by the pledge or assignment of loans and other agreements or any note or other undertaking, obligation, or property held by the authority. Bonds issued pursuant to this section and the income therefrom shall be exempt from all state and county taxation, except transfer and estate taxes. The bonds shall be issued according and subject to the provisions of the rules adopted pursuant to this section.

(d) Any other law to the contrary notwithstanding, in assessing real property for public facilities, the authority shall assess the real property within an assessment area according to the special benefits conferred upon the real property by the public facilities. These methods may include assessment on a frontage basis or according to the area of real property within an assessment area or any other assessment method which assesses the real property according to the special benefit conferred, or any combination thereof. No such assessment levied against real property specially benefited as provided by this chapter shall constitute a tax on real property within the meanings of any constitutional or statutory provisions.

(e) The authority may adopt rules pursuant to chapter 91, and may amend the rules from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district. The rules adopted pursuant to this section may include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions relating to funds and refunding of outstanding debts; and provisions relating to limitations on time to sue, and other related provisions.

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

(g) All sums collected under this section shall be deposited in the Hawaii community development revolving fund established by section 206E-16; except that notwithstanding section 206E-16, all moneys collected on account of assessments and interest thereon for any specific public facilities[,] financed by the issuance of bonds shall be set apart in a separate special fund and applied solely to the payment of the principal and interest on these bonds, the cost of administering, operating, and maintaining the program, the establishment of reserves, and other purposes as may be authorized in the proceedings providing for the issuance of the bonds. If any surplus remains in any special fund after the payment of the bonds chargeable against such fund, it shall be credited to and become a part of the Hawaii community development revolving fund. Moneys in the Hawaii community development revolving fund may be used to make up any deficiencies in the special fund.

(h) If the public facilities to be financed through bonds issued by the authority may be dedicated to the county in which the public facilities are to

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be located, the authority shall ensure that the public facilities are designed and constructed to meet county requirements.

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

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 22, 1987.)