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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 that permits the issuance of special purpose  
4 revenue bonds for governmental programs for low- and moderate-  
5 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-A Definitions.** As 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 United States Department of  
5           Housing and 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 United States 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 United States Department of  
17          Housing and 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 United States Department of Housing  
3           and Urban 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, or 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-B 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 a project, to:

14 (A) Pledge, assign, hypothecate, or otherwise  
15 encumber all or any part of the revenues and  
16 receipts derived or to be derived by the  
17 department under the project agreement for the  
18 project for which the bonds are issued;

19 (B) Pledge and assign the interest and rights of the  
20 department under the project agreement or other  
21 agreement with respect to the project or the  
22 special purpose revenue bonds;



- 1 (C) Pledge and assign any bond, debenture, note, or  
2 other evidence of indebtedness received by the  
3 department with respect to the project; or  
4 (D) Any combination of the foregoing;
- 5 (5) To extend or renew any project agreement or any other  
6 agreement related to the project agreement; provided  
7 that any such renewal or extension shall be subject to  
8 the approval of the governor, unless made in  
9 accordance with provisions for such extension or  
10 renewal contained in a project agreement or related  
11 agreement theretofore approved by the governor; and  
12 (6) To do any and all things necessary or convenient to  
13 carry out its purposes and exercise the powers given  
14 and granted in this part;

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

21 **§39A-C Compliance with state and local law.** The issuance  
22 of special purpose revenue bonds with respect to any project



1 under this part shall not relieve a project party or other user  
2 of the project from the laws of the State or any of its  
3 political subdivisions, or any departments or boards thereof,  
4 with respect to:

5 (1) The construction, operation, and maintenance of the  
6 project;

7 (2) Education or zoning;

8 (3) Building permits; and

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

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

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



1 department shall return any amount of the deposit exceeding the  
2 amount required to reimburse the State to the party that made  
3 the deposit. The State shall not pay the project party any  
4 interest or earnings on the deposit.

5 Before entering into any agreement with a project party,  
6 the department shall find and determine either that:

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

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

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





1 Any project agreement entered into by the department shall  
2 contain provisions unconditionally obligating the project party  
3 to:

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

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

15 (B) Establish or maintain a reserve, if any, as may  
16 be required by the instrument authorizing or  
17 securing the special purpose revenue bonds;

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



1 (D) Pay the expenses, direct or indirect, incurred by  
2 the State, as determined by the department, in  
3 administering such bonds or in carrying out the  
4 project agreement;

5 and

6 (2) Operate, maintain, and repair the project as long as  
7 it is used in the provision of low- and moderate-  
8 income housing, and to pay all costs of its operation,  
9 maintenance, and repair.

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

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



1 special purpose revenue bonds shall be issued in the name of the  
2 department and not in the name of the State.

3 In determining the cost of any project, the department may  
4 also include:

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



- 1           (8) Fees and expenses incurred in connection with the  
2           refinancing of outstanding obligations;
- 3           (9) Other costs, commissions, and expenses incidental to  
4           the project;
- 5           (10) The financing or refinancing of the project and  
6           placing the project in operation; and
- 7           (11) The issuance of the special purpose revenue bonds,  
8           whether incurred prior to or after the issuance of the  
9           bonds.

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



1           **§39A-G Authorization of special purpose revenue bonds.**

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

20           The department may combine into a single issue of special  
21 purpose revenue bonds two or more proposed issues of special  
22 purpose revenue bonds to assist not-for-profit private



1 organizations in the development of low- and moderate-income  
2 housing, separately authorized as aforesaid, in the total amount  
3 of not exceeding the aggregate of the proposed separate issues  
4 of special purpose revenue bonds. The special purpose revenue  
5 bonds of each issue:

6 (1) Shall be dated;

7 (2) Shall bear interest at such rate or rates;

8 (3) Shall mature at such time or times, not to exceed  
9 forty years from their date or dates;

10 (4) Shall have such rank or priority; and

11 (5) May be made redeemable before maturity at the option  
12 of the department, at such price or prices and under  
13 such terms and conditions,

14 all as may be determined by the department. The department  
15 shall determine the form of the special purpose revenue  
16 bonds, including any interest coupons to be attached, and the  
17 manner of execution of the special purpose revenue bonds. The  
18 department shall also fix the denomination or denominations of  
19 the special purpose revenue bonds and the place or places of  
20 payment of principal and interest that may be at any bank or  
21 trust company within or without the State. The special purpose  
22 revenue bonds may be issued in coupon or in registered form, or



1 both, as the department may determine. Provisions may be made  
2 for the registration of any coupon bonds as to principal alone  
3 and also as to both principal and interest and for the  
4 reconversion into coupon bonds of any bonds registered as to  
5 both principal and interest. The department may sell special  
6 purpose revenue bonds in such manner, either at public or  
7 private sale, and for such price as it may determine.

