

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

“§206E- Assignment of powers and duties prohibited. Notwithstanding anything contained in this chapter to the contrary, the authority shall not assign to any person or agency, including the executive director of the authority, any of its powers and duties related to the approval of any variance, exemption, or modification of any provision of a community development plan or community development rules.”

SECTION 2. Section 171-64.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Notwithstanding any law to the contrary, no sale of lands described in subsection (a) in fee simple including land sold for roads and streets, or gift of lands described in subsection (a) in fee simple to the extent such gift is otherwise permitted by law, shall occur without the prior approval of the sale or gift by the legislature by concurrent resolution to be adopted by each house by at least a two-thirds majority vote of the members to which each house is entitled in a regular or special session at which a concurrent resolution is submitted for approval of the sale; provided that the provisions of this section shall not apply to remnants, as that term is defined in section 171-52, or portions thereof; provided further that this section shall not apply to the issuance of licenses, permits, easements, and leases executed in conformance with the laws applicable to the lands listed in subsection (a); provided further that this section shall not apply to non-ceded lands conveyed to the University of Hawaii after December 31, 1989, to which the University of Hawaii holds title[-]; provided further that this section shall not apply to reserved housing, as that term is defined in section 206E-101, conveyed by the Hawaii community development authority.”

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

“(b) The authority shall consist of ~~[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 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 each designated district is situated; provided 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 three members appointed as county members recommended by the local governing body of the county in which each designated district is situated, 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 each designated district. Notwithstanding section 84-14(a), the small business representatives 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 governor shall appoint three county members as prescribed above for each additional designated district.] the director of finance or the director's designee; the director of transportation or the director's designee; a cultural specialist; an at-large member; an at-large member nominated by the senate president; an at-large member nominated by the speaker of the house; three representatives of the Heeia community development district, comprising two residents of that district or the Koolaupoko district, which consists of sections 1 through 9 of zone 4 of the first tax map key division, and one owner of a small business or one officer or director of a nonprofit organization in the Heeia community development district or Koolaupoko district, nominated by the county council of the county in which the Heeia community development district is located; three representatives of the Kalaeloa community development district, comprising two residents 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, and one owner of a small business or one officer or director of a nonprofit organization in the Ewa or Waianae zone, nominated by the county council of the county in which the Kalaeloa community development district is located; three representatives of the Kakaako com-

munity development district, comprising two residents of the district and one owner of a small business or one officer or director of a nonprofit organization in the district, nominated by the county council of the county in which the Kakaako community development district is located; the director of planning and permitting of each county in which a community development district is located or the director's designee, who shall serve in an ex officio, nonvoting capacity; and the chairperson of the Hawaiian homes commission or the chairperson's designee, who shall serve in an ex officio, nonvoting capacity.

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

The authority shall be organized and shall exercise jurisdiction as follows:

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

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

(B) The director of transportation or the director's designee;

(C) The cultural specialist;

(D) The three at-large members; and

(E) The three representatives of the Heeia community development district;

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

(2) For matters affecting the Kalaeloa community development district, the following members shall be considered in determining quorum and majority and shall be eligible to vote:

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

(B) The director of transportation or the director's designee;

(C) The cultural specialist;

(D) The three at-large members; and

(E) The three representatives of the Kalaeloa community development district;

provided that the director of planning and permitting of the relevant county and the chairperson of the Hawaiian homes commission, or their respective designees, shall participate in these matters as ex officio, nonvoting members and shall not be considered in determining quorum and majority;

(3) For matters affecting the Kakaako community development district, the following members shall be considered in determining quorum and majority and shall be eligible to vote:

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

(B) The director of transportation or the director's designee;

(C) The cultural specialist;

(D) The three at-large members; and

(E) The three representatives of the Kakaako community development district;

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

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

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

The governor may remove or suspend for cause any member after due notice and public hearing.

Notwithstanding section 92-15, a majority of all eligible voting members as specified in this subsection shall constitute a quorum to do business, and the concurrence of a majority of all eligible voting members as specified in this subsection shall be necessary to make any action of the authority valid; ~~except 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 4. 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 chapter 76;
- (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, ex-

- change, 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 that 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 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 the 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, 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 amounts and from 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; provided that the authority ~~shall not~~ may permit ~~[any person to make]~~ cash payments in lieu of providing reserved housing, ~~except to account for any fractional unit that results after calculating the percentage requirement against residential floor space or total number of units developed].~~ The 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:
 - (A) Within the community development district;

- (B) Within areas immediately surrounding the community development district;
- (C) Areas within the central urban core;
- (D) 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 5. Section 206E-5.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The authority shall adopt community and public notice procedures pursuant to chapter 91 that shall include at a minimum:

