

JAN 23 2008

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# 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. By establishing the Hawaii community  
2 development authority, the legislature sought to provide a  
3 mechanism to address vast, unmet community development needs.  
4 Specifically, the legislature established the Hawaii community  
5 development authority as a "new and comprehensive authority for  
6 community development ... to join the strengths of private  
7 enterprise, public development and regulation into a new form  
8 capable of long-range planning and implementation of improved  
9 community development. ... [W]hich shall determine community  
10 development programs and cooperate with private enterprise and  
11 the various components of federal, state, and county governments  
12 in bringing plans to fruition."

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



1           It has recently come to the attention of the legislature  
2 that at least two members of the Hawaii community development  
3 authority who represent small business interests within the  
4 Kakaako community development district have been barred from  
5 voting on matters concerning the development district in which  
6 the greatest concentration of small businesses in Kakaako is  
7 located. The stated basis for this position is a purported  
8 conflict-of-interest situation arising from the Hawaii community  
9 development authority's interpretation of section 84-14(a)(1),  
10 Hawaii Revised Statutes. This result is contrary to the  
11 legislature's intent in enacting chapter 206E, Hawaii Revised  
12 Statutes.

13           It is the purpose of this Act to remedy this unintended  
14 result by providing for the designation of at least two members  
15 to represent small businesses located in the Kakaako community  
16 development district to assure that the purpose of section  
17 206E-1, Hawaii Revised Statutes, is met. The designation of  
18 these small business representatives would further one of the  
19 legislature's stated intentions for forming the Hawaii community  
20 development authority which was to address insufficient  
21 commercial and industrial facilities for rent.



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

3 "(b) The authority shall consist of thirteen voting  
4 members. The director of finance, the director of business,  
5 economic development, and tourism, the comptroller, and the  
6 director of transportation, or their respective designated  
7 representatives shall serve as ex officio, voting members. One  
8 member shall be appointed by the governor from a list of not  
9 less than three prospective appointees submitted by the  
10 president of the senate, and one member shall be appointed by  
11 the governor from a list of not less than three prospective  
12 appointees submitted by the speaker of the house of  
13 representatives. Seven members shall be appointed by the  
14 governor for staggered terms pursuant to section 26-34; provided  
15 that four members shall be appointed at large and, initially,  
16 three members, hereinafter referred to as county members, shall  
17 be selected from a list of ten prospective appointees  
18 recommended by the local governing body of the county in which  
19 the initial designated district is situated; and provided  
20 further that when vacancies occur in any of the three positions  
21 for which the members were selected from a list of county  
22 recommendations, the governor shall fill such vacancies on the



1 basis of one from a list of four recommendations, two from a  
2 list of seven recommendations, or three from a list of ten  
3 recommendations. The list of recommendations shall be made by  
4 the local governing body of the county. Of the nine members  
5 appointed either by the governor from the lists provided by the  
6 president of the senate and speaker of the house, at-large by  
7 the governor, or as county members recommended by the local  
8 governing body of the county in which the initial designated  
9 district is situated, at least two members shall represent small  
10 businesses and shall be designated as the small business  
11 representatives on the board whose purpose, among other things,  
12 is to vote on matters before the board that affect small  
13 businesses. The small business representatives shall be owners  
14 or active managers of a small business with its principal place  
15 of operation located within the physical boundaries of the  
16 initial designated district. Notwithstanding section 84-14(a),  
17 the small business representatives shall not be prohibited from  
18 voting on a matter concerning any district under the board's  
19 jurisdiction; provided that the matter being voted on is not  
20 limited to solely benefiting the specific interest of that  
21 member and the matter concerns broader interests within the  
22 district. If an additional district is designated by the



1 legislature, the total membership of the authority shall be  
2 increased as prescribed above by the appointment of three  
3 additional members, except as provided for in section 206E-191.  
4 Notwithstanding section 92-15, a majority of all members shall  
5 constitute a quorum to do business, and the concurrence of a  
6 majority of all members shall be necessary to make any action of  
7 the authority valid; except that, on any matter relating solely  
8 to a specific community development district, the members  
9 representing districts other than that specific community  
10 development district shall neither vote, nor shall they be  
11 counted to constitute a quorum, and concurrence shall be  
12 required of a majority of that portion of the authority made up  
13 of all ex officio voting members, members at large, and county  
14 and district members representing the district for which action  
15 is being proposed in order for such action to be valid. All  
16 members shall continue in office until their respective  
17 successors have been appointed and qualified. Except as herein  
18 provided, no member appointed under this subsection shall be an  
19 officer or employee of the State or its political subdivisions.

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



# S.B. NO. 3166

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

7 SECTION 4. New statutory material is underscored.

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

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INTRODUCED BY: Carol Fukunaga  
James H. Slom  
Madison J. Gill  
Sharon Chun Oakland  
Golden Trimble

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**Report Title:**

HCDA; Kakaako Small Business Representatives

**Description:**

Amends chapter 206E, HRS, to designate that at least two members of the HCDA shall be designated as the small business representatives of the HCDA and to provide that these members shall not be prohibited from voting on matters concerning small business in the initial designated district that they represent. Also directs the governor to initially designate the foregoing small business representatives from the existing members of the HCDA.

