STATE OF HAWAII
HAWAII COMMUNITY DEVELOPMENT AUTHORITY
Kakaako, Kalaeloa & Heeia
Honolulu, Hawaii 96813

January 9, 2019

Chairperson and Members
Hawaii Community Development Authority
State of Hawaii
Honolulu, Hawaii

HCDA Board Members:

SUBJECT:    Shall the Authority Adopt Recommendations for the 2019 Legislative Session?

SUMMARY:

Every Legislative Session, bills are introduced affecting the HCDA. As the Board meets monthly, it is logistically impossible for the Board to react on a moment’s notice. Staff recommends the Board take positions on legislation that may affect HCDA to provide staff with guidance on how they should proceed on certain items.

BACKGROUND:

The 2019 Regular Session of the Hawaii State Legislature convenes on January 16, 2019. For the 2018 legislative session, the board adopted the following recommendations.

1. The HCDA Board supports the Governor’s Supplemental Budget Request to support a law enforcement team to support homeless and illegal camping operations.
2. The HCDA board supports any measure that would support infrastructure improvement projects within its districts as long as it is coupled with staffing to support implementation.
3. The HCDA board is unable to support any measure that expands HCDA’s development districts unless it is coupled with staffing and funding to support implementation.
4. The HCDA board opposes any measure to repeal its special funds as the HCDA relies on the funds for its operations.

Regarding the budget, the board voted on October 3, 2018 to support emergency funding for HCDA Revolving Funded positions to ensure the agency can pay its employees through the end of the fiscal year.

ANALYSIS:

An emergency appropriation bill will be part of the Governor’s package of bills that will be introduced to increase the cap on revolving fund spending to pay for employee salaries. This approach was deemed preferable to asking for General Funds because it would have the least impact on the overall state budget and hopefully will speed adoption. Staff recommends support for the bill. See Attachment A.
HCDA staff has been taking the lead from the State Homeless Coordinator to support his efforts on homelessness. His assistance to HCDA has been immeasurable as he has sought creative solutions on homelessness. As of the date of this report, we are not aware of any specific proposals, but staff seeks to continue to support the Coordinator’s efforts.

In regard to infrastructure improvements, staff anticipates various bills being introduced to expand HCDA’s responsibilities to include infrastructure improvements in Transit areas or in other areas of the state. HCDA currently does not have the capacity to take on this work without funding and FTE positions. HCDA may wish to reaffirm the position it took last year.

As occurred last year, bills to expand HCDA to create new Community Development Districts could also resurface. HCDA currently does not have the capacity to take on this work without funding and FTE positions. HCDA may want to reaffirm the position it took last year.

Each session, there is a danger that HCDA’s special funds could be raided. Thus, with the possibility that special funds may be repealed, the Authority may reaffirm its previous position as well.

It is anticipated that a bill will be submitted to create greater clarity around the development of affordable housing projects using Chapter 201H within HCDA districts. The bill would clarify that projects using Chapter 201H-38 exemption shall be developed in consultation with HCDA. Staff recommends a position of comment on the specific bill as needed as the bill goes through the legislative process. See Attachment B.

Last year, a bill was introduced to create a new Community Development District in East Kapolei and to dissolve the current Kakaako Community Development District. While the bill did not gain final approval, Senate Resolution 22 passed the senate calling for a study regarding designating, dissolving, or transferring certain Community Development Districts under the HCDA. Staff recommends HCDA adopt a position to comment on any effort to dissolve a district or to study changes to the HCDA as to provide background on various issues or challenges that may emerge.

Staff will continue to update the board using the matrix used last year at least monthly and sooner if necessary.

RECOMMENDATION

HCDA staff recommends that the Board adopt the following positions:

1. The HCDA Board supports the emergency funding request designated as BED-17(19) in the Governor’s legislative package.
2. The HCDA Board supports the Governor’s budget, specifically, the transfer of Revolving Fund funded positions to the General Fund.
3. The HCDA Board supports any measure that would support infrastructure improvement projects within its jurisdiction so long as it is supported with staffing and funding to support implementation.
4. The HCDA Board is unable to support any measure that expands HCDA's development districts unless it is coupled with staffing and funding to support implementation.