- (1) A means to effectively engage the community in which the authority is planning a development project to ensure that community concerns are received and considered by the authority;
- (2) The posting of the authority’s proposed plans for development of community development districts, public hearing notices, and minutes of its proceedings on the authority’s website; ~~and~~
- (3) The posting of every application for a development permit for any project within a community development district on the authority’s website when the application is deemed complete;
- (4) Notification by the applicant of any application for a development permit for a project valued at \$250,000 or more by first class United States mail, postage prepaid to owners and lessees of record of real property located within a three hundred foot radius of the perimeter of the proposed project identified from the most current list available from the real property assessment division of the department of budget and fiscal services of the county in which the proposed project is located when the application is deemed complete; provided that notice mailed pursuant to this paragraph shall include but not be limited to notice of:
 - (A) Project specifications;
 - (B) Requests for variance, exemption, or modification of a community development plan or the authority’s community development rules; and
 - (C) Procedures for intervention and a contested case hearing; and
- ~~(3)~~ (5) Any other information that the public may find useful so that it may meaningfully participate in the authority’s decision-making processes.”

SECTION 6. Section 206E-5.6, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§206E-5.6]]~~ **Public hearing for decision-making; separate [hearing] hearings required[-]; contested case hearing; judicial review.** (a) When rendering a decision regarding:

- (1) An amendment to any of the authority’s community development rules established pursuant to chapter 91 and section 206E-7; or
- (2) The acceptance of a developer’s proposal to develop lands under the authority’s control,

the authority shall render its decision at a public hearing separate from the hearing that the proposal under paragraph (1) or (2) was presented.

(b) The authority shall issue a public notice in accordance with section 1-28.5 and post the notice on its website; provided that the decision-making hearing shall not occur earlier than five business days after the notice is posted. Public notice issued pursuant to this subsection for public hearings on the acceptance of a developer's proposal to develop lands under the authority's control shall state that any written motion to intervene as a formal party to the proceeding shall be received within twenty days after the publication date of the public notice.

(c) Prior to rendering a decision, the authority shall provide the general public with the opportunity to testify at its decision-making hearing[-]; provided that members of the public who are not intervenors in the proceeding shall not be considered formal parties to the proceeding.

~~(e)~~ (d) The authority shall notify the president of the senate and speaker of the house:

- (1) Of any public hearing upon posting of the hearing notice; and
- (2) With a report detailing the public's reaction at the public hearing, within one week after the hearing.

(e) When considering any developer's proposal to develop lands under the authority's control that includes any request for a variance, exemption, or modification of a community development plan or of the authority's community development rules, the authority shall consider the request for variance, exemption, or modification at a public hearing, noticed in accordance with section 1-28.5, separate from and subsequent to the hearing at which the developer's proposal was presented; provided that the authority may consider all requests applicable to a single proposal at the same public hearing. The authority's decision on requests subject to this subsection shall be rendered at the decision-making hearing on the developer's proposal.

(f) No final decision of the authority on a developer's proposal shall be issued until after all proceedings required by this section are finally concluded.

(g) Proceedings regarding the acceptance of a developer's proposal to develop lands under the authority's control shall be considered a contested case hearing.

(h) Any party aggrieved by a final decision of the authority regarding the acceptance of a developer's proposal to develop lands under the authority's control may seek judicial review of the decision within thirty days, pursuant to section 91-14.

(i) The authority shall not approve any developer's proposal to develop lands under the authority's control unless the authority finds that the proposed development project is reasonable and is consistent with the development rules and policies of the relevant development district. In making its finding pursuant to this subsection, the authority shall consider:

- (1) The extent to which the proposed project:
 - (A) Advances the goals, policies, and objectives of the applicable district plan;
 - (B) Protects, preserves, or enhances desirable neighborhood characteristics through compliance with the standards and guidelines of the applicable district rules;
 - (C) Avoids a substantially adverse effect on surrounding land uses through compatibility with the existing and planned land use character of the surrounding area; and
 - (D) Provides housing opportunities for all income groups, particularly low, moderate, and other qualified income groups;

- (2) The impact of the proposed project on the following areas of urban design, as applicable:
 - (A) Pedestrian oriented development, including complete streets design;
 - (B) Transit oriented development, including rail, bus, and other modes of rapid transit; and
 - (C) Community amenities such as gathering places, community centers, culture and arts facilities, and the full array of public facilities normally provided by the public sector;
- (3) The impact of the proposed project on the following areas of state concern:
 - (A) Preservation of important natural systems or habitats;
 - (B) Maintenance of valued cultural, historical, or natural resources;
 - (C) Maintenance of other resources relevant to the State's economy;
 - (D) Commitment of state funds and resources;
 - (E) Employment opportunities and economic development; and
 - (F) Maintenance and improvement of the quality of educational programs and services provided by schools.
- (4) The representations and commitments made by the developer in the permit application process."

