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# A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS.

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

1           SECTION 1. The purpose of this Act is to adopt legislation  
2 allowing the implementation of article VII, section 12 of the  
3 State Constitution, which permits the issuance of special  
4 purpose revenue bonds for governmental programs for low- and  
5 moderate-income housing.

6           SECTION 2. Chapter 39A, Hawaii Revised Statutes, is  
7 amended by adding a new part to be appropriately designated and  
8 to read as follows:

9           **"PART       . ASSISTING NOT-FOR-PROFIT PRIVATE ORGANIZATIONS**  
10           **IN THE DEVELOPMENT OF LOW- AND MODERATE-INCOME HOUSING**

11           **§39A-       Definitions.** Whenever used in this part, unless a  
12 different meaning clearly appears from the context:

13           "Department" means the department of budget and finance.

14           "Low- and moderate-income housing project" means any  
15 housing project where:

16           (1) All project units are offered for rent, of which at  
17           least:



- 1 (A) Twenty per cent of the units are rented at prices  
2 affordable to households with an income of up to  
3 fifty per cent of the area median income as  
4 determined by the U.S. Department of Housing and  
5 Urban Development;
- 6 (B) Forty per cent of the housing units in the  
7 project are rented at prices affordable to  
8 households with an income of up to eighty per  
9 cent of the area median income as determined by  
10 the U.S. Department of Housing and Urban  
11 Development; or
- 12 (C) Sixty per cent of the housing units in the  
13 project are rented at prices affordable to  
14 households with an income of up to one hundred  
15 forty per cent of the area median income as  
16 determined by the U.S. Department of Housing and  
17 Urban Development;
- 18 or
- 19 (2) All project units are offered for sale through the  
20 conveyance of individual units by deed or share, of  
21 which at least fifty per cent of the units are  
22 affordable to households with an income of up to one



1           hundred forty per cent of the area median income as  
2           determined by the U.S. Department of Housing and Urban  
3           Development;

4 provided that if there is an insufficient number of persons or  
5 families who meet the income qualifying criteria, the developer  
6 of the housing project may make units available to households  
7 with higher incomes to ensure full occupancy of the housing  
8 project.

9           "Project agreement" means any agreement entered into under  
10 this part by the department with a project party providing for  
11 the issuance of special purpose revenue bonds to finance the  
12 acquisition, purchase, design, construction, reconstruction,  
13 rehabilitation, improvement, extension, or other development of  
14 a low- and moderate-income housing project or to loan the  
15 proceeds of such bonds to assist a project party in undertaking  
16 a low- and moderate-income housing project, including without  
17 limitation any loan agreement.

18           "Project party" means a not-for-profit private organization  
19 engaged in the development of a low- and moderate-income housing  
20 project.

21           "Refinancing of outstanding obligations" or "refinancing"  
22 means: the liquidation; the retirement; the provision for



1 retirement through the proceeds of bonds issued by the State of  
2 any indebtedness of a project party incurred to finance, in  
3 whole or in part, a low- or moderate-income housing project of  
4 the project party not financed pursuant to this part; or the  
5 consolidation of such indebtedness with indebtedness of the  
6 State related to the purpose for which the indebtedness of the  
7 project party was incurred.

8 "Special purpose revenue bonds" or "bonds" means bonds,  
9 notes, or other evidence of indebtedness of the State issued  
10 pursuant to this part.

11 **§39A- Department powers as to not-for-profit private**  
12 **organizations in the development of low- and moderate-income**  
13 **housing.** In addition to powers that it may now have, the  
14 department shall have all powers necessary or convenient to  
15 accomplish the purposes of this part. The powers of the  
16 department shall include but are not limited to the following:

- 17 (1) Notwithstanding and without compliance with section  
18 103-7, but with the approval of the governor, to:
- 19 (A) Enter into and carry out a project agreement or  
20 an amendment or supplement to an existing project  
21 agreement with a project party; and