5. The HCDA Board opposes any measure to repeal or to divert its special funds the HCDA relies upon for its operations.

6. The HCDA Board supports the Governor's efforts on homelessness and illegal camping on state lands.

7. The HCDA Board authorizes the Executive Director to submit comments on the bill designated as BED-10(19) to provide clarity around the development of affordable housing projects using Chapter 201H within HCDA districts.

8. The HCDA Board authorizes the Executive Director to submit comments providing insight on issues that may arise from any effort to dissolve or otherwise materially change current Community Development Districts.

Respectfully submitted,

[Signature]

Garett Kamemoto
Compliance Assurance and
Community Outreach Officer

APPROVED FOR SUBMITTAL:

[Signature]

Aedward Los Banos, Executive Director

Attachments
Exhibit A: BED-17 (19)
Exhibit B: BED-10 (19)
Exhibit C: SR-22 (2018)
A BILL FOR AN ACT

MAKING AN EMERGENCY APPROPRIATION TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

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

SECTION 1. This Act is recommended by the governor for immediate passage in accordance with section 9 of article VII of the Constitution of the State of Hawaii.

SECTION 2. Act 49, section 3, Session Laws of Hawaii 2017, appropriated $2,823,358 in revolving funds to the department of business, economic development, and tourism to fund payroll, and administrative costs for the Hawaii community development authority.

Fringe benefit costs are excluded when appropriated out of the general fund of the State of Hawaii; but fringe benefit costs must be added when revolving funds are used to fund positions.

Therefore, a critical funding shortage exists and additional revolving funds must be appropriated to cover fringe benefit costs for the Hawaii community development authority to continue to pay its employees through fiscal year 2018-2019.
The purpose of this Act is to make an emergency appropriation to provide funds for the Hawaii community development authority to cover payroll, fringe benefits, and administrative costs.

SECTION 3. The sum of $1,115,853 or so much thereof as may be necessary for fiscal year 2018-2019 for the payroll shall be appropriated out of the Hawaii community development revolving fund, for fringe benefits and administrative costs for the Hawaii community development authority.

The sum appropriated shall be expended by the Hawaii community development authority for the purposes of this Act.

Section 4. This Act shall take effect upon its approval.

INTRODUCED BY: ____________________________
BY REQUEST
Report Title:
Emergency Appropriation; Hawaii Community Development Authority

Description:
Makes an emergency appropriation to provide funds for the Hawaii Community Development Authority for its payroll, fringe benefits, and administrative costs. Effective upon approval.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.
DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT MAKING AN EMERGENCY APPROPRIATION TO THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

PURPOSE: The purpose of this Act is to make an emergency appropriation to provide funds for the Hawaii Community Development Authority (HCDA) to cover payroll, fringe benefit, and administrative costs.

MEANS: Emergency appropriation.

JUSTIFICATION: In 2017, the administration budget proposed funding in fiscal year 2018-2019 for HCDA's salaries to be funded from general, rather than CIP funds. When the budget was approved, funds had been provided from the Hawaii Community Development revolving fund.

When salaries are funded from the general funds, no fringe benefit costs need to be added, but when they are funded through revolving funds, fringe benefit costs need to be added. As a result, the HCDA is short $1,115,853 in its budget.

Without an emergency appropriation, HCDA cannot operate for the entire fiscal year. If funding is not received, payroll cannot be made, which may have a negative impact on infrastructure projects and could lead to automatic approval development permit applications without adequate regulatory oversight.

Impact on the public: Projects to redevelop blighted and economically depressed districts of the State could be delayed. Regulatory oversight of development permits may be inadequate as staff to process the permits may not be available.
Impact on the department and other agencies:
Layoffs or furloughs may result. The department and other agencies may have to be
redeployed to provide oversight of various construction projects HCDA is involved in.
HCDA park lands may require oversight from non HCDA personnel.

