



GOV. MSG. NO. 1161

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

April 30, 2014

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

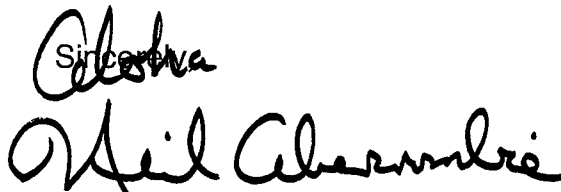
The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on April 30, 2014, the following bill was signed into law:

HB1866 HD2 SD2

RELATING TO THE HAWAII COMMUNITY
DEVELOPMENT AUTHORITY
ACT 061 (14)

Sincerely,


NEIL ABERCROMBIE
Governor, State of Hawaii

JUN 10 2014

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THE SENATE
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STATE OF HAWAII

'14 APR 30 P2:13

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on _____
HOUSE OF REPRESENTATIVES
TWENTY-SEVENTH LEGISLATURE, 2014
STATE OF HAWAII

ACT 061
H.B. NO.

1866
H.D. 2
S.D. 2

A BILL FOR AN ACT

RELATING TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 206E, Hawaii Revised Statutes, is
2 amended by adding a new section to part I to be appropriately
3 designated and to read as follows:

4 "§206E- Assignment of powers and duties prohibited.

5 Notwithstanding anything contained in this chapter to the
6 contrary, the authority shall not assign to any person or
7 agency, including the executive director of the authority, any
8 of its powers and duties related to the approval of any
9 variance, exemption, or modification of any provision of a
10 community development plan or community development rules."

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

13 "(b) Notwithstanding any law to the contrary, no sale of
14 lands described in subsection (a) in fee simple including land
15 sold for roads and streets, or gift of lands described in
16 subsection (a) in fee simple to the extent such gift is
17 otherwise permitted by law, shall occur without the prior
18 approval of the sale or gift by the legislature by concurrent



1 resolution to be adopted by each house by at least a two-thirds
2 majority vote of the members to which each house is entitled in
3 a regular or special session at which a concurrent resolution is
4 submitted for approval of the sale; provided that the provisions
5 of this section shall not apply to remnants, as that term is
6 defined in section 171-52, or portions thereof; provided further
7 that this section shall not apply to the issuance of licenses,
8 permits, easements, and leases executed in conformance with the
9 laws applicable to the lands listed in subsection (a); provided
10 further that this section shall not apply to non-ceded lands
11 conveyed to the University of Hawaii after December 31, 1989, to
12 which the University of Hawaii holds title[-]; provided further
13 that this section shall not apply to reserved housing, as that
14 term is defined in section 206E-101, conveyed by the Hawaii
15 community development authority."

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

18 "(b) The authority shall consist of [~~nine voting members~~
19 ~~for each community development district established in this~~
20 ~~chapter. The director of finance, the director of business,~~
21 ~~economic development, and tourism, the comptroller, and the~~
22 ~~director of transportation, or their respective designated~~



1 ~~representatives, shall serve as ex officio, voting members of~~
2 ~~the authority; provided that, in addition:~~

3 ~~(1) A cultural expert shall be appointed by the governor~~
4 ~~pursuant to section 26-34 as a voting member;~~

5 ~~(2) One member shall be appointed by the governor pursuant~~
6 ~~to section 26-34 as a voting member; provided further~~
7 ~~that this paragraph shall not apply to the Kalaeloa~~
8 ~~community development district; and~~

9 ~~(3) The chairperson of the Hawaiian homes commission or~~
10 ~~the chairperson's designee, shall serve as an ex~~
11 ~~officio, voting member for the Kalaeloa community~~
12 ~~development district only, shall be considered in~~
13 ~~determining quorum and majority only on issues~~
14 ~~relating to the Kalaeloa community development~~
15 ~~district, and shall vote only on issues relating to~~
16 ~~the Kalaeloa community development district.~~

17 ~~Three additional members, hereinafter referred to as county~~
18 ~~members, shall be selected by the governor from a list of ten~~
19 ~~prospective appointees recommended by the local governing body~~
20 ~~of the county in which each designated district is situated;~~
21 ~~provided that when vacancies occur in any of the three positions~~
22 ~~for which the members were selected from a list of county~~