- 1 (B) Enter into and carry out any agreement whereby  
2 the obligation of a project party under a project  
3 agreement will be unconditionally guaranteed by a  
4 person other than a project party;
- 5 (2) To issue special purpose revenue bonds pursuant to and  
6 in accordance with this part;
- 7 (3) To lend the proceeds of the special purpose revenue  
8 bonds issued for a project to the project party for  
9 use and application by the project party for the  
10 project;
- 11 (4) As security for the payment of the principal, premium,  
12 if any, and interest of the special purpose revenue  
13 bonds issued for this project, to pledge, assign,  
14 hypothecate, or otherwise encumber all or any part of  
15 the revenues and receipts derived or to be derived by  
16 the department under the project agreement for the  
17 project for which such bonds are issued; to pledge and  
18 assign the interest and rights of the department under  
19 the project agreement or other agreement with respect  
20 to the project or the special purpose revenue bonds;  
21 and to pledge and assign any bond, debenture, note, or  
22 other evidence of indebtedness received by the



1 department with respect to the project; or any  
2 combination of the foregoing;

3 (5) To extend or renew any project agreement or any other  
4 agreement related to the project agreement; provided  
5 that any such renewal or extension shall be subject to  
6 the approval of the governor unless made in accordance  
7 with provisions for such extension or renewal  
8 contained in a project agreement or related agreement  
9 theretofore approved by the governor; and

10 (6) To do any and all things necessary or convenient to  
11 carry out its purposes and exercise the powers given  
12 and granted in this part;

13 provided that when the department finances or refinances a  
14 project by the issuance of special purpose revenue bonds under  
15 this part, the State shall not exercise the power of eminent  
16 domain to acquire the project or any part of the project for  
17 lease or transfer to a project party, nor shall the State  
18 operate a project on behalf of a project party.

19 **§39A- Compliance with state and local law.** The issuance  
20 of special purpose revenue bonds with respect to any project  
21 under this part shall not relieve a project party or other user  
22 of the project from the laws of the State or any of its



1 political subdivisions, or any departments or boards thereof,  
2 with respect to:

3 (1) The construction, operation, and maintenance of the  
4 project;

5 (2) Education or zoning;

6 (3) Building permits; and

7 (4) Building codes, health codes, and other laws of a  
8 similar nature pertaining to the project.

9 Such laws shall apply to the project party or another user to  
10 the same extent that they would if the costs of the project were  
11 directly financed by the project party.

12 **§39A- Conditions precedent to negotiating and entering**  
13 **into a project agreement.** Prior to entering into negotiations  
14 with a project party, the department shall require that the  
15 project party reimburse the State for any costs and expenses  
16 (direct or indirect) incurred by the State in administering and  
17 implementing the negotiations and agreement under this part, as  
18 determined by the department, even though a project agreement  
19 may not be entered into. The department may further require the  
20 deposit of moneys with it for such reimbursement. The  
21 department shall return any amount of the deposit exceeding the  
22 amount required to reimburse the State to the party that made



1 the deposit. The State shall not pay the project party any  
2 interest or earnings on the deposit.

3 Before entering into any agreement with a project party the  
4 department shall find and determine either that:

5 (1) The project party is a responsible party, whether by  
6 reason of economic assets, experience in the type of  
7 enterprise to be undertaken through the project, or  
8 some other reason; or

9 (2) The obligations of the project party under the project  
10 agreement will be unconditionally guaranteed by a  
11 person who is a responsible party, whether by reason  
12 of economic assets, experience in the type of  
13 enterprise to be undertaken through the project, or  
14 some other reason.

15 **§39A- Project agreement.** No special purpose revenue  
16 bonds shall be issued unless, at the time of issuance, the  
17 department shall have entered into a project agreement with  
18 respect to the project for the financing or refinancing of which  
19 such revenue bonds are to be issued.

