

**ACT 323**

S.B. NO. 2742

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

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

**PART I**

SECTION 1. The legislature finds that quorum of the Hawaii community development authority is difficult to achieve. Due to the size and restrictions

of the membership, often times decisions are unable to be made in a timely manner. In order to allow for the benefit of representation of all stakeholders, the composition of the membership of the authority should be amended.

The purpose of this part is to change the composition of the Hawaii community development authority board to nine voting members for each community development district and allow for certain members to designate a voting representative if they are unable to attend a meeting.

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]~~ nine voting members~~[-]~~ for each community development district established in this chapter. 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]~~ of the authority; provided that, in addition:

- (1) A cultural expert shall be appointed by the governor pursuant to section 26-34 as a voting member;
- (2) One member shall be appointed by the governor pursuant to section 26-34 as a voting member; provided further that this paragraph shall not apply to the Kalaeloa community development district; and
- (3) The chairperson of the Hawaiian homes commission or the chairperson's designee, shall serve as an ex officio, voting member for the Kalaeloa community development district only, shall be considered in determining quorum and majority only on issues relating to the Kalaeloa community development district, and shall vote only on issues relating to the Kalaeloa community development district.

Three additional members, hereinafter referred to as county members, shall be selected by the governor from a list of ten prospective appointees recommended by the local governing body of the county in which ~~[the initial]~~ each 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]~~ three 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, as a cultural expert or]~~ as county members recommended by the local governing body of the county in which ~~[the initial]~~ each 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]~~ each designated district. Notwithstanding section 84-14(a), the small business representatives ~~[shall not be prohibited from voting]~~ may vote on any matter concerning any district under the board's jurisdiction~~[-]~~ other than

matters concerning the Heeia community development district; 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. One of the county members shall be a resident of the designated district; provided that for purposes of this section, the county member who is a resident of the Kalaeloa community development district shall be a resident of the Ewa zone (zone 9, sections 1 through 2), or the Waianae zone (zone 8, sections 1 through 9) of the first tax map key division. The county members shall be considered in determining quorum and majority only on issues not relating to the Heeia community development district and may only vote on issues not related to the Heeia community development district.

Three additional voting members shall be appointed to the authority by the governor pursuant to section 26-34 to represent the Heeia community development district. These three members shall be considered in determining quorum and majority only on issues relating to the Heeia community development district and may vote only on issues related to the Heeia community development district. The three members shall be residents of the Heeia community development district or the Koolaupoko district which consists of sections 1 through 9 of zone 4 of the first tax map key division.

If an additional district is designated by the legislature, ~~[the total membership of the authority shall be increased]~~ the governor shall appoint three county members as prescribed above ~~[by the appointment of three additional members, except as provided for in section 206E-191.]~~ for each additional designated district.

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 for such action to be valid.]~~ as provided in this subsection. 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 ~~[[~~purposes~~]]~~ of this section, "small business" means a business which is independently owned and which is not dominant in its field of operation."

SECTION 3. Section 206E-191, Hawaii Revised Statutes, is amended to read as follows:

**"~~[[~~§206E-191~~]]~~ Barbers Point Naval Air Station redevelopment; power to redevelop established.** (a) The Hawaii community development authority shall be the designated agency of the State to implement this part.

(b) The authority shall act as the local redevelopment authority to facilitate the redevelopment of Barbers Point Naval Air Station in accordance with the Barbers Point Naval Air Station community reuse plan. In addition to any other duties that the authority may have pursuant to this chapter, the authority's duties shall include but not be limited to:

- (1) Coordinating with the Navy and other entities during the conveyance of properties and conducting remediation activities for the Barbers Point Naval Air Station community reuse plan;

- (2) Assisting landholders designated by the plan to market their properties and process conveyance requests;
- (3) Working with the Navy and others to ensure that infrastructure support is provided to the existing developed area, referred to as the “downtown area”, and other federally retained areas;
- (4) Developing the infrastructure necessary to support the implementation of the Barbers Point Naval Air Station community reuse plan; and
- (5) Providing, to the extent feasible, maximum opportunity for the reuse of surplus property by private enterprise or state and county government.

~~[(e) Five additional voting members shall, except as otherwise provided in this subsection, be appointed to the authority by the governor to represent the Kalaeloa community development district. These members shall be considered in determining quorum and majority only on issues relating to the Kalaeloa community development district, and may vote only on issues relating to the Kalaeloa community development district. These members shall consist of:~~

- ~~(1) The chairperson of the Hawaiian homes commission;~~
- ~~(2) The director of the city and county of Honolulu department of planning and permitting;~~
- ~~(3) Two members representing the surrounding community for a term pursuant to section 26-34, one of which shall be selected by the mayor of the city and county of Honolulu; and~~
- ~~(4) One member who is a Hawaiian cultural specialist.]”~~

SECTION 4. Section 206E-202, Hawaii Revised Statutes, is amended to read as follows:

**“[§206E-202] District established; boundaries.** (a) The Heeia community development district is hereby established. The district shall include that area within the boundaries described as follows: the southern boundary begins at the southern property line of tax map key number (1) 4-6-16:001 and runs west to Kahekili highway and east to Kamehameha highway. The northern boundary begins at the northern property line of tax map key number (1) 4-6-16:001 and runs west to Kahekili highway and east to Kamehameha highway. The tax map key numbers are (1) 4-6-16:001 and (1) 4-6-16:002 (owned by the authority), and (1) 4-6-16:004, :011, :012, and :017 (owned by various owners of kuleana parcels).