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

~~“[§206E-7]~~ **Community development rules.** (a) The authority shall establish community development rules under chapter 91 on health, safety, building, planning, zoning, and land use which, upon final adoption of a community development plan, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon. Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The authority may, in the community development plan or by a community development rule, provide that lands within a community development district shall not be developed beyond existing uses or that improvements thereon shall not be demolished or substantially reconstructed, or provide other restrictions on the use of the lands.

(b) Development rights under a master plan permit and master plan development agreement issued and approved by the authority are vested under the community development district rules in effect at the time of initial approval by the authority and shall govern development on lands subject to such permit and agreement."

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

~~“[§206E-8]~~ **Use of public lands; acquisition of state lands.** ~~[(a) Any provision of chapter 171 to the contrary notwithstanding, the governor may set aside public lands located within community development districts to the authority for its use.~~

(b) (a) If state lands under the control and management of other public agencies are required by the authority for its purposes, the agency having

the control and management of those required lands [~~shall,~~] may, upon request by the authority and with the approval of the governor, convey[;] or lease such lands to the authority upon such terms and conditions as may be agreed to by the parties.

~~[(e)]~~ (b) Notwithstanding the foregoing, no public lands shall be [~~set aside,~~] conveyed[;] or leased to the authority as above provided if such [~~setting aside,~~] conveyance[;] or lease would impair 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.”

SECTION 9. Section 206E-31.5, Hawaii Revised Statutes, is amended to read as follows:

~~“[H]§206E-31.5~~ **Prohibitions.** Anything contained in this chapter to the contrary notwithstanding, the authority is prohibited from:

- (1) Selling or otherwise assigning the fee simple interest in any lands in the Kakaako community development district to which the authority in its corporate capacity holds title, except with respect to:
 - (A) Utility easements;
 - (B) Remnants as defined in section 171-52;
 - (C) Grants to any state or county department or agency; or
 - (D) Private entities for purposes of any easement, roadway, or infrastructure improvements; or
 - (E) Reserved housing as defined in section 206E-101; or
- (2) Approving any plan or proposal for any residential development in that portion of the Kakaako community development district makai of Ala Moana boulevard and between Kewalo basin and the foreign trade zone.”

SECTION 10. 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, 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; provided that no portion of any building or structure in the Kakaako Mauka area shall exceed four hundred eighteen feet in height;
 - (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 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 may be required as a condition of redevelopment in residential use. Residential development shall provide necessary community facilities, such as open space, parks, community meeting places, child care centers, and other services, within and adjacent to residential development; and
 - (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 11. Section 206E-182, Hawaii Revised Statutes, is amended to read as follows:

"§206E-182 Powers. In addition and supplemental to the powers granted to the authority by law, the authority may:

- (1) With the approval of the governor, enter into a special facility lease or an amendment or supplement thereto whereby the authority agrees to construct, acquire, or remodel and furnish or equip a special facility solely for the use by another person to a special facility lease;
- (2) With the approval of the governor, issue special facility revenue bonds in principal amounts not to exceed the total amount of bonds authorized by the legislature, that may be necessary to yield all or a portion of the cost of any construction, acquisition, remodeling, furnishing, and equipping of any special facility;

- (3) With the approval of the governor, issue refunding special facility revenue bonds, in principal amounts not to exceed the total amount of bonds authorized by the legislature, with which to provide for the payment of outstanding special facility revenue bonds (including any special facility revenue bonds theretofore issued for this purpose) or any part thereof; provided any issuance of refunding special facility revenue bonds shall not reduce the principal amount of the bonds which may be issued as provided in paragraph (2);
- (4) Perform and carry out the terms and provisions of any special facility lease;
- (5) Notwithstanding section 103-7 or any other law to the contrary, acquire, construct, or remodel and furnish or equip any special facility, or accept the assignment of any contract therefor entered into by the other person to the special facility lease;
- (6) Construct any special facility on land owned by the State; provided that no funds derived herein will be expended for land acquisition; and
- (7) Agree with the other person to the special facility lease whereby any acquisition, construction, remodeling, furnishing, or equipping of the special facility and the expenditure of moneys therefor shall be undertaken or supervised by another person.”