GENERAL FUND: None.

OTHER FUNDS: $1,115,853 in HCDA revolving funds.

PPBS PROGRAM DESIGNATION: BED-150.

OTHER AFFECTED AGENCIES: Department of Business, Economic Development, and Tourism.

EFFECTIVE DATE: Upon approval.
A BILL FOR AN ACT

RELATING TO HOUSING.

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

SECTION 1. Hawaii's housing market suffers from a persistent shortage of housing, particularly housing that is affordable to Hawaii's workforce and lower income groups. Of the approximately 64,700 housing units that are projected to be needed between 2015 and 2025, nearly 89 per cent or about 57,500 units will be needed by these working and lower income groups (i.e., those earning 140 per cent and below the area median income). Approximately 43,800 units are estimated to be needed for renter households. The special action team on affordable rental housing has determined that additional incentives are needed to spur on rental housing development to meet the considerable demand.

The legislature finds that Chapter 201H, Hawaii Revised Statutes, provides for a forty-five-day approval process for affordable housing projects seeking district boundary amendments from the state land use commission, as well as for projects seeking county approvals and exemptions relating to planning, zoning, construction standards for subdivisions, development and

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improvement of land, and the construction of dwelling units thereon. Establishing a forty-five-day approval process for affordable housing projects seeking district boundary amendments for land areas of fifteen acres or less within the jurisdiction of the counties could expedite governmental approvals and save time and money; thereby, creating a new incentive to spur housing development.

The legislature also finds that there is a lack of clarity in the entitlement process for affordable housing projects utilizing the chapter 201H exemption provisions when such projects are in a community development district administered by the Hawaii community development authority. Greater clarity and transparency could be achieved if such 201H affordable housing projects are constructed, renovated or improved in consultation with the Hawaii community development authority.

SECTION 2. Section 201H-38, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) The corporation may develop on behalf of the State or with an eligible developer, or may assist under a government assistance program in the development of, housing projects that shall be exempt from all statutes, ordinances, charter provisions, and rules of any government agency relating to
planning, zoning, construction standards for subdivisions,
development and improvement of land, and the construction of
dwelling units thereon; provided that:

(1) The corporation finds the housing project is
consistent with the purpose and intent of this
chapter, and meets minimum requirements of health and
safety;

(2) The development of the proposed housing project does
not contravene any safety standards, tariffs, or rates
and fees approved by the public utilities commission
for public utilities or of the various boards of water
supply authorized under chapter 54;

(3) The legislative body of the county in which the
housing project is to be situated shall have approved
the project with or without modifications:

(A) The legislative body shall approve, approve with
modification, or disapprove the project by
resolution within forty-five days after the
corporation has submitted the preliminary plans
and specifications for the project to the
legislative body. If on the forty-sixth day a
project is not disapproved, it shall be deemed approved by the legislative body;

(B) No action shall be prosecuted or maintained against any county, its officials, or employees on account of actions taken by them in reviewing, approving, modifying, or disapproving the plans and specifications; and

(C) The final plans and specifications for the project shall be deemed approved by the legislative body if the final plans and specifications do not substantially deviate from the preliminary plans and specifications. The final plans and specifications for the project shall constitute the zoning, building, construction, and subdivision standards for that project. For purposes of sections 501-85 and 502-17, the executive director of the corporation or the responsible county official may certify maps and plans of lands connected with the project as having complied with applicable laws and ordinances relating to consolidation and subdivision of lands, and the maps and plans

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shall be accepted for registration or recordation by the land court and registrar; [and]

(4) The land use commission shall approve, approve with modification, or disapprove a boundary change within forty-five days after the corporation has submitted a petition to the commission as provided in section 205-4. If, on the forty-sixth day, the petition is not disapproved, it shall be deemed approved by the commission[; and]

(5) The appropriate county land use decision-making authority in which the project is located, pursuant to section 205-3.1(b) and (c), shall approve, approve with modification, or disapprove a district boundary change involving land areas of fifteen acres or less within forty-five days after the corporation has submitted a petition to the county land use decision-making authority. If on the forty-sixth day the petition is not disapproved, it shall be deemed approved by the county land use decision-making authority."

