

A Bill for an Act Relating to Planning and Community Development.

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

SECTION 1. In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1990-1991 to be exceeded by \$1,000,000, or .039 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

SECTION 2. Section 3 of Act 355, Session Laws of Hawaii 1987, is amended to read as follows:

“SECTION 3. The area of the Kakaako Community development district which is within the Kakaako Waterfront Park Boundary on the Park Boundary Map in the Kakaako Waterfront Park Study, prepared by the Hawaii Community Development Authority in 1981, shall only be developed as a park. The Hawaii Community Development Authority may amend the park boundary; provided that: (1) the amended boundary is consistent with the Makai Area Plan of the Kakaako Community Development District adopted by the Hawaii Community Development Authority on February 7, 1990; (2) the park land area within the amended boundary shall be at least equal in size to the original park land area established by the Park Boundary Map in the aforementioned Kakaako Waterfront Park Study; (3) ocean frontage shall not be diminished and no park land makai of the proposed canal between Ilalo and Olomehani/Kelikoi Streets and Ewa of Ahui Street as designated in Figure 5 of the Makai Area Plan of the Kakaako Community Development District adopted by the Hawaii Community Development Authority on February 7, 1990 shall be effected by any such boundary amendment.”

SECTION 3. Without regard to Chapter 171, the Legislature hereby conveys to the Hawaii Community Development Authority title to all fast and submerged lands owned by the State within that portion of the Kakaako Community Development District, as established by section 206E-32, bounded by Ala Moana Boulevard, inclusive, from its intersection with the Ewa boundary of Ala Moana Park also identified as the Ewa boundary of tax map key 2-3-37:01; the Ewa boundary of tax map key 2-3-37:01 from its intersection with Ala Moana Boulevard to the shoreline; west along the shoreline from its intersection with the property line representing the Ewa boundary of property identified by tax map key 2-3-37:01 to the southwestern tip of the Kewalo Peninsula; southwest from the southwestern tip of the Kewalo Peninsula across the Kewalo Channel to the southeastern tip of the Kakaako Peninsula; along the shoreline from the southeastern tip of the Kakaako Peninsula to the property line between Pier 2 and Pier 4; the property line between Pier 2 and Pier 4 from its intersection with the shoreline to Ala Moana Boulevard; and Ala Moana Boulevard, inclusive from its intersection with the property line between lands identified by Pier 2 and Pier 4 to the Ewa boundary of the Ala Moana Park. The area shall also include that parcel of land identified by tax map key 2-1-14:16, situated mauka

of Pier 6 and Pier 7 and makai of Nimitz Highway, being the site for the existing Hawaiian Electric power plant and related facilities.

In order to effectuate the foregoing conveyance, the authority shall ensure due and adequate satisfaction of provisions for any covenant between the State or any county or any department or board thereof and the holders of bonds issued by the State or such county, department, or board, if any.

SECTION 4. Section 206E-32, Hawaii Revised Statutes, is amended to read as follows:

“§206E-32 District; established, boundaries. The Kakaako community development district is established. The district shall include that area bounded by King Street; Piikoi Street from its intersection with King Street to Ala Moana Boulevard; Ala Moana Boulevard, inclusive, from Piikoi Street to its intersection with the Ewa boundary of Ala Moana Park also identified as the Ewa boundary of tax map key 2-3-37:01; the Ewa boundary of tax map key 2-3-37:01 from its intersection with Ala Moana Boulevard to the shoreline; the shoreline from its intersection with the property line representing the Ewa boundary of property identified by tax map key 2-3-37:01 to the property line between Pier 2 and Pier 4; the property line between Pier 2 and Pier 4 from its intersection with the shoreline to Ala Moana Boulevard; Ala Moana Boulevard from its intersection with the property line between lands identified by Pier 2 and Pier 4 to Punchbowl Street; and Punchbowl Street to its intersection with King Street.