SECTION 12. Section 206E-185, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~**§206E-185** **Special facility revenue bonds.** All special facility revenue bonds authorized to be issued in principal amounts not to exceed the total amount of bonds authorized by the legislature shall be issued pursuant to part III of chapter 39, except as follows:

- (1) No revenue bonds shall be issued unless at the time of issuance the authority shall have entered into a special facility lease with respect to the special facility for which the revenue bonds are to be issued;
- (2) The revenue bonds shall be issued in the name of the authority, and not in the name of the State;
- (3) The revenue bonds shall be payable solely from and secured solely by the revenues derived by the authority from the special facility for which they are issued;
- (4) The final maturity date of the revenue bonds shall not be later than either the estimated life of the special facility for which they are issued or the initial term of the special facility lease;
- (5) If deemed necessary or advisable by the authority, or to permit the obligations of the other person to the special facility lease to be registered under the U.S. Securities Act of 1933, the authority, with the approval of the director of finance, may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with the trustee. The trustee may be authorized by the authority to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply the revenues to the payment of the principal and interest on the revenue bonds. If any trustee shall be appointed, any trust indenture or agreement entered into by the authority with the trustee may contain the covenants and provisions authorized by part III of chapter 39 to be inserted in a resolution adopted or certificate

issued, as though the words "resolution" or "certificate" as used in that part read "trust indenture or agreement". The covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust agreement or indenture. Any resolution or certificate, trust indenture, or trust agreement adopted, issued, or entered into by the authority pursuant to this part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The authority may pledge and assign to the trustee the special facility lease and the rights of the authority including the revenues thereunder;

- (6) If the authority, with the approval of the director of finance, shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of the second sentence of section 39-68, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption, of the revenue bonds, or may elect to limit the functions the director of finance shall perform as the fiscal agent. The authority, with the approval of the director of finance, may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform the functions with respect to payment, purchase, registration, transfer, exchange, and redemption, that the authority may deem necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons which have been paid and the supervision and conduction of the destruction thereof in accordance with sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in the preceding paragraph to the authority, with the approval of the director of finance, to appoint the trustee, or granted in sections 36-3 and 39-13 and the third sentence of section 39-68 to the director of finance to appoint the trustee or others, as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower the fiscal agents, paying agents, and registrars to perform the functions referred to in that paragraph and sections, it being the intent of this paragraph to confirm that the director of finance as aforesaid may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions the director of finance shall perform as the fiscal agent, that the director of finance may deem necessary, advisable, or expedient;
- (7) The authority may sell the revenue bonds either at public or private sale;
- (8) If no trustee shall be appointed to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued, the revenues shall be held in a separate account in the treasury of the State, separate and apart from the Hawaii community development revolving fund, to be applied solely to the carrying out of the resolution, certificate, trust indenture, or trust agreement authorizing or securing the revenue bonds;
- (9) If the resolution, certificate, trust indenture, or trust agreement shall provide that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of the revenue bonds, signatures of the of-

- ficers of the State upon the bonds required by section 39-56 may be facsimiles of their signatures;
- (10) Proceeds of the revenue bonds may be used and applied by the authority to reimburse the other person to the special facility lease for all preliminary costs and expenses, including architectural and legal costs; and
 - (11) If the special facility lease shall require the other person to operate, maintain, and repair the special facility which is the subject of the lease, at the other person's expense, the requirement shall constitute compliance by the authority with section 39-61(a)(2), and none of the revenues derived by the authority from the special facility shall be required to be applied to the purposes of section 39-62(2). Sections 39-62(4), 39-62(5), and 39-62(6) shall not apply to the revenues derived from a special facility lease."

SECTION 13. The term of office of each existing member of the Hawaii community development authority in office as of the day before the effective date of this Act shall terminate on March 1, 2015. The nomination and appointment of successor members of the authority pursuant to section 3 of this Act shall not cause the term of office of any existing member to terminate before that date, regardless of the date of the successor member's appointment by and with the advice and consent of the senate.

No existing member of the authority as it is constituted on the day prior to the effective date of this Act shall serve as a holdover member due to a vacancy as of March 1, 2015, in the membership of the authority as it is constituted by section 3 of this Act; provided that a new term of office for the director of transportation, director of finance, county directors of planning and permitting, and chairperson of the Hawaiian homes commission, or their respective designees, shall automatically commence on March 1, 2015, pursuant to section 3 of this Act.

The nomination and appointment by and with the advice and consent of the senate of members of the Hawaii community development authority pursuant to section 3 of this Act shall take place as expeditiously as possible so that, to the extent possible, there are no vacancies in the membership of the authority as of March 1, 2015. The speaker of the house of representatives, president of the senate, and applicable county council shall each submit lists of three nominees for each appointment subject to their respective nominating authority, as required by section 3 of this Act, no later than December 30, 2014. The governor shall make all appointments of members of the authority, including from each of the lists submitted, no later than January 29, 2015.

SECTION 14. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 15. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 16. This Act shall take effect on July 1, 2014.

(Approved April 30, 2014.)

Note

1. Edited pursuant to HRS §23G-16.5.