20 Any project agreement entered into by the department shall  
21 contain provisions unconditionally obligating the project party  
22 to:





1           (1) Pay to the department during the period or term of the  
2           project agreement, exclusive of any renewal or  
3           extension thereof and whether or not the project is  
4           used or occupied by the project party, such sum or  
5           sums at such time or times and in such amount that  
6           will be at least sufficient to:

7           (A) Pay the principal and interest on all special  
8           purpose revenue bonds issued with respect to the  
9           project as and when they become due, including  
10          any premium payable upon any required redemption  
11          of such bonds;

12          (B) Establish or maintain such reserve, if any, as  
13          may be required by the instrument authorizing or  
14          securing the special purpose revenue bonds;

15          (C) Pay all fees and expenses, including the fees and  
16          expenses of the paying agents and trustees,  
17          incurred in connection with such special purpose  
18          revenue bonds; and

19          (D) Pay the expenses (direct or indirect) incurred by  
20          the State, as determined by the department, in  
21          administering such bonds or in carrying out the  
22          project agreement;



1           and  
2           (2) Operate, maintain, and repair the project as long as  
3           it is used in the provision of low- and moderate-  
4           income housing, and to pay all costs of its operation,  
5           maintenance, and repair.

6 Moneys received by the department pursuant to paragraph (1)(D)  
7 shall not be nor be deemed to be revenues of the project, and  
8 shall be paid into the general fund of the State.

9           **§39A- Issuance of special purpose revenue bonds to**  
10 **finance projects.** In addition to the other powers that it may  
11 otherwise have, the department may issue special purpose revenue  
12 bonds to finance or refinance the development of low- and  
13 moderate-income housing projects or to loan the proceeds of such  
14 bonds to assist project parties in the development of low- and  
15 moderate-income housing projects. All revenue bonds issued  
16 under this part are special purpose revenue bonds, and the  
17 provisions of part III of chapter 39 shall not apply. All  
18 special purpose revenue bonds shall be issued in the name of the  
19 department and not in the name of the State.

20           In determining the cost of any project, the department may  
21 also include the following:



- 1 (1) Financing charges, fees, the expenses of trustees, and  
2 the cost of paying agents to issue special purpose  
3 revenue bonds to fund the project;
- 4 (2) Interest on the bonds and the expenses of the State in  
5 connection with the bonds and the project to be  
6 financed or refinanced from the proceeds of the bonds  
7 accruing or incurred prior to and during the period of  
8 construction, not to exceed twelve months thereafter;
- 9 (3) Amounts necessary to establish or increase reserves  
10 for the special purpose revenue bonds;
- 11 (4) The cost of plans, specifications, studies, surveys,  
12 and estimates of costs and of revenues;
- 13 (5) Other expenses incidental to determining the  
14 feasibility or practicability of the project;
- 15 (6) Administration expenses;
- 16 (7) The cost of interest incurred by the project party  
17 with respect to the project prior to the issuance of  
18 the special purpose revenue bonds;
- 19 (8) Fees and expenses incurred in connection with the  
20 refinancing of outstanding obligations;
- 21 (9) Other costs, commissions, and expenses incidental to  
22 the project;



- 1 (10) The financing or refinancing of the project and  
2 placing the project in operation; and
- 3 (11) The issuance of the special purpose revenue bonds,  
4 whether incurred prior to or after the issuance of  
5 such bonds.

6 The legislature finds and determines that the exercise of  
7 the powers vested in the department by this part constitutes  
8 assistance to not-for-profit private organizations in the  
9 development of low- and moderate-income housing projects and  
10 that the issuance of special purpose revenue bonds to finance or  
11 refinance projects of or for project parties or to loan the  
12 proceeds of the bonds to assist project parties in the  
13 development of low- and moderate-income housing projects is in  
14 the public interest. The legislature further finds that this  
15 governmental assistance to not-for-profit organizations is  
16 necessary to encourage public-private partnerships to develop  
17 affordable housing for low- and moderate-income families in the  
18 State.

19 **§39A- Authorization of special purpose revenue bonds.**

- 20 (a) Special purpose revenue bonds for each single project or  
21 multi-project program for not-for-profit private organizations  
22 engaged in the development of low- and moderate-income housing



1 shall be authorized by a separate act of the legislature, by an  
2 affirmative vote of two-thirds of the members to which each  
3 house is entitled; provided that the legislature shall find that  
4 the issuance of such bonds is in the public interest; provided  
5 further that no authorization shall be made for a period  
6 exceeding five years of its enactment. Any such special purpose  
7 revenue bond authorization, or any portion of such special  
8 purpose revenue bond authorization, which has not been issued at  
9 the close of the fiscal year for the period for which the  
10 authorization is made, shall lapse. Special purpose revenue  
11 bonds issued pursuant to this part may be in one or more series  
12 for a single project, multiple projects, a single-project party,  
13 or multiple-project parties pursuant to the authority of one, or  
14 the combined authority of more than one, separate act of the  
15 legislature.