1 ~~recommendations, the governor shall fill such vacancies on the~~
2 ~~basis of one from a list of four recommendations, two from a~~
3 ~~list of seven recommendations, or three from a list of ten~~
4 ~~recommendations. The list of recommendations shall be made by~~
5 ~~the local governing body of the county. Of the three members~~
6 ~~appointed as county members recommended by the local governing~~
7 ~~body of the county in which each designated district is~~
8 ~~situated, two members shall represent small businesses and shall~~
9 ~~be designated as the small business representatives on the board~~
10 ~~whose purpose, among other things, is to vote on matters before~~
11 ~~the board that affect small businesses. The small business~~
12 ~~representatives shall be owners or active managers of a small~~
13 ~~business with its principal place of operation located within~~
14 ~~the physical boundaries of each designated district.~~
15 ~~Notwithstanding section 84-14(a), the small business~~
16 ~~representatives may vote on any matter concerning any district~~
17 ~~under the board's jurisdiction other than matters concerning the~~
18 ~~Heeia community development district; provided that the matter~~
19 ~~is not limited to solely benefiting the specific interest of~~
20 ~~that member and the matter concerns broader interests within the~~
21 ~~district. One of the county members shall be a resident of the~~
22 ~~designated district; provided that for purposes of this section,~~



1 ~~the county member who is a resident of the Kalaeloa community~~
2 ~~development district shall be a resident of the Ewa zone (zone~~
3 ~~9, sections 1 through 2), or the Waianae zone (zone 8, sections~~
4 ~~1 through 9) of the first tax map key division. The county~~
5 ~~members shall be considered in determining quorum and majority~~
6 ~~only on issues not relating to the Heeia community development~~
7 ~~district and may only vote on issues not related to the Heeia~~
8 ~~community development district.~~

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

19 ~~If an additional district is designated by the legislature,~~
20 ~~the governor shall appoint three county members as prescribed~~
21 ~~above for each additional designated district.] the director of~~
22 ~~finance or the director's designee; the director of~~



1 transportation or the director's designee; a cultural
2 specialist; an at-large member; an at-large member nominated by
3 the senate president; an at-large member nominated by the
4 speaker of the house; three representatives of the Heeia
5 community development district, comprising two residents of that
6 district or the Koolaupoko district, which consists of sections
7 1 through 9 of zone 4 of the first tax map key division, and one
8 owner of a small business or one officer or director of a
9 nonprofit organization in the Heeia community development
10 district or Koolaupoko district, nominated by the county council
11 of the county in which the Heeia community development district
12 is located; three representatives of the Kalaeloa community
13 development district, comprising two residents of the Ewa zone
14 (zone 9, sections 1 through 2) or the Waianae zone (zone 8,
15 sections 1 through 9) of the first tax map key division, and one
16 owner of a small business or one officer or director of a
17 nonprofit organization in the Ewa or Waianae zone, nominated by
18 the county council of the county in which the Kalaeloa community
19 development district is located; three representatives of the
20 Kakaako community development district, comprising two residents
21 of the district and one owner of a small business or one officer
22 or director of a nonprofit organization in the district,



1 nominated by the county council of the county in which the
2 Kakaako community development district is located; the director
3 of planning and permitting of each county in which a community
4 development district is located or the director's designee, who
5 shall serve in an ex officio, nonvoting capacity; and the
6 chairperson of the Hawaiian homes commission or the
7 chairperson's designee, who shall serve in an ex officio,
8 nonvoting capacity.

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

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

21 (1) For matters affecting the Heeia community development
22 district, the following members shall be considered in



1 determining quorum and majority and shall be eligible

2 to vote:

3 (A) The director of finance or the director's

4 designee;

5 (B) The director of transportation or the director's

6 designee;

7 (C) The cultural specialist;

8 (D) The three at-large members; and

9 (E) The three representatives of the Heeia community

10 development district;

11 provided that the director of planning and permitting

12 of the relevant county or the director's designee

13 shall participate in these matters as an ex officio,

14 nonvoting member and shall not be considered in

15 determining quorum and majority;