SECTION 3. Section 206E-13, Hawaii Revised Statutes, is amended to read as follows:
"Section 1. "§206E-13 Public projects. Any project or activity of any county or agency of the State, or an eligible housing project developed pursuant to section 201H-38, in a designated district shall be constructed, renovated, or improved in consultation with the authority."

Section 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

Section 5. This Act, upon its approval, shall take effect on July 1, 2019.

INTRODUCED BY: ____________________________

BY REQUEST
Report Title:
Housing; Expedited Approvals and Clarity for Eligible Affordable Housing Projects

Description:
Establishes expedited approvals for affordable housing projects seeking district boundary amendments for land areas of fifteen acres or less under the jurisdiction of the counties, as well as clarity in obtaining records of entitlements in consultation with the Hawaii Community Development Authority.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.
JUSTIFICATION SHEET

Revised:
1st DRAFT DATE:

DEPARTMENT: Business, Economic Development, and Tourism

TITLE: A BILL FOR AN ACT RELATING TO HOUSING.

PURPOSE: To (1) expedite the development of affordable housing by requiring county land use decision-making bodies to act on district boundary amendments involving land areas of 15 acres or less within 45 days pursuant to section 205-3.1 and chapter 201H, Hawaii Revised Statutes (HRS) and (2) add clarity to the entitlement process when a 201H affordable housing project is located in a community development district administered by the Hawaii Community Development Authority (HCDA).

MEANS: Amend (1) section 201H-38(a), HRS and (2) section 206E-13, HRS.

JUSTIFICATION: Hawaii's housing market suffers from a persistent shortage of housing, particularly housing that is affordable to Hawaii's workforce and lower income groups. Of the approximately 64,700 housing units that are projected to be needed between 2015 and 2025, nearly 89 percent or about 57,500 units will be needed by these working and lower income groups (i.e., those earning 140 percent and below the area median income). Approximately 43,800 units are estimated to be needed for renter households. The Special Action Team on Affordable Rental Housing has determined that additional incentives are needed to spur on rental housing development to meet the considerable demand.

Chapter 201H, HRS, provides for a 45-day approval process for affordable housing projects seeking district boundary
amendments from the State Land Use Commission (LUC), as well as for projects seeking county approvals and exemptions relating to planning, zoning, construction standards for subdivisions, development and improvement of land, and the construction of dwelling units thereon. Establishing a 45-day approval process for affordable housing projects requiring district boundary amendments for land areas of fifteen acres or less within the jurisdiction of the counties could expedite governmental approvals and save time and money; thereby, creating a new incentive to spur housing development.

Additionally, there is no formal entitlement process for 201H affordable housing projects that are located in a community development district administered by the HCDA. Requiring 201H affordable housing projects to consult with the HCDA would add clarity to the entitlement process and establish a formal record of entitlement.

**Impact on the public:** Expedited delivery of affordable housing.

**Impact on the department and other agencies:** Will reduce the number of boundary amendment petitions heard by the LUC. Also, establishes an HCDA record of entitlement process for eligible 201H affordable housing projects.

**GENERAL FUND:** None.

**OTHER FUNDS:** None.

**PPBS PROGRAM DESIGNATION:** BED 160.

**OTHER AFFECTED AGENCIES:** Land Use Commission; Hawaii Community Development Authority.

**EFFECTIVE DATE:** July 1, 2019.
SENATE RESOLUTION

REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO CONDUCT A STUDY REGARDING DESIGNATING, DISSOLVING, OR TRANSFERRING CERTAIN COMMUNITY DEVELOPMENT DISTRICTS UNDER THE HAWAII COMMUNITY DEVELOPMENT AUTHORITY.