16 The department may combine into a single issue of special  
17 purpose revenue bonds two or more proposed issues of special  
18 purpose revenue bonds to assist not-for-profit private  
19 organizations in the development of low- and moderate-income  
20 housing, separately authorized as aforesaid, in the total amount  
21 of not exceeding the aggregate of the proposed separate issues  
22 of special purpose revenue bonds. The special purpose revenue



1 bonds of each issue shall be dated, shall bear interest at such  
2 rate or rates, shall mature at such time or times (not to exceed  
3 forty years from their date or dates), shall have such rank or  
4 priority, and may be made redeemable before maturity at the  
5 option of the department, at such price or prices and under such  
6 terms and conditions, all as may be determined by the  
7 department. The department shall determine the form of the  
8 special purpose revenue bonds, including any interest coupons to  
9 be attached, and the manner of execution of the special purpose  
10 revenue bonds. The department shall also fix the denomination  
11 or denominations of the special purpose revenue bonds and the  
12 place or places of payment of principal and interest, which may  
13 be at any bank or trust company within or without the State.  
14 The special purpose revenue bonds may be issued in coupon or in  
15 registered form, or both, as the department may determine.  
16 Provisions may be made for the registration of any coupon bonds  
17 as to principal alone and also as to both principal and interest  
18 and for the reconversion into coupon bonds of any bonds  
19 registered as to both principal and interest. The department  
20 may sell special purpose revenue bonds in such manner, either at  
21 public or private sale, and for such price as it may determine.



1 (b) Prior to the preparation of definitive special purpose  
2 revenue bonds, the department may issue interim receipts or  
3 temporary bonds, with or without coupons, exchangeable for  
4 definitive bonds when such bonds have been executed and are  
5 available for delivery.

6 (c) Should any bond issued under this part or any coupon  
7 pertaining to such a bond become mutilated or be lost, stolen,  
8 or destroyed, the department may cause a new bond or coupon of  
9 like date, number, and tenor to be executed and delivered in  
10 exchange and substitution for and upon the cancellation of the  
11 mutilated bond or coupon, or in lieu of and in substitution for  
12 the lost, stolen, or destroyed bond or coupon.

13 The new bond or coupon shall not be executed or delivered  
14 until the holder of the mutilated, lost, stolen, or destroyed  
15 bond or coupon has:

16 (1) Paid the reasonable expense and charges in connection  
17 therewith;

18 (2) Filed with the department or its fiduciary evidence  
19 satisfactory to the department or its fiduciary that  
20 such bond or coupon was lost, stolen, or destroyed and  
21 that the holder was the owner; and

22 (3) Furnished indemnity satisfactory to the department.



1 (d) In its discretion, the department may direct that  
2 CUSIP identification numbers shall be printed on the bonds. In  
3 the event that the numbers are imprinted on the bonds:

4 (1) No such number shall constitute a part of the contract  
5 evidenced by the particular bond upon which it is  
6 imprinted; and

7 (2) No liability shall attach to the department or any of  
8 its officers or agents, including any fiscal agent,  
9 paying agent, or registrar for the bonds, because of  
10 the numbers or their use, including any use made by  
11 the department or any of its officers or agents, or  
12 because of any inaccuracy, error, or omission with  
13 respect thereto or in such use.

14 In its discretion, the department may require that all  
15 costs of obtaining and imprinting such numbers shall be paid by  
16 the purchaser of such bonds.

17 For the purposes of this subsection, "CUSIP identification  
18 numbers" means the numbering system adopted by the Committee for  
19 Uniform Security Identification Procedures formed by the  
20 Securities Industry Association.