8 (b) Prior to the preparation of definitive special purpose  
9 revenue bonds, the department may issue interim receipts or  
10 temporary bonds, with or without coupons, exchangeable for  
11 definitive bonds when such bonds have been executed and are  
12 available for delivery.

13 (c) Should any bond issued under this part or any coupon  
14 pertaining to any bond become mutilated or be lost, stolen, or  
15 destroyed, the department may cause a new bond or coupon of like  
16 date, number, and tenor to be executed and delivered in exchange  
17 and substitution for and upon the cancellation of the mutilated  
18 bond or coupon, or in lieu of and in substitution for the lost,  
19 stolen, or destroyed bond or coupon.

20 The new bond or coupon shall not be executed or delivered  
21 until the holder of the mutilated, lost, stolen, or destroyed  
22 bond or coupon has:



- 1           (1) Paid the reasonable expense and charges in connection  
2           therewith;
- 3           (2) Filed with the department or its fiduciary evidence  
4           satisfactory to the department or its fiduciary that  
5           such bond or coupon was lost, stolen, or destroyed and  
6           that the holder was the owner; and
- 7           (3) Furnished indemnity satisfactory to the department.
- 8           (d) In its discretion, the department may direct that  
9 CUSIP identification numbers shall be printed on the bonds. In  
10 the event that the numbers are imprinted on the bonds:
- 11          (1) No such number shall constitute a part of the contract  
12          evidenced by the particular bond upon which it is  
13          imprinted; and
- 14          (2) No liability shall attach to the department or any of  
15          its officers or agents, including any fiscal agent,  
16          paying agent, or registrar for the bonds, because of  
17          the numbers or their use, including any use made by  
18          the department or any of its officers or agents, or  
19          because of any inaccuracy, error, or omission with  
20          respect thereto or in such use.





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

4 For the purposes of this subsection, "CUSIP identification  
5 numbers" means the numbering system adopted by the Committee for  
6 Uniform Security Identification Procedures formed by the  
7 Securities Industry Association.

8 **§39A-H Special purpose revenue bond anticipation notes.**

9 Whenever the department shall have authorized the issuance of  
10 special purpose revenue bonds under this part, special purpose  
11 revenue bond anticipation notes of the department may be issued  
12 in anticipation of the issuance of the bonds and of the receipt  
13 of the proceeds of sale thereof, for the purpose for which the  
14 bonds have been authorized. All special purpose revenue bond  
15 anticipation notes shall be authorized by the department, and  
16 the maximum principal amount of the notes shall not exceed the  
17 authorized principal amount of the bonds. The notes shall be  
18 payable solely from and secured solely by the proceeds of the  
19 sale of the special purpose revenue bonds in anticipation of  
20 which the notes are issued and the revenues from which would be  
21 payable and by which the bonds would be secured; provided that  
22 to the extent that the principal of the notes shall be paid from



1 moneys other than the proceeds of sale of the bonds, the maximum  
2 amount of bonds in anticipation of which the notes are issued  
3 that has been authorized shall be reduced by the amount of notes  
4 paid in such manner. The authorization, issuance, and details  
5 of the notes shall be governed by the provision of this part  
6 with respect to special purpose revenue bonds insofar as the  
7 same may apply; provided that each note, together with all  
8 renewals and extensions of the note, or refundings of the note  
9 by other notes issued under this section, shall mature within  
10 five years from the date of the original note.