16 (2) For matters affecting the Kalaeloa community

17 development district, the following members shall be

18 considered in determining quorum and majority and

19 shall be eligible to vote:

20 (A) The director of finance or the director's

21 designee;



- 1 (B) The director of transportation or the director's
2 designee;
- 3 (C) The cultural specialist;
- 4 (D) The three at-large members; and
- 5 (E) The three representatives of the Kalaeloa
6 community development district;
- 7 provided that the director of planning and permitting
8 of the relevant county and the chairperson of the
9 Hawaiian homes commission, or their respective
10 designees, shall participate in these matters as ex
11 officio, nonvoting members and shall not be considered
12 in determining quorum and majority;
- 13 (3) For matters affecting the Kakaako community
14 development district, the following members shall be
15 considered in determining quorum and majority and
16 shall be eligible to vote:
- 17 (A) The director of finance or the director's
18 designee;
- 19 (B) The director of transportation or the director's
20 designee;
- 21 (C) The cultural specialist;
- 22 (D) The three at-large members; and



1 (E) The three representatives of the Kakaako
 2 community development district;
 3 provided that the director of planning and permitting
 4 of the relevant county or the director's designee
 5 shall participate in these matters as an ex officio,
 6 nonvoting member and shall not be considered in
 7 determining quorum and majority.

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

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

1 for two years, the initial terms of four members selected by lot
2 shall be for three years, and the initial terms of the remaining
3 five members shall be for four years.

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

6 Notwithstanding section 92-15, a majority of all eligible
7 voting members as specified in this subsection shall constitute
8 a quorum to do business, and the concurrence of a majority of
9 all eligible voting members as specified in this subsection
10 shall be necessary to make any action of the authority valid[~~+~~
11 ~~except as provided in this subsection~~]. All members shall
12 continue in office until their respective successors have been
13 appointed and qualified. Except as herein provided, no member
14 appointed under this subsection shall be an officer or employee
15 of the State or its political subdivisions.

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

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

21 "**§206E-4 Powers; generally.** Except as otherwise limited
22 by this chapter, the authority may:



- 1 (1) Sue and be sued;
- 2 (2) Have a seal and alter the same at pleasure;
- 3 (3) Make and execute contracts and all other instruments
4 necessary or convenient for the exercise of its powers
5 and functions under this chapter;
- 6 (4) Make and alter bylaws for its organization and
7 internal management;
- 8 (5) Make rules with respect to its projects, operations,
9 properties, and facilities, which rules shall be in
10 conformance with chapter 91;
- 11 (6) Through its executive director appoint officers,
12 agents, and employees, prescribe their duties and
13 qualifications, and fix their salaries, without regard
14 to chapter 76;
- 15 (7) Prepare or cause to be prepared a community
16 development plan for all designated community
17 development districts;
- 18 (8) Acquire, reacquire, or contract to acquire or
19 reacquire by grant or purchase real, personal, or
20 mixed property or any interest therein; to own, hold,
21 clear, improve, and rehabilitate, and to sell, assign,



- 1 exchange, transfer, convey, lease, or otherwise
2 dispose of or encumber the same;
- 3 (9) Acquire or reacquire by condemnation real, personal,
4 or mixed property or any interest therein for public
5 facilities, including but not limited to streets,
6 sidewalks, parks, schools, and other public
7 improvements;
- 8 (10) By itself, or in partnership with qualified persons,
9 acquire, reacquire, construct, reconstruct,
10 rehabilitate, improve, alter, or repair or provide for
11 the construction, reconstruction, improvement,
12 alteration, or repair of any project; own, hold, sell,
13 assign, transfer, convey, exchange, lease, or
14 otherwise dispose of or encumber any project, and in
15 the case of the sale of any project, accept a purchase
16 money mortgage in connection therewith; and repurchase
17 or otherwise acquire any project that the authority
18 has theretofore sold or otherwise conveyed,
19 transferred, or disposed of;
- 20 (11) Arrange or contract for the planning, replanning,
21 opening, grading, or closing of streets, roads,
22 roadways, alleys, or other places, or for the



