A BILL FOR AN ACT

RELATING TO TRANSIT-ORIENTED DEVELOPMENT.

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

SECTION 1. The legislature finds that the State has a unique opportunity to address economic diversification and affordable housing shortages through transit-oriented development. The majority of state-owned lands along the transit corridor should be used in the development of rental housing at all price points. However, despite being one of the largest landowners alongside the rail transit stations, the State has yet to formulate a master plan to develop these parcels so that they can be transit-ready.

The legislature further finds that prior to any redevelopment effort, there is a need to increase all infrastructure capacity along the transit corridor, especially around each of the twenty-one transit stations. In preparation for the completion of the Honolulu rail transit project, the State must maximize the opportunities for development of land around rail stations, thereby supporting the local economy,
improving access to transportation, and increasing rail ridership.

The legislature recognizes the need for a focused effort on increasing the capacity of infrastructure to support redevelopment efforts at each of the transit stations, while avoiding the creation of another government entity for this objective. The legislature also finds that the Hawaii community development authority has existing authority pursuant to chapter 206E, Hawaii Revised Statutes, to designate, plan, and develop transit-oriented development community districts. Furthermore, the redevelopment around the transit stations will support the planned growth and density at each station.

The legislature further finds that allowing the authority to enter into public-private partnerships by establishing a lease-back arrangement between the authority and private investors will facilitate the investment of private capital in public infrastructure. For the purpose of this Act, the initial focus shall be limited to four transit stations that are adjacent to state-owned lands.

The purpose of this Act is to:
(1) Require the Hawaii community development authority to plan and develop infrastructure to service state-owned lands within a half-mile radius from the following stations: aloha stadium transit station, Kalihi transit station, Iwilei transit station, and leeward community college transit station; and

(2) Allow the authority to enter into public-private partnerships by establishing a lease-back arrangement between the authority and private investors.

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

"PART . TRANSIT-ORIENTED DEVELOPMENT COMMUNITY DISTRICTS
§206E-A Definitions. As used in this part:

"District" means a transit-oriented development community district.

§206E-B Transit-oriented development community district; purpose. The legislature finds that:

(1) The State has significant assets in four of the transit station locations on Oahu. The twenty-one stations proposed along the transit corridor are
intended to provide for much of the planned growth and urban expansion through increased density concentrated within the urban core. The State must take appropriate steps to ensure that its land assets along the transit corridor are used most efficiently and economically to support the best interests of the State;

(2) Due to their present low-density function, the districts are relatively underdeveloped and underutilized, especially in view of their proximity to the proposed Honolulu area rapid transit system. The pressure for all land uses is strong in the urban core where the potential for increased growth and development may alleviate community needs such as workforce employment, affordable housing, parks and open space, public facilities, and commercial and industrial facilities;

(3) The districts, if not redeveloped or renewed, have the potential to become blighted and deteriorated areas. Due to these areas' present economic importance to the State for industry development and resultant
employment, there is a need to preserve and enhance their value and potential; and

(4) The transit stations have the potential, if properly developed and improved, to become planned new communities in consonance with surrounding urban areas.

In coordinating community development at each of the districts, the authority shall plan a mixed-use district whereby industrial, commercial, residential, and public uses may coexist compatibly within the same area. The authority, however, shall also respect and support the present function of the transit stations as major economic centers, providing significant employment in areas such as light industrial, wholesaling, service, and commercial activity.

§206E-C Prohibitions. Notwithstanding any provision in parts I through VII of this chapter to the contrary, the authority is prohibited from selling or otherwise assigning the fee simple interest in any lands in the districts to which the authority in its corporate capacity holds title, except with respect to:
(1) Utility easements;
(2) Remnants as defined in section 171-52;
(3) Grants to any state or county department or agency;
(4) Private entities for purposes of any easement, roadway, or infrastructure improvements; or
(5) Reserved housing as defined in section 206E-101.

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

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

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

§206E-E Transit-oriented development community districts established; boundaries. Four transit-oriented development community districts are established. Each district shall include area within the boundaries of transit stations where there is significant state-owned land interest within a half-mile radius around each of the following transit stations:

1. Iwilei transit station;
2. Kapalama transit station;
3. Aloha stadium transit station; and
4. Leeward community college transit station.
§206E-F Transit-oriented development community district; development guidance policies. The following shall be the development guidance policies generally governing the authority's action in the district:

1. Development shall result in a community which permits an appropriate land mixture of residential, commercial, industrial, and other uses. A majority of the state-owned lands within each district shall be used for the development of rental housing at all price points. In view of the innovative nature of the mixed-use approach, urban design policies shall be established to provide guidelines for the public and private sectors in the proper development of the district. While the authority's development responsibilities shall 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 206B-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;

(5) Redevelopment of the district shall be compatible with plans and special districts established for the Hawaii capital 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 policies; 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
this chapter.

§206E-G Rules; adoption. The authority shall adopt rules
in accordance with chapter 91 to carry out the purposes of this
part."

SECTION 3. Section 206E-6, Hawaii Revised Statutes, is
amended to read as follows:

"§206E-6 District-wide improvement program. (a) The
authority shall develop a district-wide improvement program to
identify necessary district-wide public facilities within a
community development district.