21 **§39A- Special purpose revenue bond anticipation notes.**

22 Whenever the department shall have authorized the issuance of





1 special purpose revenue bonds under this part, special purpose  
2 revenue bond anticipation notes of the department may be issued  
3 in anticipation of the issuance of the bonds and of the receipt  
4 of the proceeds of sale thereof, for the purpose for which the  
5 bonds have been authorized. All special purpose revenue bond  
6 anticipation notes shall be authorized by the department, and  
7 the maximum principal amount of the notes shall not exceed the  
8 authorized principal amount of the bonds. The notes shall be  
9 payable solely from and secured solely by the proceeds of the  
10 sale of the special purpose revenue bonds in anticipation of  
11 which the notes are issued and the revenues from which would be  
12 payable and by which the bonds would be secured; provided that  
13 to the extent that the principal of the notes shall be paid from  
14 moneys other than the proceeds of sale of the bonds, the maximum  
15 amount of bonds in anticipation of which the notes are issued  
16 that has been authorized shall be reduced by the amount of notes  
17 paid in such manner. The authorization, issuance, and details  
18 of the notes shall be governed by the provision of this part  
19 with respect to special purpose revenue bonds insofar as the  
20 same may apply; provided that each note, together with all  
21 renewals and extensions of the note, or refundings of the note



1 by other notes issued under this section, shall mature within  
2 five years from the date of the original note.

3       **§39A- Powers with respect to and security for special**  
4 **purpose revenue bonds.** To secure the payment of any of the  
5 special purpose revenue bonds issued pursuant to this part,  
6 including interest on the bonds, or in connection with the  
7 bonds, the department shall have the power to:

8       (1) Pledge all or any part of the revenues derived by the  
9 department from the project agreement to the punctual  
10 payment of special purpose revenue bonds issued with  
11 respect to the project financed or refinanced from  
12 bond proceeds, including interest on the bonds, and to  
13 covenant against pledging any such revenues or  
14 receipts to any other bonds or any other obligations  
15 of the department for any other purpose, except as  
16 otherwise stated in the law providing for the issuance  
17 of additional special purpose revenue bonds to be  
18 equally and ratably secured by a lien upon such  
19 revenues;

20       (2) Pledge and assign the interest of the department under  
21 the project agreement and other related agreements and



- 1 the rights, duties, and obligations of the department  
2 thereunder, including the right to receive revenues;
- 3 (3) Covenant as to the use and disposition of the proceeds  
4 from the sale of the bonds;
- 5 (4) Covenant to set aside or pay over reserves and sinking  
6 funds for the bonds and as to the disposition thereof;
- 7 (5) Covenant and prescribe as to what occurrences shall  
8 constitute "events of default" and the terms and  
9 conditions upon which any or all of the bonds shall  
10 become or may be declared due before maturity and as  
11 to the terms and conditions upon which such  
12 declaration and its consequences may be waived;
- 13 (6) Covenant as to the rights, liabilities, powers, and  
14 duties arising upon the breach by the department of  
15 any covenant, condition, or obligation;
- 16 (7) Designate a national or state bank or trust company  
17 within or without the State, incorporated in the  
18 United States, to serve as trustee for the holders of  
19 the special purpose revenue bonds and to enter into a  
20 trust indenture or trust agreement or indenture of  
21 mortgage with the trustee. The trustee may be  
22 authorized by the department to receive and receipt



1 for, hold, and administer the proceeds of the special  
2 purpose revenue bonds issued for the project and to  
3 apply the proceeds to the purposes for which the bonds  
4 are issued, or to receive and receipt for, hold, and  
5 administer the revenues derived by the department  
6 under the project agreement and to apply the revenues  
7 to the payment of the principal and interest on the  
8 bonds, or both, and any excess revenues to the payment  
9 of expenses incurred by the State in administering the  
10 bonds or in carrying out the project agreement. If a  
11 trustee is appointed, any trust indenture or trust  
12 agreement or indenture of mortgage entered into by the  
13 department with the trustee may contain whatever  
14 covenants and provisions as may be necessary,  
15 convenient, or desirable to secure the bonds. The  
16 department may pledge and assign to the trustee the  
17 interest of the department under the project agreement  
18 and other related agreements as well as the rights,  
19 duties, and obligations of the department thereunder,  
20 including the right to receive revenues thereunder.  
21 The department may appoint the trustee to serve as  
22 fiscal agent for the payment of the principal and