- 1 furnishing of facilities or for the acquisition of
2 property or property rights or for the furnishing of
3 property or services in connection with a project;
- 4 (12) Grant options to purchase any project or to renew any
5 lease entered into by it in connection with any of its
6 projects, on terms and conditions as it deems
7 advisable;
- 8 (13) Prepare or cause to be prepared plans, specifications,
9 designs, and estimates of costs for the construction,
10 reconstruction, rehabilitation, improvement,
11 alteration, or repair of any project, and from time to
12 time to modify the plans, specifications, designs, or
13 estimates;
- 14 (14) Provide advisory, consultative, training, and
15 educational services, technical assistance, and advice
16 to any person, partnership, or corporation, either
17 public or private, to carry out the purposes of this
18 chapter, and engage the services of consultants on a
19 contractual basis for rendering professional and
20 technical assistance and advice;



- 1 (15) Procure insurance against any loss in connection with
2 its property and other assets and operations in
3 amounts and from insurers as it deems desirable;
- 4 (16) Contract for and accept gifts or grants in any form
5 from any public agency or from any other source;
- 6 (17) Do any and all things necessary to carry out its
7 purposes and exercise the powers given and granted in
8 this chapter; and
- 9 (18) Allow satisfaction of any affordable housing
10 requirements imposed by the authority upon any
11 proposed development project through the construction
12 of reserved housing, as defined in section 206E-101,
13 by a person on land located outside the geographic
14 boundaries of the authority's jurisdiction; provided
15 that the authority [~~shall not~~] may permit [~~any person~~
16 ~~to make~~] cash payments in lieu of providing reserved
17 housing[, ~~except to account for any fractional unit~~
18 ~~that results after calculating the percentage~~
19 ~~requirement against residential floor space or total~~
20 ~~number of units developed~~]. The substituted housing
21 shall be located on the same island as the development
22 project and shall be substantially equal in value to



1 the required reserved housing units that were to be
2 developed on site. The authority shall establish the
3 following priority in the development of reserved
4 housing:

- 5 (A) Within the community development district;
6 (B) Within areas immediately surrounding the
7 community development district;
8 (C) Areas within the central urban core;
9 (D) In outlying areas within the same island as the
10 development project.

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

17 SECTION 5. Section 206E-5.5, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

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



- 1 (1) A means to effectively engage the community in which
2 the authority is planning a development project to
3 ensure that community concerns are received and
4 considered by the authority;
- 5 (2) The posting of the authority's proposed plans for
6 development of community development districts, public
7 hearing notices, and minutes of its proceedings on the
8 authority's website; [~~and~~]
- 9 (3) The posting of every application for a development
10 permit for any project within a community development
11 district on the authority's website when the
12 application is deemed complete;
- 13 (4) Notification by the applicant of any application for a
14 development permit for a project valued at \$250,000 or
15 more by first class United States mail, postage
16 prepaid to owners and lessees of record of real
17 property located within a three hundred foot radius of
18 the perimeter of the proposed project identified from
19 the most current list available from the real property
20 assessment division of the department of budget and
21 fiscal services of the county in which the proposed
22 project is located when the application is deemed



1 complete; provided that notice mailed pursuant to this
2 paragraph shall include but not be limited to notice
3 of:

4 (A) Project specifications;

5 (B) Requests for variance, exemption, or modification
6 of a community development plan or the
7 authority's community development rules; and

8 (C) Procedures for intervention and a contested case
9 hearing; and

10 [~~3~~] (5) Any other information that the public may find
11 useful so that it may meaningfully participate in the
12 authority's decision-making processes."

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

15 "[~~+~~]**§206E-5.6**[~~+~~] **Public hearing for decision-making;**
16 **separate [~~hearing~~] hearings required[~~-~~]; contested case hearing;**
17 **judicial review.** (a) When rendering a decision regarding:

18 (1) An amendment to any of the authority's community
19 development rules established pursuant to chapter 91
20 and section 206E-7; or

21 (2) The acceptance of a developer's proposal to develop
22 lands under the authority's control,



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

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

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

19 ~~[+e)]~~ (d) The authority shall notify the president of the
20 senate and speaker of the house:

21 (1) Of any public hearing upon posting of the hearing
22 notice; and



1 (2) With a report detailing the public's reaction at the
2 public hearing, within one week after the hearing.