(b) Whenever the authority shall determine to undertake,
or cause to be undertaken, any public facility as part of the
district-wide improvement program, the cost of providing the
public facilities shall be assessed against the real property in
the community development district specially benefiting from
such public facilities. The authority shall determine the areas
of the community development district which will benefit from
the public facilities to be undertaken and, if less than the
entire community development district benefits, the authority
may establish assessment areas within the community development
district. The authority may issue and sell bonds in such
amounts as may be authorized by the legislature to provide funds
to finance such public facilities. The authority shall fix the
assessments against real property specially benefited. All
assessments made pursuant to this section shall be a statutory
lien against each lot or parcel of land assessed from the date
of the notice declaring the assessment until paid and such lien
shall have priority over all other liens except the lien of
property taxes. As between liens of assessments, the earlier
lien shall be superior to the later lien.

(c) Bonds issued to provide funds to finance public
facilities shall be secured solely by the real properties
benefited or improved, the assessments thereon, or by the
revenues derived from the program for which the bonds are
issued, including reserve accounts and earnings thereon,
insurance proceeds, and other revenues, or any combination
thereof. The bonds may be additionally secured by the pledge or
assignment of loans and other agreements or any note or other
undertaking, obligation, or property held by the authority.

Bonds issued pursuant to this section and the income therefrom
shall be exempt from all state and county taxation, except
transfer and estate taxes. The bonds shall be issued according
and subject to the provisions of the rules adopted pursuant to
this section.

(d) Any other law to the contrary notwithstanding, in
assessing real property for public facilities, the authority
shall assess the real property within an assessment area
according to the special benefits conferred upon the real
property by the public facilities. These methods may include
assessment on a frontage basis or according to the area of real
property within an assessment area or any other assessment
method which assesses the real property according to the special
benefit conferred, or any combination thereof. No such
assessment levied against real property specially benefited as
provided by this chapter shall constitute a tax on real property within the meanings of any constitutional or statutory provisions.

(e) The authority shall adopt rules pursuant to chapter 91, and may amend the rules from time to time, providing for the method of undertaking and financing public facilities in an assessment area or an entire community development district. The rules adopted pursuant to this section shall include, but are not limited to, the following: methods by which the authority shall establish assessment areas; the method of assessment of real properties specially benefited; the costs to be borne by the authority, the county in which the public facilities are situated, and the property owners; the procedures before the authority relating to the creation of the assessment areas by the owners of real property therein, including provisions for petitions, bids, contracts, bonds, and notices; provisions relating to assessments; provisions relating to financing, such as bonds, revolving funds, advances from available funds, special funds for payment of bonds, payment of principal and interest, and sale and use of bonds; provisions relating to funds and refunding of outstanding debts; and
provisions relating to limitations on time to sue, and other
related provisions.

(f) Any provisions to the contrary notwithstanding, the
authority may, in its discretion, enter into any agreement with
the county in which the public facilities are located, to
implement all or part of the purposes of this section.

(g) All sums collected under this section shall be
deposited in the Hawaii community development revolving fund
established by section 206E-16; except that notwithstanding
section 206E-16, all moneys collected on account of assessments
and interest thereon for any specific public facilities financed
by the issuance of bonds shall be set apart in a separate
special fund and applied solely to the payment of the principal
and interest on these bonds, the cost of administering,
operating, and maintaining the program, the establishment of
reserves, and other purposes as may be authorized in the
proceedings providing for the issuance of the bonds. If any
surplus remains in any special fund after the payment of the
bonds chargeable against such fund, it shall be credited to and
become a part of the Hawaii community development revolving
fund. Moneys in the Hawaii community development revolving fund may be used to make up any deficiencies in the special fund.

(h) If the public facilities to be financed through bonds issued by the authority may be dedicated to the county in which the public facilities are to be located, the authority shall ensure that the public facilities are designed and constructed to meet county requirements.

(i) Notwithstanding any law to the contrary, whenever as part of a district-wide improvement program it becomes necessary to remove, relocate, replace, or reconstruct public utility facilities, the authority shall establish by rule the allocation of cost between the authority, the affected public utilities, and properties that may specially benefit from such improvement, if any. In determining the allocation of cost, the authority shall consider the cost allocation policies for improvement districts established by the county in which the removal, relocation, replacement, or reconstruction is to take place.

(j) Notwithstanding any law to the contrary, the authority may enter into a partnership agreement with any private investor for the leasing of public infrastructure to the private...
investor; provided that the partnership agreement contains the following requirements:

(1) The authority shall lease the infrastructure facility to the private investor, who shall:
   (A) Renovate, improve, or construct for the authority public infrastructure, pursuant to a ground lease or easement, and may maintain the facility; and
   (B) Lease back the public infrastructure to the authority, pursuant to a lease or easement;

(2) The land upon which the public infrastructure rests shall not be sold to the private investor; provided that the land may be leased at a nominal rate to the private investor for a term that would, at a minimum, allow the private investor to recover the capital investment that has been made to the public infrastructure, including depreciation; and

(3) The authority shall have the option of purchasing the public infrastructure from the private investor for the remaining balance of the debt service costs incurred by the private investor at any time; provided that the lease shall terminate concurrently."
SECTION 4. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 5. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY:
Report Title:
Transit-oriented Development; Community Districts; DOT; HCDA

Description:
Establishes Transit-Oriented Development Community Districts within the Hawaii Community Development Authority along certain rail stations in the Honolulu rail transit corridor. Allows HCDA to enter into public-private partnerships and lease-back agreements for public infrastructure development.

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