1 interest and for the purchase, registration, transfer,  
2 exchange, and redemption of the special purpose  
3 revenue bonds. The department may also authorize and  
4 empower the trustee to perform such functions with  
5 respect to payment, purchase, registration, transfer,  
6 exchange, and redemption as the department may deem  
7 necessary, advisable, or expedient, including without  
8 limitation the holding of the special purpose revenue  
9 bonds and coupons that have been paid and the  
10 supervision of the destruction of the bonds and  
11 coupons in accordance with law;

12 (8) Execute all instruments necessary or convenient in the  
13 exercise of the powers herein granted or in the  
14 performance of its covenants and duties; and

15 (9) Make such covenants and perform any acts as may be  
16 necessary, convenient, or desirable to secure the  
17 bonds, although such covenants, acts, or items may not  
18 be enumerated here.

19 The department shall have the power to do all things in the  
20 issuance of the bonds and for their security that are consistent  
21 with the State Constitution.



1           **§39A- Security for special purpose revenue bonds.**

2 Special purpose revenue bonds shall be payable solely from the  
3 revenues derived by the department from payments made to the  
4 department under the project agreement, project agreements, or  
5 other supplemental agreements entered into with respect to the  
6 project or projects for the financing of which the special  
7 purpose revenue bonds were issued. The special purpose revenue  
8 bonds shall be secured solely by such revenues and by the  
9 pledges and assignments authorized by this part. Subject to the  
10 prior and superior rights of outstanding bonds, claims,  
11 obligations, or mechanic's and materialman's liens, all special  
12 purpose revenue bonds of the same issue shall have a prior and  
13 paramount lien on the revenue derived from the project agreement  
14 or agreements with respect to the project or projects for which  
15 the bonds were issued. The lien shall be over and ahead of all  
16 special purpose revenue bonds of any issue payable from the  
17 revenues that may be subsequently issued and over and ahead of  
18 any claims or obligations of any nature against the revenues  
19 subsequently arising or subsequently incurred; provided that the  
20 right and privilege may be reserved by the department in the  
21 trust indenture securing an issue of special purpose revenue  
22 bonds to issue subsequently additional special purpose revenue



1 bonds, subject to legislative authorization of the issue as  
2 provided in section 39A- . The department may also permit the  
3 project party or another party on its behalf to incur debt, from  
4 time to time, payable from the revenues derived from the project  
5 agreement on a parity with the first issue of the special  
6 purpose revenue bonds. Any subsequent issue of special purpose  
7 revenue bonds and other debt issued or incurred in accordance  
8 with the provisions of the trust indenture shall be secured  
9 equally and ratably with the first issue of the special purpose  
10 revenue bond by a lien on the revenues in accordance with this  
11 part and without priority based on the date of sale, date of  
12 execution, or date of delivery.

13 Notwithstanding any other provisions herein, all or part of  
14 the property constituting the project and all interest of the  
15 project party in the project and the revenues of the project  
16 party therefrom may be subjected to the present and future lien  
17 of any mortgage of the project party securing the project  
18 party's bonds. The rights of the department and any trustee for  
19 the holders of the special purpose revenue bonds and the holders  
20 of the special purpose revenue bonds in the project and the  
21 revenues therefrom may be made subject to the prior lien of the  
22 project party's mortgage.



1           **§39A- Special purpose revenue bonds not a general**  
2 **obligation of the State.** No holder or holders of any special  
3 purpose revenue bonds issued under this part shall ever have the  
4 right to compel any exercise of the taxing power of the State to  
5 pay such bonds or the interest on the bonds, and no moneys other  
6 than the revenues pledged to such bonds shall be applied toward  
7 their payment. Each special purpose revenue bond issued under  
8 this part shall recite in substance that such bond, including  
9 interest on the bond, is not a general obligation of the State  
10 and is payable solely from the revenues pledged to the payment  
11 thereof and that such bond is not secured directly or indirectly  
12 by the full faith and credit of the State, by the general credit  
13 of the State, or by any revenue or taxes of the State other than  
14 the revenues specifically pledged thereto.

