

**ACT 132**

S.B. NO. 3166

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. By establishing the Hawaii community development authority, the legislature sought to provide a mechanism to address vast, unmet community development needs. Specifically, the legislature established the Hawaii community

development authority as a “new and comprehensive authority for community development...to join the strengths of private enterprise, public development and regulation into a new form capable of long-range planning and implementation of improved community development. ...[W]hich shall determine community development programs and cooperate with private enterprise and the various components of federal, state, and county governments in bringing plans to fruition.”

The Hawaii community development authority consists of 13 voting members, two of which were added by the legislature in 2006. Provision was also made for the appointment of additional voting members representing new community development districts designated by the legislature.

It has recently come to the attention of the legislature that the Hawaii community development authority has barred at least two members who represent small business interests within the Kakaako community development district, from voting on matters concerning the development district in which the greatest concentration of small businesses in Kakaako is located. The stated basis for this action is a purported conflict-of-interest based on the Hawaii community development authority’s interpretation of section 84-14(a)(1), Hawaii Revised Statutes. However, the authority’s interpretation and action is contrary to the legislature’s intent in enacting chapter 206E, Hawaii Revised Statutes.

It is the purpose of this Act to remedy this unintended situation by providing for the designation of at least two members of the Hawaii community development authority as representatives of small businesses located in the Kakaako community development district. The designation of these small business representatives would further one of the legislature’s stated intentions in forming the Hawaii community development authority: to address insufficient commercial and industrial facilities for rent.

SECTION 2. Section 206E-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The authority shall consist of thirteen voting members. The director of finance, the director of business, economic development, and tourism, the comptroller, and the director of transportation, or their respective designated representatives shall serve as ex officio, voting members. One member shall be appointed by the governor from a list of not less than three prospective appointees submitted by the president of the senate, and one member shall be appointed by the governor from a list of not less than three prospective appointees submitted by the speaker of the house of representatives. Seven members shall be appointed by the governor for staggered terms pursuant to section 26-34; provided that four members shall be appointed at large and, initially, three members, hereinafter referred to as county members, shall be selected from a list of ten prospective appointees recommended by the local governing body of the county in which the initial designated district is situated; and provided further that when vacancies occur in any of the three positions for which the members were selected from a list of county recommendations, the governor shall fill such vacancies on the basis of one from a list of four recommendations, two from a list of seven recommendations, or three from a list of ten recommendations. The list of recommendations shall be made by the local governing body of the county. Of the nine members appointed either by the governor from the lists provided by the president of the senate and speaker of the house, at-large by the governor, or as county members recommended by the local governing body of the county in which the initial designated district is situated, at least two members shall represent small businesses and shall be designated as the small business representatives on the board whose purpose, among other things, is to vote on matters before the board that affect small businesses. The small business representatives shall be owners or active managers of a small business with its principal place of operation located within the

physical boundaries of the initial designated district. Notwithstanding section 84-14(a), the small business representatives shall not be prohibited from voting on any matter concerning any district under the board's jurisdiction; provided that the matter is not limited to solely benefiting the specific interest of that member and the matter concerns broader interests within the district. If an additional district is designated by the legislature, the total membership of the authority shall be increased as prescribed above by the appointment of three additional members, except as provided for in section 206E-191. Notwithstanding section 92-15, a majority of all members shall constitute a quorum to do business, and the concurrence of a majority of all members shall be necessary to make any action of the authority valid; except that, on any matter relating solely to a specific community development district, the members representing districts other than that specific community development district shall neither vote, nor shall they be counted to constitute a quorum, and concurrence shall be required of a majority of that portion of the authority made up of all ex officio voting members, members at large, and county and district members representing the district for which action is being proposed [~~in order~~] for such action to be valid. All members shall continue in office until their respective successors have been appointed and qualified. Except as herein provided, no member appointed under this subsection shall be an officer or employee of the State or its political subdivisions.

For purpose of this section, "small business" means a business which is independently owned and which is not dominant in its field of operation."

SECTION 3. On the effective date of this Act, the governor shall designate, from among existing Hawaii community development authority members, two of the members eligible pursuant to section 206E-3, Hawaii Revised Statutes, as amended by this Act, to serve as small business representatives on the authority.

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved June 2, 2008.)