11 **§39A-I Powers with respect to and security for special**  
12 **purpose revenue bonds.** To secure the payment of any of the  
13 special purpose revenue bonds issued pursuant to this part,  
14 including interest on the bonds, or in connection with the  
15 bonds, the department shall have the power to:

16 (1) Pledge all or any part of the revenues derived by the  
17 department from the project agreement to the punctual  
18 payment of special purpose revenue bonds issued with  
19 respect to the project financed or refinanced from  
20 bond proceeds, including interest on the bonds, and to  
21 covenant against pledging any such revenues or  
22 receipts to any other bonds or any other obligations



1 of the department for any other purpose, except as  
2 otherwise stated in the law providing for the issuance  
3 of additional special purpose revenue bonds to be  
4 equally and ratably secured by a lien upon such  
5 revenues;

6 (2) Pledge and assign the interest of the department under  
7 the project agreement and other related agreements and  
8 the rights, duties, and obligations of the department  
9 thereunder, including the right to receive revenues;

10 (3) Covenant as to the use and disposition of the proceeds  
11 from the sale of the bonds;

12 (4) Covenant to set aside or pay over reserves and sinking  
13 funds for the bonds and as to the disposition thereof;

14 (5) Covenant and prescribe as to what occurrences shall  
15 constitute "events of default" and the terms and  
16 conditions upon which any or all of the bonds shall  
17 become or may be declared due before maturity and as  
18 to the terms and conditions upon which the declaration  
19 and its consequences may be waived;

20 (6) Covenant as to the rights, liabilities, powers, and  
21 duties arising upon the breach by the department of  
22 any covenant, condition, or obligation;



1           (7) Designate a national or state bank or trust company  
2           within or without the state, incorporated in the  
3           United States, to serve as trustee for the holders of  
4           the special purpose revenue bonds and to enter into a  
5           trust indenture or trust agreement or indenture of  
6           mortgage with the trustee. The trustee may be  
7           authorized by the department to receive and receipt  
8           for, hold, and administer the proceeds of the special  
9           purpose revenue bonds issued for the project and to  
10          apply the proceeds to the purposes for which the bonds  
11          are issued, or to receive and receipt for, hold, and  
12          administer the revenues derived by the department  
13          under the project agreement and to apply the revenues  
14          to the payment of the principal and interest on the  
15          bonds, or both, and any excess revenues to the payment  
16          of expenses incurred by the State in administering the  
17          bonds or in carrying out the project agreement. If a  
18          trustee is appointed, any trust indenture or trust  
19          agreement or indenture of mortgage entered into by the  
20          department with the trustee may contain whatever  
21          covenants and provisions as may be necessary,  
22          convenient, or desirable to secure the bonds. The



1 department may pledge and assign to the trustee the  
2 interest of the department under the project agreement  
3 and other related agreements as well as the rights,  
4 duties, and obligations of the department thereunder,  
5 including the right to receive revenues thereunder.

6 The department may appoint the trustee to serve as  
7 fiscal agent for the payment of the principal and  
8 interest and for the purchase, registration, transfer,  
9 exchange, and redemption of the special purpose  
10 revenue bonds. The department may also authorize and  
11 empower the trustee to perform such functions with  
12 respect to payment, purchase, registration, transfer,  
13 exchange, and redemption as the department may deem  
14 necessary, advisable, or expedient, including without  
15 limitation the holding of the special purpose revenue  
16 bonds and coupons that have been paid and the  
17 supervision of the destruction of the bonds and  
18 coupons in accordance with law;

- 19 (8) Execute all instruments necessary or convenient in the  
20 exercise of the powers herein granted or in the  
21 performance of its covenants and duties; and



1           (9) Make such covenants and perform any acts as may be  
2           necessary, convenient, or desirable to secure the  
3           bonds, although such covenants, acts, or items may not  
4           be enumerated here.

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

8           **§39A-J Security for special purpose revenue bonds.**

9 Special purpose revenue bonds shall be payable solely from the  
10 revenues derived by the department from payments made to the  
11 department under the project agreement, project agreements, or  
12 other supplemental agreements entered into with respect to the  
13 project or projects for the financing of which the special  
14 purpose revenue bonds were issued. The special purpose revenue  
15 bonds shall be secured solely by such revenues and by the  
16 pledges and assignments authorized by this part. Subject to the  
17 prior and superior rights of outstanding bonds, claims,  
18 obligations, or mechanic's and materialman's liens, all special  
19 purpose revenue bonds of the same issue shall have a prior and  
20 paramount lien on the revenue derived from the project agreement  
21 or agreements with respect to the project or projects for which  
22 the bonds were issued. The lien shall be over and ahead of all