15           **§39A- Validity of special purpose revenue bonds.** The  
16 special purpose revenue bonds bearing the signature or facsimile  
17 signature of officers on the date of the signing of the bonds  
18 shall be valid and sufficient for all purposes, notwithstanding  
19 that before the delivery of and payment for the bonds, all the  
20 persons whose signatures appear on the bonds shall have ceased  
21 to be officers of the department. The special purpose revenue  
22 bonds shall contain a recital that they are issued pursuant to





1 this part, and the recital shall be conclusive evidence of their  
2 validity and of the regularity of their issuance.

3 **§39A- Use of revenues derived from project agreement.**

4 The department shall have the right to appropriate, apply, or  
5 expend the revenues derived with respect to the project  
6 agreement for a project for the following purposes:

7 (1) To pay when due all special purpose revenue bonds,  
8 premium (if any), and interest on the bonds for the  
9 payment of which the revenues are or have been  
10 pledged, charged, or otherwise encumbered, including  
11 reserves; and

12 (2) To the extent not paid by the project party to provide  
13 for all expenses of administration, operation, and  
14 maintenance of the project, including reserves.

15 Unless and until adequate provision has been made for the  
16 foregoing purposes, the department shall not transfer the  
17 revenues derived from the project agreement to the general fund  
18 of the State.

19 **§39A- Special purpose revenue bonds exempt from**  
20 **taxation.** Special purpose revenue bonds and the income derived  
21 from the bonds issued pursuant to this part shall be exempt from



1 all state, county, and municipal taxation, except for  
2 inheritance, transfer, and estate taxes.

3       **§39A- Federal tax-exempt status.** To the extent  
4 practicable, special purpose revenue bonds issued pursuant to  
5 this part shall be issued to comply with requirements imposed by  
6 applicable federal law providing that the interest on the  
7 special purpose revenue bonds shall be excluded from gross  
8 income for federal income-tax purposes (except as certain  
9 minimum taxes or environmental taxes may apply). The department  
10 may enter into agreements, establish funds or accounts, and take  
11 any action required to comply with applicable federal law.  
12 Nothing in this part shall be deemed to prohibit the issuance of  
13 special purpose revenue bonds, the interest on which may be  
14 included in gross income for federal income-tax purposes.

15       **§39A- Exemption from taxation of department property.**  
16 All revenues derived by the department from any project or under  
17 the project agreement pertaining to it shall be exempt from all  
18 state, county, and municipal taxation. Any right, title, and  
19 interest of the department in any project shall also be exempt  
20 from all state, county, and municipal taxation.

21       Except as otherwise provided by law, the interest of the  
22 project party or user of such project under the project



1 agreement or related agreement shall not be exempt from taxation  
2 to a greater extent than it would be if the costs of the project  
3 were directly financed by the project party or other user.

4       **§39A- Refunding special purpose revenue bonds.** The  
5 legislature, by an act passed by an affirmative vote of two-  
6 thirds of the members to which each house is entitled, may  
7 authorize the issuance of refunding special purpose revenue  
8 bonds for the purpose of refunding any special purpose revenue  
9 bonds then outstanding and issued under this part, whether or  
10 not such outstanding special purpose revenue bonds have matured  
11 or are then subject to redemption.

12       The legislature is further authorized to provide, by an act  
13 passed by an affirmative vote of two-thirds of the members to  
14 which each house is entitled, for the issuance of a single issue  
15 of special purpose revenue bonds for the combined purposes of:

- 16       (1) Financing or refinancing the cost of a project or  
17       improvement or expansion of the project; and  
18       (2) Refunding special purpose revenue bonds that shall  
19       have been issued under this part and shall then be  
20       outstanding, whether or not such outstanding special  
21       purpose revenue bonds have matured or are then subject  
22       to redemption.