The district shall also include [all fast and submerged lands bounded by Nimitz Highway beginning at the Diamond Head termination of the Nimitz Highway-Irwin Park boundary along Nimitz Highway to its intersection with the Diamond Head boundary of Pier 4; along Pier 4; from the makai end of Pier 4 to the intersection of Piers 8 and 9; along Pier 8; from the mauka end of Pier 8 to the Diamond Head boundary of Irwin Park; continuing to the point of the Diamond Head termination of the Nimitz Highway-Irwin Park boundary.] that parcel of land identified by tax map key 2-1-14:16, situated mauka of Pier 6 and Pier 7 and makai of Nimitz Highway, being the site for the existing Hawaiian Electric power plant and related facilities.”

SECTION 5. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§206E- Developments within special management areas and shoreline setback. (a) Notwithstanding chapter 205A, all requests for developments within a special management area and shoreline setback variances for developments on any lands within a community development district shall be submitted to and reviewed by the lead agency as defined in chapter 205A.

(b) In the review of such requests, the lead agency shall conform to the following, as deemed appropriate:

- (1) Applicable county rules adopted in accordance with section 205A-26 for the review of developments within a special management area, except that paragraph (2)(C) of section 205A-26 shall not apply; and
- (2) Part III of chapter 205A and applicable county rules for the review of developments within the shoreline setback.

(c) With the approval of the lead agency, the developments may be allowed without a special management area permit or shoreline setback variance as required by chapter 205A.”

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

“**[§206E-4] Powers; generally.** Except as otherwise limited by this chapter, the authority may:

- (1) Sue and be sued;
- (2) Have a seal and alter the same at pleasure;
- (3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (4) Make and alter bylaws for its organization and internal management;
- (5) Make rules with respect to its projects, operations, properties, and facilities, which rules shall be in conformance with chapter 91;
- (6) Through its executive director appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 77;
- (7) Prepare or cause to be prepared[,] a community development plan for all designated community development districts;
- (8) Acquire, reacquire, or contract to acquire or reacquire by grant or purchase[,] real, personal, or mixed property or any interest therein; to own, hold, clear, improve, and rehabilitate, and to sell, assign, exchange, transfer, convey, lease, or otherwise dispose of[,] or encumber the same;
- (9) Acquire or reacquire by condemnation[,] real, personal, or mixed property or any interest therein for public facilities, including but not limited to streets, sidewalks, parks, schools, and other public improvements;
- (10) By itself, or in partnership with qualified persons, acquire, reacquire, construct, reconstruct, rehabilitate, improve, alter, or repair or provide for the construction, reconstruction, improvement, alteration, or repair of any project; own, hold, sell, assign, transfer, convey, exchange, lease, or otherwise dispose of[,] or encumber any project, and in the case of the sale of any project, accept a purchase money mortgage in connection therewith; and repurchase or otherwise acquire any project which the authority has theretofore sold[,] or otherwise conveyed, transferred, or disposed of;
- (11) Arrange or contract for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, or other places, or for the furnishing of facilities or for the acquisition of property or property rights or for the furnishing of property or services in connection with a project;
- (12) Grant options to purchase any project or to renew any lease entered into by it in connection with any of its projects, on such terms and conditions as it deems advisable;
- (13) Prepare or cause to be prepared plans, specifications, designs, and estimates of costs for the construction, reconstruction, rehabilitation, improvement, alteration, or repair of any project, and from time to time to modify such plans, specifications, designs, or estimates;
- (14) Provide advisory, consultative, training, and educational services, technical assistance, and advice to any person, partnership, or corporation, either public or private, in order to carry out the purposes

of this chapter, and engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;

- (15) Procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable;
- (16) Contract for and accept gifts or grants in any form from any public agency[,] or from any other source;
- (17) Do any and all things necessary to carry out its purposes and exercise the powers given and granted in this chapter[.]; and
- (18) Allow satisfaction of any affordable housing requirements imposed by the authority upon any proposed development project through the construction of reserved housing, as defined in section 206E-101, by a person on land located outside the geographic boundaries of the authority's jurisdiction. Such substituted housing shall be located on the same island as the development project and shall be substantially equal in value to the required reserved housing units that were to be developed on site. The authority shall establish the following priority in the development of reserved housing:
 - (1) Within the community development district;
 - (2) Within areas immediately surrounding the community development district;
 - (3) Areas within the central urban core;
 - (4) In outlying areas within the same island as the development project.