1 special purpose revenue bonds of any issue payable from the  
2 revenues that may be subsequently issued and over and ahead of  
3 any claims or obligations of any nature against the revenues  
4 subsequently arising or subsequently incurred; provided that the  
5 right and privilege may be reserved by the department in the  
6 trust indenture securing an issue of special purpose revenue  
7 bonds to issue subsequently additional special purpose revenue  
8 bonds, subject to legislative authorization of the issue as  
9 provided in section 39A-G. The department may also permit the  
10 project party or another party on its behalf to incur debt, from  
11 time to time, payable from the revenues derived from the project  
12 agreement on a parity with the first issue of the special  
13 purpose revenue bonds. Any subsequent issue of special purpose  
14 revenue bonds and other debt issued or incurred in accordance  
15 with the provisions of the trust indenture shall be secured  
16 equally and ratably with the first issue of the special purpose  
17 revenue bond by a lien on the revenues in accordance with this  
18 part and without priority based on the date of sale, date of  
19 execution, or date of delivery.

20 Notwithstanding any other provisions herein, all or part of  
21 the property constituting the project and all interest of the  
22 project party in the project and the revenues of the project



1 party therefrom may be subjected to the present and future lien  
2 of any mortgage of the project party securing the project  
3 party's bonds. The rights of the department and any trustee for  
4 the holders of the special purpose revenue bonds and the holders  
5 of the special purpose revenue bonds in the project and the  
6 revenues therefrom may be made subject to the prior lien of the  
7 project party's mortgage.

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





1           **§39A-L Validity of special purpose revenue bonds.** The  
2 special purpose revenue bonds bearing the signature or facsimile  
3 signature of officers on the date of the signing of the bonds  
4 shall be valid and sufficient for all purposes, notwithstanding  
5 that before the delivery of and payment for the bonds, all the  
6 persons whose signatures appear on the bonds shall have ceased  
7 to be officers of the department. The special purpose revenue  
8 bonds shall contain a recital that they are issued pursuant to  
9 this part, and the recital shall be conclusive evidence of their  
10 validity and of the regularity of their issuance.

11           **§39A-M Use of revenues derived from project agreement.**

12 The department shall have the right to appropriate, apply, or  
13 expend the revenues derived with respect to the project  
14 agreement for a project for the following purposes:

- 15           (1) To pay when due all special purpose revenue bonds,  
16           premium, if any, and interest on the bonds for the  
17           payment of which the revenues are or have been  
18           pledged, charged, or otherwise encumbered, including  
19           reserves; and
- 20           (2) To the extent not paid by the project party to provide  
21           for all expenses of administration, operation, and  
22           maintenance of the project, including reserves.



1 Unless and until adequate provision has been made for the  
2 foregoing purposes, the department shall not transfer the  
3 revenues derived from the project agreement to the general fund  
4 of the State.

5 **§39A-N Special purpose revenue bonds exempt from taxation.**

6 Special purpose revenue bonds and the income derived from the  
7 bonds issued pursuant to this part shall be exempt from all  
8 state, county, and municipal taxation, except for inheritance,  
9 transfer, and estate taxes.

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



1           **§39A-P Exemption from taxation of department property.**

2 All revenues derived by the department from any project or under  
3 the project agreement pertaining to it shall be exempt from all  
4 state, county, and municipal taxation. Any right, title, and  
5 interest of the department in any project shall also be exempt  
6 from all state, county, and municipal taxation.

7           Except as otherwise provided by law, the interest of the  
8 project party or user of such project under the project  
9 agreement or related agreement shall not be exempt from taxation  
10 to a greater extent than it would be if the costs of the project  
11 were directly financed by the project party or other user.

12           **§39A-Q Refunding special purpose revenue bonds.** The  
13 legislature, by an act passed by an affirmative vote of two-  
14 thirds of the members to which each house is entitled, may  
15 authorize the issuance of refunding special purpose revenue  
16 bonds for the purpose of refunding any special purpose revenue  
17 bonds then outstanding and issued under this part, whether or  
18 not such outstanding special purpose revenue bonds have matured  
19 or are then subject to redemption.