1 Nothing in this section shall require or be deemed to require  
2 the legislature to elect to redeem or prepay special purpose  
3 revenue bonds being refunded. Moreover, nothing in this section  
4 shall require or be deemed to require the legislature to elect  
5 to redeem or prepay the special purpose revenue bonds being  
6 refunded, which were issued in the form customarily known as  
7 term bonds in accordance with any sinking fund installment  
8 schedule specified in any law authorizing the issuance thereof,  
9 or, in the event the department elects to redeem or prepay any  
10 such bonds, to redeem or prepay as of any particular date or  
11 dates. The issuance of such special purpose revenue bonds, the  
12 maturities and other details regarding the bonds, the rights and  
13 remedies of the bondholders, and the rights, powers, privileges,  
14 duties, and obligations of the department with respect to the  
15 bonds and bondholders, shall be governed by the foregoing  
16 provisions of this part insofar as may be applicable.

17 **§39A- Status of special purpose revenue bonds under**  
18 **Uniform Commercial Code.** Notwithstanding any of the provisions  
19 of this part or any recitals in any special purpose revenue  
20 bonds issued under this part, all special purpose revenue bonds  
21 shall be deemed to be investment securities under the Uniform



1 Commercial Code, chapter 490, subject only to the provisions of  
2 the special purpose revenue bonds pertaining to registration.

3       **§39A- Special purpose revenue bonds as legal investments**  
4 **and lawful security.** The special purpose revenue bonds issued  
5 pursuant to this part shall be and are declared to be legal and  
6 authorized investments for banks, savings banks, trust  
7 companies, savings and loan associations, insurance companies,  
8 credit unions, fiduciaries, trustees, guardians, and for all  
9 public funds of the State and its political corporations or  
10 subdivisions. The special purpose revenue bonds shall be  
11 eligible to secure the deposit of any and all public funds of  
12 the State and of the counties or other political corporations or  
13 subdivisions of the State. The bonds shall be lawful and  
14 sufficient security for such deposits to the extent of their  
15 value when accompanied by all unmatured coupons pertaining to  
16 the bonds.

17       **§39A- Access to and public disclosure of financial**  
18 **records of project party.** (a) Each project party with a  
19 project agreement with the department shall allow the department  
20 full access to its financial records. Upon the request of the  
21 department for the examination of the financial records, the  
22 project party shall allow the department to examine the



1 requested records within a reasonably prompt time from the date  
2 of the request. If the department requests copies of the  
3 records, the project party shall provide the copies.

4 (b) To provide the public with full knowledge of the use  
5 of the proceeds and benefits derived from special purpose  
6 revenue bonds issued under this part, the department shall  
7 require each project party with a project agreement with the  
8 department to make available to the public all relevant  
9 financial records that pertain to the use of or savings  
10 resulting from the use of special purpose revenue bonds.

11 (c) The department shall adopt rules under chapter 91 for  
12 the purpose of this section.

13 **§39A- Estimate of benefits.** (a) Each project party  
14 with a project agreement with the department shall estimate the  
15 benefits derived from the use of the proceeds of special purpose  
16 revenue bonds. The benefits estimated shall be based on a  
17 comparison between the use of the proceeds of the special  
18 purpose revenue bonds instead of other means of financing and  
19 shall be in terms of dollars projected to be or actually saved  
20 by consumers of the services of the project party. The format  
21 of and method for determining the estimates shall be established  
22 by the department and shall be uniform for each project party.



1           (b) To promote public understanding of the role played by  
2 special purpose revenue bonds in providing less costly services  
3 by a project party to the general public, the department shall  
4 take appropriate steps to ensure public access to and scrutiny  
5 of the estimates determined under subsection (a).

6           (c) The department shall adopt rules under chapter 91 for  
7 the purposes of this section.

8           **§39A- Construction of this part.** The powers conferred  
9 by this part shall be in addition and supplemental to the powers  
10 conferred by any other law. Insofar as the provisions of this  
11 part are inconsistent with the provisions of any other law, this  
12 part shall control."

13           SECTION 3. This Act shall take effect on July 1, 2006.



**Report Title:**

SPRBs; Low- and Moderate-income Housing

**Description:**

Authorizes the issuance of special purpose revenue bonds to not-for-profit private organizations for the development of qualified low- and moderate-income housing projects. (HB2991 HD1)