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

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

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



1 (h) Any party aggrieved by a final decision of the
2 authority regarding the acceptance of a developer's proposal to
3 develop lands under the authority's control may seek judicial
4 review of the decision within thirty days, pursuant to section
5 91-14.

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

- 13 (1) The extent to which the proposed project:
- 14 (A) Advances the goals, policies, and objectives of
15 the applicable district plan;
 - 16 (B) Protects, preserves, or enhances desirable
17 neighborhood characteristics through compliance
18 with the standards and guidelines of the
19 applicable district rules;
 - 20 (C) Avoids a substantially adverse effect on
21 surrounding land uses through compatibility with

1 the existing and planned land use character of
2 the surrounding area; and

3 (D) Provides housing opportunities for all income
4 groups, particularly low, moderate, and other
5 qualified income groups;

6 (2) The impact of the proposed project on the following
7 areas of urban design, as applicable:

8 (A) Pedestrian oriented development, including
9 complete streets design;

10 (B) Transit oriented development, including rail,
11 bus, and other modes of rapid transit; and

12 (C) Community amenities such as gathering places,
13 community centers, culture and arts facilities,
14 and the full array of public facilities normally
15 provided by the public sector;

16 (3) The impact of the proposed project on the following
17 areas of state concern:

18 (A) Preservation of important natural systems or
19 habitats;

20 (B) Maintenance of valued cultural, historical, or
21 natural resources;



- 1 (C) Maintenance of other resources relevant to the
- 2 State's economy;
- 3 (D) Commitment of state funds and resources;
- 4 (E) Employment opportunities and economic
- 5 development; and
- 6 (F) Maintenance and improvement of the quality of
- 7 educational programs and services provided by
- 8 schools.

9 (4) The representations and commitments made by the
 10 developer in the permit application process."

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

13 "~~§~~206E-7~~§~~ **Community development rules.** (a) The
 14 authority shall establish community development rules under
 15 chapter 91 on health, safety, building, planning, zoning, and
 16 land use which, upon final adoption of a community development
 17 plan, shall supersede all other inconsistent ordinances and
 18 rules relating to the use, zoning, planning, and development of
 19 land and construction thereon. Rules adopted under this section
 20 shall follow existing law, rules, ordinances, and regulations as
 21 closely as is consistent with standards meeting minimum
 22 requirements of good design, pleasant amenities, health, safety,



1 and coordinated development. The authority may, in the
2 community development plan or by a community development rule,
3 provide that lands within a community development district shall
4 not be developed beyond existing uses or that improvements
5 thereon shall not be demolished or substantially reconstructed,
6 or provide other restrictions on the use of the lands.

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

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

15 "[~~+~~]**\$206E-8**[~~+~~] **Use of public lands; acquisition of state**
16 **lands.** [~~(a)~~ ~~Any provision of chapter 171 to the contrary~~
17 ~~notwithstanding, the governor may set aside public lands located~~
18 ~~within community development districts to the authority for its~~
19 ~~use.~~

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



1 required lands [~~shall~~] may, upon request by the authority and
2 with the approval of the governor, convey[~~r~~] or lease such lands
3 to the authority upon such terms and conditions as may be agreed
4 to by the parties.

5 [~~(e)~~] (b) Notwithstanding the foregoing, no public lands
6 shall be [~~set aside~~] conveyed[~~r~~] or leased to the authority as
7 above provided if such [~~setting aside~~] conveyance[~~r~~] or lease
8 would impair any covenant between the State or any county or any
9 department or board thereof and the holders of bonds issued by
10 the State or such county, department, or board."

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

13 "[~~§~~]**206E-31.5**[~~§~~] **Prohibitions.** Anything contained in
14 this chapter to the contrary notwithstanding, the authority is
15 prohibited from:

16 (1) Selling or otherwise assigning the fee simple interest
17 in any lands in the Kakaako community development
18 district to which the authority in its corporate
19 capacity holds title, except with respect to:

20 (A) Utility easements;

21 (B) Remnants as defined in section 171-52;



- 1 (C) Grants to any state or county department or
- 2 agency; or
- 3 (D) Private entities for purposes of any easement,
- 4 roadway, or infrastructure improvements; or
- 5 (E) Reserved housing as defined in section 206E-101;
- 6 or

7 (2) Approving any plan or proposal for any residential
 8 development in that portion of the Kakaako community
 9 development district makai of Ala Moana boulevard and
 10 between Kewalo basin and the foreign trade zone."