The Hawaii community development authority shall adopt rules relating to the approval of reserved housing that are developed outside of a community development district. The rules shall include, but are not limited to, the establishment of guidelines to ensure compliance with the above priorities."

SECTION 7. Section 206E-15, Hawaii Revised Statutes, is amended to read as follows:

"§206E-15 Residential projects; cooperative agreements. (a) If the authority deems it desirable to develop a residential project, it may enter into an agreement with qualified persons to construct, maintain, operate, or otherwise dispose of the residential project. Sale, lease, or rental of dwelling units in the project shall be as provided by the rules established by the authority. The authority may enter into cooperative agreements with the Hawaii housing authority and the housing finance and development corporation for the financing, development, construction, sale, lease, or rental of dwelling units and projects.

(b) The authority may transfer the housing fees collected from private residential developments for the provision of housing for residents of low- or moderate-income to the housing finance and development corporation for the financing, development, construction, sale, lease, or rental of such housing within or without the community development districts. The fees shall be used only for projects owned by the State or owned or developed by a qualified nonprofit organization. For the purposes of this section, "nonprofit organization" means a corporation, association, or other duly chartered organization registered with the State, which organization has received charitable status under the Internal Revenue Code of 1986, as amended."

SECTION 8. Section 206E-33, Hawaii Revised Statutes, is amended to read as follows:

“§206E-33 Kakaako community development district; development guidance policies. The following shall be the development guidance policies generally governing the authority’s action in the Kakaako community development district:

- (1) Development shall result in a community which permits an appropriate land mixture of residential, commercial, industrial, and other uses. In view of the innovative nature of the mixed use approach, urban design policies should be established to provide guidelines for the public and private sectors in the proper development of this district; while the authority’s development responsibilities apply only to the area within the district, the authority may engage in any studies or coordinative activities permitted in this chapter which affect areas lying outside the district, where the authority in its discretion decides that those activities are necessary to implement the intent of this chapter. The studies or coordinative activities shall be limited to facility systems, resident and industrial relocation, and other activities with the counties and appropriate state agencies. The authority may engage in construction activities outside of the district; provided that such construction relates to infrastructure development or residential or business relocation activities; provided [further,] further, notwithstanding section 206E-7, that such construction shall comply with the general plan, development plan, ordinances, and rules of the county in which the district is located;
- (2) Existing and future industrial uses shall be permitted and encouraged in appropriate locations within the district. No plan or implementation strategy shall prevent continued activity or redevelopment of industrial and commercial uses which 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 district 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, and other areas surrounding the Kakaako district;
- (6) Historic sites and culturally significant facilities, settings, or locations shall be preserved;
- (7) Land use activities within the district, where compatible, shall to the greatest possible extent be mixed horizontally, that is, within blocks or other land areas, and vertically, as integral units of multi-purpose structures;
- (8) Residential development [shall ensure] may require a mixture of densities, building types, and configurations in accordance with appropriate urban design guidelines; integration both vertically and horizontally of residents of varying incomes, ages, and family groups; and an increased supply of housing for residents of low- or moderate-income [shall] may be required as a condition of redevelopment in residential use. Residential development shall provide necessary community facilities, such as open space, parks, commu-

- nity meeting places, child care centers, and other services, within and adjacent to residential development;
- (9) Public facilities within the district shall be planned, located, and developed so as to support the redevelopment policies for the district established by this chapter and plans and rules adopted pursuant to it.”

SECTION 9. The Hawaii community development authority shall adopt rules relating to the provision of loans to assist in the re-establishment and continuance of displaced small businesses in Kakaako. The rules shall include, but not limited to, the following:

- (1) Qualifications for eligibility of applicants for loans;
- (2) Preferences and priorities in determining eligibility for loans;
- (3) Conditions and requirements for the granting of a loan;
- (4) Restrictions on the terms, maturities, interest rates, and security and collateral requirements; and
- (5) Other requirements necessary to carry out the purposes of this Act.