20           The legislature is further authorized to provide, by an act  
21 passed by an affirmative vote of two-thirds of the members to



1 which each house is entitled, for the issuance of a single issue  
2 of special purpose revenue bonds for the combined purposes of:

- 3 (1) Financing or refinancing the cost of a project or  
4 improvement or expansion of the project; and  
5 (2) Refunding special purpose revenue bonds that shall  
6 have been issued under this part and shall then be  
7 outstanding, whether or not the outstanding special  
8 purpose revenue bonds have matured or are then subject  
9 to redemption.

10 Nothing in this section shall require or be deemed to require  
11 the legislature to elect to redeem or prepay special purpose  
12 revenue bonds being refunded. Moreover, nothing in this section  
13 shall require or be deemed to require the legislature to elect  
14 to redeem or prepay the special purpose revenue bonds being  
15 refunded, that were issued in the form customarily known as term  
16 bonds in accordance with any sinking fund installment schedule  
17 specified in any law authorizing the issuance thereof, or, in  
18 the event the department elects to redeem or prepay any such  
19 bonds, to redeem or prepay as of any particular date or dates.  
20 The issuance of such special purpose revenue bonds, the  
21 maturities and other details regarding the bonds, the rights and  
22 remedies of the bondholders, and the rights, powers, privileges,



1 duties, and obligations of the department with respect to the  
2 bonds and bondholders, shall be governed by the foregoing  
3 provisions of this part insofar as may be applicable.

4 **§39A-R Status of special purpose revenue bonds under**  
5 **Uniform Commercial Code.** Notwithstanding any of the provisions  
6 of this part or any recitals in any special purpose revenue  
7 bonds issued under this part, all special purpose revenue bonds  
8 shall be deemed to be investment securities under the Uniform  
9 Commercial Code, chapter 490, subject only to the provisions of  
10 the special purpose revenue bonds pertaining to registration.

11 **§39A-S Special purpose revenue bonds as legal investments**  
12 **and lawful security.** The special purpose revenue bonds issued  
13 pursuant to this part shall be and are declared to be legal and  
14 authorized investments for banks, savings banks, trust  
15 companies, savings and loan associations, insurance companies,  
16 credit unions, fiduciaries, trustees, guardians, and for all  
17 public funds of the State and its political corporations or  
18 subdivisions. The special purpose revenue bonds shall be  
19 eligible to secure the deposit of any and all public funds of  
20 the State and of the counties or other political corporations or  
21 subdivisions of the State. The bonds shall be lawful and  
22 sufficient security for such deposits to the extent of their



1 value when accompanied by all unmatured coupons pertaining to  
2 the bonds.

3       **§39A-T Access to and public disclosure of financial**  
4 **records of project party.** (a) Each project party with a  
5 project agreement with the department shall allow the department  
6 full access to its financial records. Upon the request of the  
7 department for the examination of the financial records, the  
8 project party shall allow the department to examine the  
9 requested records within a reasonably prompt time from the date  
10 of the request. If the department requests copies of the  
11 records, the project party shall provide the copies.

12       (b) To provide the public with full knowledge of the use  
13 of the proceeds and benefits derived from special purpose  
14 revenue bonds issued under this part, the department shall  
15 require each project party with a project agreement with the  
16 department to make available to the public all relevant  
17 financial records that pertain to the use of or savings  
18 resulting from the use of special purpose revenue bonds.

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

21       **§39A-U Estimate of benefits.** (a) Each project party with  
22 a project agreement with the department shall estimate the



1 benefits derived from the use of the proceeds of special purpose  
2 revenue bonds. The benefits estimated shall be based on a  
3 comparison between the use of the proceeds of the special  
4 purpose revenue bonds instead of other means of financing and  
5 shall be in terms of dollars projected to be or actually saved  
6 by consumers of the services of the project party. The format  
7 of and method for determining the estimates shall be established  
8 by the department and shall be uniform for each project party.

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

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

16 **§39A-V Construction of this part.** The powers conferred by  
17 this part shall be in addition and supplemental to the powers  
18 conferred by any other law. Insofar as the provisions of this  
19 part are inconsistent with the provisions of any other law, this  
20 part shall control."



1           SECTION 3. In codifying the new part added to chapter 39A,  
2 Hawaii Revised Statutes, by section 2 of this Act, the revisor  
3 of statutes shall substitute appropriate section numbers for the  
4 letters used in designating the new sections in this Act.

5           SECTION 4. This Act shall take effect on July 1, 2096.





**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. Effective date July 1, 2096. (HB2991 HD2)