11 SECTION 10. Section 206E-33, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 **"§206E-33 Kakaako community development district;**
 14 **development guidance policies.** The following shall be the
 15 development guidance policies generally governing the
 16 authority's action in the Kakaako community development
 17 district:

- 18 (1) Development shall result in a community which permits
- 19 an appropriate land mixture of residential,
- 20 commercial, industrial, and other uses. In view of
- 21 the innovative nature of the mixed use approach, urban
- 22 design policies should be established to provide



1 guidelines for the public and private sectors in the
2 proper development of this district; while the
3 authority's development responsibilities apply only to
4 the area within the district, the authority may engage
5 in any studies or coordinative activities permitted in
6 this chapter which affect areas lying outside the
7 district, where the authority in its discretion
8 decides that those activities are necessary to
9 implement the intent of this chapter. The studies or
10 coordinative activities shall be limited to facility
11 systems, resident and industrial relocation, and other
12 activities with the counties and appropriate state
13 agencies. The authority may engage in construction
14 activities outside of the district; provided that such
15 construction relates to infrastructure development or
16 residential or business relocation activities;
17 provided further, notwithstanding section 206E-7, that
18 such construction shall comply with the general plan,
19 development plan, ordinances, and rules of the county
20 in which the district is located;

- 21 (2) Existing and future industrial uses shall be permitted
22 and encouraged in appropriate locations within the



1 district. No plan or implementation strategy shall
2 prevent continued activity or redevelopment of
3 industrial and commercial uses which meet reasonable
4 performance standards;

5 (3) Activities shall be located so as to provide primary
6 reliance on public transportation and pedestrian
7 facilities for internal circulation within the
8 district or designated subareas;

9 (4) Major view planes, view corridors, and other
10 environmental elements such as natural light and
11 prevailing winds, shall be preserved through necessary
12 regulation and design review; provided that no portion
13 of any building or structure in the Kakaako Mauka area
14 shall exceed four hundred eighteen feet in height;

15 (5) Redevelopment of the district shall be compatible with
16 plans and special districts established for the Hawaii
17 Capital District, and other areas surrounding the
18 Kakaako district;

19 (6) Historic sites and culturally significant facilities,
20 settings, or locations shall be preserved;

21 (7) Land use activities within the district, where
22 compatible, shall to the greatest possible extent be



1 mixed horizontally, that is, within blocks or other
2 land areas, and vertically, as integral units of
3 multi-purpose structures;

4 (8) Residential development may require a mixture of
5 densities, building types, and configurations in
6 accordance with appropriate urban design guidelines;
7 integration both vertically and horizontally of
8 residents of varying incomes, ages, and family groups;
9 and an increased supply of housing for residents of
10 low- or moderate-income may be required as a condition
11 of redevelopment in residential use. Residential
12 development shall provide necessary community
13 facilities, such as open space, parks, community
14 meeting places, child care centers, and other
15 services, within and adjacent to residential
16 development; and

17 (9) Public facilities within the district shall be
18 planned, located, and developed so as to support the
19 redevelopment policies for the district established by
20 this chapter and plans and rules adopted pursuant to
21 it."



1 SECTION 11. Section 206E-182, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§206E-182 Powers. In addition and supplemental to the
4 powers granted to the authority by law, the authority may:

- 5 (1) With the approval of the governor, enter into a
6 special facility lease or an amendment or supplement
7 thereto whereby the authority agrees to construct,
8 acquire, or remodel and furnish or equip a special
9 facility solely for the use by another person to a
10 special facility lease;
- 11 (2) With the approval of the governor, issue special
12 facility revenue bonds in principal amounts not to
13 exceed the total amount of bonds authorized by the
14 legislature, that may be necessary to yield all or a
15 portion of the cost of any construction, acquisition,
16 remodeling, furnishing, and equipping of any special
17 facility;
- 18 (3) With the approval of the governor, issue refunding
19 special facility revenue bonds, in principal amounts
20 not to exceed the total amount of bonds authorized by
21 the legislature, with which to provide for the payment
22 of outstanding special facility revenue bonds