SECTION 10. Section 206E-10.5, Hawaii Revised Statutes, is amended to read as follows:

“§206E-10.5 Relocation. (a) Any provision of law to the contrary notwithstanding, the authority shall adopt rules pursuant to chapter 91 to insure the appropriate relocation within or outside the district of persons, families, and businesses displaced by governmental action within the district. The rules may include, but are not limited to, the establishment and operation of a central relocation office; relocation payments for actual moving costs; fixed payments for losses suffered; payments for replacement housing or business locations; relocation payments and loans to displaced businesses for certain costs related to the re-establishment of their business operations; and other similar relocation matters.

(b) The authority shall provide relocation assistance to persons, families, and businesses within the district that are displaced by private action; provided [that displacement is a direct result of a development approved by the authority, and] that such assistance shall not include any form of direct monetary payments[.] except that the authority may make relocation loans to displaced businesses in accordance with rules adopted by the authority for the purposes of this section. Temporary relocation facilities within or outside the district may be made available to displacees; provided that those displaced by government action [are] shall be afforded priority to [such] the facilities.”

SECTION 11. There is appropriated out of the general revenues of the State of Hawaii the sum of \$1,000,000, or so much thereof as may be necessary for fiscal year 1990-1991, to be deposited into the Hawaii community development authority revolving fund created by section 206E-16, Hawaii Revised Statutes, for the purposes of Sections 9 and 10 of this Act.

SECTION 12. Section 171-2, Hawaii Revised Statutes, is amended to read as follows:

“§171-2 Definition of public lands. “Public lands” means all lands or interest therein in the State classed as government or crown lands previous to August 15, 1895, or acquired or reserved by the government upon or subsequent to that date by purchase, exchange, escheat, or the exercise of the right of

eminent domain, or in any other manner; including submerged lands, and lands beneath tidal waters which are suitable for reclamation, together with reclaimed lands which have been given the status of public lands under this chapter, except:

- (1) Lands designated in section 203 of the Hawaiian Homes Commission Act, 1920, as amended;
- (2) Lands set aside pursuant to law for the use of the United States;
- (3) Lands being used for roads and streets;
- (4) Lands to which the United States relinquished the absolute fee and ownership under section 91 of the Hawaiian Organic Act prior to the admission of Hawaii as a state of the United States unless subsequently placed under the control of the board of land and natural resources and given the status of public lands in accordance with the State Constitution, the Hawaiian Homes Commission Act, 1920, as amended, or other laws;
- (5) Lands to which the University of Hawaii holds title;
- (6) Lands to which the Hawaii housing authority in its corporate capacity holds title;
- (7) Lands to which the Hawaii community development authority in its corporate capacity holds title;
- (8) Lands to which the housing finance and development corporation in its corporate capacity holds title; [and]
- (9) Lands to which the department of agriculture holds title by way of foreclosure, voluntary surrender, or otherwise, to recover moneys loaned[.]; and
- (10) Lands which are set aside by the governor to the Aloha Tower development corporation; lands leased to the Aloha Tower development corporation by any department or agency of the State; or lands to which the Aloha Tower development corporation holds title in its corporate capacity."

SECTION 13. Section 206J-3, Hawaii Revised Statutes, is amended to read as follows:

"§206J-3 Aloha Tower complex; designated boundaries. The Aloha Tower complex is established. The complex shall include the area bounded by Nimitz Highway beginning at its intersection with the Diamond Head boundary of tax map key 2-1-13:7 north along Nimitz Highway to its intersection with the makai boundary of tax map key 1-7-1:6; northeast along River Street to its intersection with King Street; north along King Street to its intersection with Iwilei Road west along Iwilei Road to its intersection with Nimitz Highway at the Ewa makai corner of tax map key 1-5-08:1; south along Nimitz Highway to its intersection with the boundary between tax map key 1-5-8:1[.] and tax map key 1-5-8:9; west along a line to the Diamond Head mauka corner of tax map key 1-5-40:4; west along Nimitz Highway to its intersection with the Ewa boundary of tax map key 1-5-38:4; south along the Ewa boundaries of tax map key 1-5-38:4 and 1-5-38:5 to Honolulu Harbor; east along the waterfront boundary of tax map key 1-5-38:5 to Pier 23; south along Pier 23 to the southwest end of Pier 22; continuing along a line in the same direction to its intersection with the Honolulu Harbor Federal Project Line; northeast along the Honolulu Harbor Federal Project Line to a point in Honolulu Harbor 475 feet perpendicular to Pier 11; southwest along a line parallel to Piers 10 and 11 to its intersection with a line extending from the southwest end of Pier 22 to the point of intersection of the Honolulu Harbor Federal Project Line and a line extending along Pier 8 into Honolulu Harbor; southeast along a line to the point of intersection of the Honolulu Federal

Project Line and a line extending along Pier 8 into Honolulu Harbor; [northeast along Pier 8; from the mauka end of Pier 8] southeast along the Honolulu Harbor Federal Project Line to its intersection with a line extending along Pier 4 into Honolulu Harbor; east along a line from that intersection and along Pier 4 to its intersection with Nimitz Highway; north along Nimitz Highway to its intersection with Richards Street; southwest along Richards Street to its intersection with Ala Moana Boulevard; northwest along Ala Moana Boulevard to its intersection with the Ewa boundary of tax map key 2-1-14:6; northeast along the Ewa boundary of tax map key 2-1-14:6 to its Ewa mauka corner; and northwest across Bishop Street to the point of beginning at the intersection of the Diamond Head boundary of tax map key 2-1-13:7 and Nimitz Highway. The complex shall also include the area bounded by Iwilei Road beginning with its intersection with Nimitz Highway; west along Iwilei Road to its intersection with Pacific Street; southeast along Pacific Street to its intersection with the Ewa mauka corner of tax map key 1-5-38:4; east along Nimitz Highway to its intersection with the Diamond Head mauka corner of tax map key 1-50-40:4; east along a line to the point of intersection at the boundary between tax map key 1-5-8:1 and tax map key 1-5-8:9; north along Nimitz Highway to the point of beginning at the intersection of Nimitz Highway and Iwilei Road. All fast and submerged lands contained within [this area] these areas shall also be included.”

SECTION 14. Section 206J-8, Hawaii Revised Statutes, is amended to read as follows:

“§206J-8 Use of public lands. [The] Without regard to chapter 171, the governor may set aside or any department or agency of the State may lease applicable portions of the area designated as the Aloha Tower complex to the development corporation for the purpose specified in this chapter; provided that such setting aside would not impair any covenant between the State or any department or board thereof and holders of revenue bonds issued by the State or such department or board, or the development corporation may lease applicable portions of the Aloha Tower complex from the department of transportation. The development corporation shall annually reimburse to the department of transportation any losses in revenues caused by any action of the development corporation. The development corporation shall provide replacement facilities for maritime activities at no cost to the department of transportation.”

SECTION 15. Section 206J-11, Hawaii Revised Statutes, is amended to read as follows:

“§206J-11 Lease of projects. The development corporation may lease without public auction, for a term not exceeding sixty-five years, all or any portion of the real, personal, or mixed property constituting a project under its jurisdiction as provided herein to any qualified person, upon such terms and conditions as may be approved by the board, if the board finds that the lease [is in conformity] conforms with the development plan for the Aloha Tower complex. Notwithstanding any other provision to the contrary, the development corporation shall establish requirements and conditions relating to the terms of lease and the qualifications of any person to [draw or bid] apply for [the] such lease.”

SECTION 16. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the

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invalid provisions or applications, and to this end the provisions of this Act are severable.

SECTION 17. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 18. Section 5 of this Act shall automatically be repealed on June 30, 2000, provided that after June 30, 1995, the Legislature may repeal Section 5 upon adoption of a concurrent resolution.

SECTION 19. This Act shall take effect upon approval.

(Approved May 24, 1990.)

Note

1. Edited pursuant to HRS §23G-16.5.