WHEREAS, the East Kapolei Neighborhood transit-oriented development plan for approval by the City Council of the City and County of Honolulu presents a very unique opportunity to create a sustainable, responsible, and integrated community for Oahu; and

WHEREAS, the goal of the East Kapolei Neighborhood transit-oriented development plan is to foster more livable communities that take full advantage of the benefits of transit by specifically reducing transportation costs for residents, businesses, and workers; and

WHEREAS, the proposed transit-oriented development site, which is located along the proposed rail transit line to connect Downtown Honolulu with the East Kapolei region, Ho'opili, University of Hawai'i West Oahu, and East Kapolei stations, is envisioned to provide a series of transportation options for residents, workers, and visitors; and

WHEREAS, in order to create the neighborhood that the East Kapolei Neighborhood transit-oriented development plan envisions, development of new infrastructure and retrofitting of existing infrastructure are necessary in the East Kapolei area; and

WHEREAS, the Hawaii Community Development Authority was established to meet the vast community development needs of providing suitable affordable housing, sufficient commercial and industrial facilities for rent, residential areas that have facilities necessary for basic liveability, such as parks and open space, and areas that are planned for mixed uses; and

WHEREAS, the Hawaii Community Development Authority manages three community development districts, including the Kakaako
Community Development District, Kalaeloa Community Development District, and Heeia Community Development District; and

WHEREAS, these community development districts are designated by statute as areas dedicated for replanning, renewal, or redevelopment; and

WHEREAS, after the designation, the Hawaii Community Development Authority is required to develop a community development plan, which includes community development guidance policies, a district-wide improvement program, and community development rules; and

WHEREAS, if designated as a community development district, the East Kapolei area would benefit greatly from a community development plan that would enable the East Kapolei Neighborhood transit-oriented development plan to more efficiently and effectively come to fruition; and

WHEREAS, furthermore, after finding that the Kakaako area is of economic importance to the State, the Legislature designated the Kakaako Community Development District to preserve and enhance the value and potential of the area; and

WHEREAS, however, since 1976, when the Kakaako Community Development District was established by law, the Kakaako area has gone through extensive replanning, renewal, and redevelopment, including plans to allow for development along the proposed rail transit line; and

WHEREAS, this extensive redevelopment causes further discussion as to whether a community development district designation continues to be necessary for the Kakaako area; and

WHEREAS, lastly, the Heeia Community Development District was established to develop culturally appropriate agriculture, education, and natural resource restoration and management of the Heeia wetlands; and

WHEREAS, however, the cultural and natural resources protection purposes of establishing the community development district may conflict with the purposes of the Hawaii Community Development Authority.
Development Authority to provide affordable housing and areas planned for mixed uses; and

WHEREAS, thus, this body finds that the cultural and natural resources protection purposes for which the Heeia Community Development District was established may be better fulfilled by a state agency other than the Hawaii Community Development Authority; and

WHEREAS, a study is necessary to assess and analyze the existing community development districts and the designation of any new community development districts under the Hawaii Community Development Authority to ensure the goals and purposes of the Authority and the several community development districts are met; now, therefore,

BE IT RESOLVED by the Senate of the Twenty-ninth Legislature of the State of Hawaii, Regular Session of 2018, that the Legislative Reference Bureau is requested to conduct a study regarding designating, dissolving, or transferring certain community development districts under the Hawaii Community Development Authority; and

BE IT FURTHER RESOLVED that the study:

(1) Assess and analyze the impact of designating a community development district for East Kapolei;

(2) Assess and analyze the impact of dissolving the Kakaako Community Development District; and

(3) Determine the feasibility of transferring the Heeia Community Development District to the jurisdiction of a state agency other than the Hawaii Community Development Authority and, if a transfer is feasible, identify the alternative state agencies; and

BE IT FURTHER RESOLVED that the Legislative Reference Bureau is requested to submit a written report of its findings and recommendations, including any proposed legislation, to the Legislature no later than twenty days prior to the convening of the Regular Session of 2019; and
BE IT FURTHER RESOLVED that certified copies of this Resolution be transmitted to the Executive Director of the Hawaii Community Development Authority and Director of the Legislative Reference Bureau.

OFFERED BY:

[Signatures]