1 (including any special facility revenue bonds
2 theretofore issued for this purpose) or any part
3 thereof; provided any issuance of refunding special
4 facility revenue bonds shall not reduce the principal
5 amount of the bonds which may be issued as provided in
6 paragraph (2);

7 (4) Perform and carry out the terms and provisions of any
8 special facility lease;

9 (5) Notwithstanding section 103-7 or any other law to the
10 contrary, acquire, construct, or remodel and furnish
11 or equip any special facility, or accept the
12 assignment of any contract therefor entered into by
13 the other person to the special facility lease;

14 (6) Construct any special facility on land owned by the
15 State; provided that no funds derived herein will be
16 expended for land acquisition; and

17 (7) Agree with the other person to the special facility
18 lease whereby any acquisition, construction,
19 remodeling, furnishing, or equipping of the special
20 facility and the expenditure of moneys therefor shall
21 be undertaken or supervised by another person."



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

3 "[~~§~~206E-185~~§~~] **Special facility revenue bonds.** All
4 special facility revenue bonds authorized to be issued in
5 principal amounts not to exceed the total amount of bonds
6 authorized by the legislature shall be issued pursuant to part
7 III of chapter 39, except as follows:

- 8 (1) No revenue bonds shall be issued unless at the time of
9 issuance the authority shall have entered into a
10 special facility lease with respect to the special
11 facility for which the revenue bonds are to be issued;
- 12 (2) The revenue bonds shall be issued in the name of the
13 authority, and not in the name of the State;
- 14 (3) The revenue bonds shall be payable solely from and
15 secured solely by the revenues derived by the
16 authority from the special facility for which they are
17 issued;
- 18 (4) The final maturity date of the revenue bonds shall not
19 be later than either the estimated life of the special
20 facility for which they are issued or the initial term
21 of the special facility lease;



1 (5) If deemed necessary or advisable by the authority, or
2 to permit the obligations of the other person to the
3 special facility lease to be registered under the U.S.
4 Securities Act of 1933, the authority, with the
5 approval of the director of finance, may appoint a
6 national or state bank within or without the State to
7 serve as trustee for the holders of the revenue bonds
8 and may enter into a trust indenture or trust
9 agreement with the trustee. The trustee may be
10 authorized by the authority to collect, hold, and
11 administer the revenues derived from the special
12 facility for which the revenue bonds are issued and to
13 apply the revenues to the payment of the principal and
14 interest on the revenue bonds. If any trustee shall
15 be appointed, any trust indenture or agreement entered
16 into by the authority with the trustee may contain the
17 covenants and provisions authorized by part III of
18 chapter 39 to be inserted in a resolution adopted or
19 certificate issued, as though the words "resolution"
20 or "certificate" as used in that part read "trust
21 indenture or agreement". The covenants and provisions
22 shall not be required to be included in the resolution



1 or certificate authorizing the issuance of the revenue
2 bonds if included in the trust agreement or indenture.
3 Any resolution or certificate, trust indenture, or
4 trust agreement adopted, issued, or entered into by
5 the authority pursuant to this part may also contain
6 any provisions required for the qualification thereof
7 under the U.S. Trust Indenture Act of 1939. The
8 authority may pledge and assign to the trustee the
9 special facility lease and the rights of the authority
10 including the revenues thereunder;

11 (6) If the authority, with the approval of the director of
12 finance, shall have appointed or shall appoint a
13 trustee for the holders of the revenue bonds, then
14 notwithstanding the provisions of the second sentence
15 of section 39-68, the director of finance may elect
16 not to serve as fiscal agent for the payment of the
17 principal and interest, and for the purchase,
18 registration, transfer, exchange, and redemption, of
19 the revenue bonds, or may elect to limit the functions
20 the director of finance shall perform as the fiscal
21 agent. The authority, with the approval of the
22 director of finance, may appoint the trustee to serve