(b) The authority shall serve as the local redevelopment authority of the district to facilitate culturally appropriate agriculture, education, and natural-resource restoration and management of the Heeia wetlands, in alignment with the Honolulu board of water supply’s most current “Koolau Poko Watershed Management Plan” and the city and county of Honolulu’s most current “Koolaupoko Sustainable Communities Plan”. In addition to any other of its duties under this chapter, the authority shall:

- (1) Consult with the following persons and entities:
  - (A) Recorded landowners in the district;
  - (B) Recorded landowners in section 6 of zone 4 of the first tax map key division;
  - (C) Koolaupoko Hawaiian Civic Club;
  - (D) Kailua neighborhood board;
  - (E) Kahaluu neighborhood board; and
  - (F) Kaneohe neighborhood board,

to implement activities related to and supportive of cultural practices, agriculture, education, and natural-resource restoration and management;

- (2) Assist land users to manage their properties and implement activities related to and supportive of cultural practices, agriculture, education, and natural-resource restoration and management;
- (3) Work with federal, state, county, and other agencies to ensure that infrastructural support is provided for the district;
- (4) Develop the infrastructure necessary to support the implementation of the Heeia community development district master plan; and
- (5) Provide, to the extent feasible, maximum opportunity for the restoration and implementation of sustainable, culturally appropriate, biologically responsible, or agriculturally beneficial enterprises.

~~[(e) Three additional voting members shall, except as otherwise provided in this subsection, be appointed to the authority by the governor pursuant to section 26-34 to represent the district. These three members shall be considered in determining quorum and majority only on issues relating to the district and may vote only on issues related to the district. The three members shall be residents of the district or the Koolaupoko district which consists of sections 1 through 9 of zone 4 of the first tax map key division.]~~

SECTION 5. To ensure that the authority for each community development district established under chapter 206E, Hawaii Revised Statutes, will have the requisite number of members to achieve quorum to convene a meeting and conduct business, the three county members serving on the Hawaii community development authority on the day before the effective date of this Act shall serve as the initial county members for each designated district notwithstanding any failure to qualify as a small business representative or resident of the district, as applicable, and shall continue to serve as members for each designated district until their respective terms expire or their respective successors are appointed, whichever occurs sooner.

PART II

SECTION 6. Pursuant to chapter 206E, Hawaii Revised Statutes, the Hawaii community development authority is tasked with the redevelopment responsibilities for legislatively created community development districts. The legislature has designated three community development districts: Kakaako, Kalaeloa, and Heeia.

Currently, section 206E-14, Hawaii Revised Statutes, allows the authority to sell or lease for a term not exceeding sixty-five years, all or any portion of its real or personal property constituting a redevelopment project if the authority finds that the sale or lease is in conformity with the community development plan. As defined in section 206E-2, Hawaii Revised Statutes, a redevelopment project may only be incidental in its commercial nature. The legislature finds that this limitation adversely impacts the authority's ability to attract long-term investors and tenants who seek to develop or redevelop primarily commercial projects within the Kakaako community development district. This conflicts with the authority's commitment to implement longer lasting change in the Kakaako community development district.

In addition, although section 206E-14, Hawaii Revised Statutes, provides that a sale may be made without recourse to public auction, the section is silent as to whether a lease may be made without recourse to public notice for sealed bids.

The purpose of this part is to provide greater flexibility to the authority in implementing its master plan for the Kakaako community development district by allowing the authority to lease:

- (1) For a term not exceeding sixty-five years, property constituting a project (as opposed to selling the project, or leasing or selling a re-development project); and
- (2) A project without recourse to public notice for sealed bids; in the Kakaako community development district.

The legislature further finds, that safeguards remain in place because all long-term leases require prior approval by the authority at a publicly noticed meeting and after opportunity for public comment.

SECTION 7. Chapter 206E, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

**“§206E- Lease of projects.** (a) Notwithstanding any law to the contrary, including 206E-14, except as prohibited by section 206E-31.5, the authority may, without recourse to public auction or public notice for sealed bids, lease for a term not exceeding sixty-five years all or any portion of the real or personal property constituting a project to any person, upon such terms and conditions as may be approved by the authority, if the authority finds that the lease is in conformity with the community development plan.

(b) In the case of any sale of the leasehold interest in the project, the terms of the sale shall provide for the repurchase of the leasehold property by the authority at its option, in the event that the purchaser, if other than a state agency, desires to sell the property within ten years; provided that this requirement may be waived by the authority if the authority determines that a waiver will not be contrary to the community development plan. The authority shall establish at the time of original sale a formula setting forth a basis for a repurchase price based on market considerations including but not limited to interest rates, land values, construction costs, and federal tax laws.

If the purchaser in a residential project is a state agency, the authority may include as a term of the sale a provision for the repurchase of the property in conformance with this section.”

### PART III

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 9. This Act shall take effect upon its approval.

(Approved July 10, 2012.)

#### Notes

1. So in original.

2. Edited pursuant to HRS §23G-16.5.