1 as the fiscal agent, and may authorize and empower the
2 trustee to perform the functions with respect to
3 payment, purchase, registration, transfer, exchange,
4 and redemption, that the authority may deem necessary,
5 advisable, or expedient, including, without
6 limitation, the holding of the revenue bonds and
7 coupons which have been paid and the supervision and
8 conduction of the destruction thereof in accordance
9 with sections 40-10 and 40-11. Nothing in this
10 paragraph shall be a limitation upon or construed as a
11 limitation upon the powers granted in the preceding
12 paragraph to the authority, with the approval of the
13 director of finance, to appoint the trustee, or
14 granted in sections 36-3 and 39-13 and the third
15 sentence of section 39-68 to the director of finance
16 to appoint the trustee or others, as fiscal agents,
17 paying agents, and registrars for the revenue bonds or
18 to authorize and empower the fiscal agents, paying
19 agents, and registrars to perform the functions
20 referred to in that paragraph and sections, it being
21 the intent of this paragraph to confirm that the
22 director of finance as aforesaid may elect not to



1 serve as fiscal agent for the revenue bonds or may
2 elect to limit the functions the director of finance
3 shall perform as the fiscal agent, that the director
4 of finance may deem necessary, advisable, or
5 expedient;

6 (7) The authority may sell the revenue bonds either at
7 public or private sale;

8 (8) If no trustee shall be appointed to collect, hold, and
9 administer the revenues derived from the special
10 facility for which the revenue bonds are issued, the
11 revenues shall be held in a separate account in the
12 treasury of the State, separate and apart from the
13 Hawaii community development revolving fund, to be
14 applied solely to the carrying out of the resolution,
15 certificate, trust indenture, or trust agreement
16 authorizing or securing the revenue bonds;

17 (9) If the resolution, certificate, trust indenture, or
18 trust agreement shall provide that no revenue bonds
19 issued thereunder shall be valid or obligatory for any
20 purpose unless certified or authenticated by the
21 trustee for the holders of the revenue bonds,
22 signatures of the officers of the State upon the bonds



1 required by section 39-56 may be facsimiles of their
2 signatures;

3 (10) Proceeds of the revenue bonds may be used and applied
4 by the authority to reimburse the other person to the
5 special facility lease for all preliminary costs and
6 expenses, including architectural and legal costs; and

7 (11) If the special facility lease shall require the other
8 person to operate, maintain, and repair the special
9 facility which is the subject of the lease, at the
10 other person's expense, the requirement shall
11 constitute compliance by the authority with section
12 39-61(a)(2), and none of the revenues derived by the
13 authority from the special facility shall be required
14 to be applied to the purposes of section 39-62(2).
15 Sections 39-62(4), 39-62(5), and 39-62(6) shall not
16 apply to the revenues derived from a special facility
17 lease."

18 SECTION 13. The term of office of each existing member of
19 the Hawaii community development authority in office as of the
20 day before the effective date of this Act shall terminate on
21 March 1, 2015. The nomination and appointment of successor
22 members of the authority pursuant to section 3 of this Act shall



1 not cause the term of office of any existing member to terminate
2 before that date, regardless of the date of the successor
3 member's appointment by and with the advice and consent of the
4 senate.

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

14 The nomination and appointment by and with the advice and
15 consent of the senate of members of the Hawaii community
16 development authority pursuant to section 3 of this Act shall
17 take place as expeditiously as possible so that, to the extent
18 possible, there are no vacancies in the membership of the
19 authority as of March 1, 2015. The speaker of the house of
20 representatives, president of the senate, and applicable county
21 council shall each submit lists of three nominees for each
22 appointment subject to their respective nominating authority, as



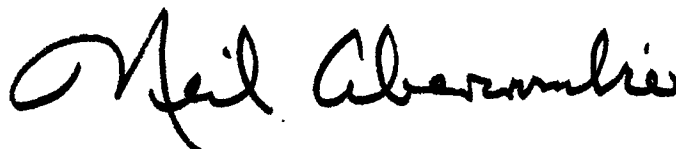
1 required by section 3 of this Act, no later than December 30,
2 2014. The governor shall make all appointments of members of
3 the authority, including from each of the lists submitted, no
4 later than January 29, 2015.

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

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

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

APPROVED this 30 day of APR, 2014



GOVERNOR OF THE STATE OF HAWAII

