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# A BILL FOR AN ACT

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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 enact 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, FOR-**  
10           **PROFIT PRIVATE ORGANIZATIONS, AND PUBLIC INSTRUMENTALITIES AND**  
11           **THEIR QUALIFIED AFFILIATES IN THE DEVELOPMENT OF LOW-**  
12           **AND MODERATE-INCOME HOUSING**

13           **§39A-A Definitions.** Whenever used in this part, unless a  
14 different meaning clearly appears from the context:

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

16           "Low- and moderate-income housing project" means any  
17 housing project where:



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



1 the United States Department of Housing and Urban  
2 Development; or

3 (3) The project qualifies for federal tax exempt status  
4 pursuant to 26 U.S.C. §142(a)(7) and (d);  
5 provided that if there is an insufficient number of persons or  
6 families who meet the income qualifying criteria, the developer  
7 of the housing project may make units available to households  
8 with higher incomes to ensure full occupancy of the housing  
9 project.

10 "Project" means the acquisition, purchase, design,  
11 development, construction, reconstruction, rehabilitation,  
12 improvement, betterment, extension, financing, or refinancing of  
13 low- and moderate-income housing.

14 "Project agreement" means any agreement entered into under  
15 this part by the department with a project party providing for  
16 the issuance of special purpose revenue bonds to finance the  
17 development of low- and moderate-income housing, or to loan the  
18 proceeds of the special purpose revenue bonds to assist a  
19 project party in the development of low- and moderate-income  
20 housing, including without limitation any loan agreement.

21 "Project party" means an entity engaged in the development  
22 of a low- and moderate-income housing project, including a not-



1 for-profit private organization, for-profit private  
2 organization, or public instrumentalities and their qualified  
3 affiliates.

4 "Qualified affiliate" means a not-for-profit private  
5 organization that assists a public instrumentality or a for-  
6 profit private organization that may be a corporation,  
7 partnership, limited liability company, or trust in which each  
8 shareholder, partner, member, or beneficiary assists a public  
9 instrumentality.

10 "Refinancing of outstanding obligations" or "refinancing"  
11 means the liquidation, the retirement, or the provision for  
12 retirement through the proceeds of bonds issued by the State of  
13 any indebtedness of a project party incurred to finance, in  
14 whole or in part, a low- and moderate-income housing project of  
15 the project party not financed pursuant to this part; or the  
16 consolidation of such indebtedness with indebtedness of the  
17 State related to the purpose for which the indebtedness of the  
18 project party was initially incurred.

19 "Special purpose revenue bonds" or "bonds" means bonds,  
20 notes, or other evidence of indebtedness of the State issued  
21 pursuant to this part.



1           **§39A-B Department powers in the development of low- and**  
2 **moderate-income housing.** In addition to powers that it may now  
3 have, the department shall have all powers necessary or  
4 convenient to accomplish the purposes of this part. The powers  
5 of the department include but are not limited to the following:

6           (1) Notwithstanding and without compliance with section  
7           103-7, but with the approval of the governor, to:

8           (A) Enter into and carry out a project agreement, or  
9           an amendment or supplement to an existing project  
10           agreement, with a project party; and

11           (B) Enter into and carry out any agreement whereby  
12           the obligation of a project party under a project  
13           agreement will be unconditionally guaranteed by a  
14           person other than a project party;

15           (2) To issue special purpose revenue bonds pursuant to and  
16           in accordance with this part;

17           (3) To lend the proceeds of the special purpose revenue  
18           bonds issued for a project to the project party for  
19           use and application by the project party for the  
20           project;



- 1           (4) As security for the payment of the principal, premium,  
2           if any, and interest of the special purpose revenue  
3           bonds issued for this project, to:
  - 4           (A) Pledge, assign, hypothecate, or otherwise  
5           encumber all or any part of the revenues and  
6           receipts derived or to be derived by the  
7           department under the project agreement for the  
8           project for which the bonds are issued;
  - 9           (B) Pledge and assign the interest and rights of the  
10           department under the project agreement or other  
11           agreement with respect to the project or the  
12           special purpose revenue bonds;
  - 13           (C) Pledge and assign any bond, debenture, note, or  
14           other evidence of indebtedness received by the  
15           department with respect to the project; or
  - 16           (D) Any combination of the foregoing;
- 17           (5) To extend or renew any project agreement or any other  
18           agreement related to the project agreement; provided  
19           that any renewal or extension shall be subject to the  
20           approval of the governor unless made in accordance  
21           with provisions for the extension or renewal contained



1 in a project agreement or related agreement

2 theretofore approved by the governor; and

3 (6) To do any and all things necessary or convenient to  
4 carry out its purposes and exercise the powers given  
5 and granted in this part.

6 When the department finances or refinances a project by the  
7 issuance of special purpose revenue bonds as contemplated by  
8 this part, the State shall not exercise the power of eminent  
9 domain to acquire a project or any part of the project for lease  
10 or transfer to a project party, nor shall the State operate a  
11 project on behalf of a project party.

12 **§39A-C Compliance with state and local law.** The issuance  
13 of special purpose revenue bonds with respect to any project  
14 under this part shall not relieve any project party or other  
15 user of the project from the laws, ordinances, and rules of the  
16 State or any of its political subdivisions, or any departments  
17 or boards thereof, with respect to the construction, operation,  
18 and maintenance of projects; compliance with zoning laws or  
19 regulations; obtaining of building permits; and compliance with  
20 building codes, health codes, and other laws, ordinances, or  
21 rules of a similar nature pertaining to the project. These laws  
22 shall apply to the party or another user to the same extent that



1 it would be if the costs of the project were directly financed  
2 by the project party.

3       **§39A-D Conditions precedent to negotiating and entering**  
4 **into a project agreement.** Prior to entering into negotiations  
5 with any project party, the department shall require that the  
6 project party reimburse the State for any and all costs and  
7 expenses, direct or indirect, incurred by the State in  
8 implementing and administering this part, as determined by the  
9 department, even though a project agreement may not be entered  
10 into and may further require the deposit of moneys with the  
11 department for reimbursement. The department shall return any  
12 amount of the deposit exceeding the amount required to reimburse  
13 the State to the party that made the deposit. The State shall  
14 not be required to pay to the project party any interest or  
15 earnings on the deposit.

16       The department shall not enter into any project agreement  
17 with respect to any project unless the department shall first  
18 find and determine either that:

- 19       (1) The project party is a responsible party, whether by  
20           reason of economic assets or experience in the type of  
21           enterprise to be undertaken through the project or  
22           some other reason; or





1 (2) The obligations of the project party under the project  
2 agreement will be unconditionally guaranteed by a  
3 person who is a responsible party, whether by reason  
4 of economic assets or experience in the type of  
5 enterprise to be undertaken through the project or  
6 some other reason.

7 **§39A-E Project agreement.** No special purpose revenue  
8 bonds shall be issued unless, at the time of issuance, the  
9 department shall have entered into a project agreement with  
10 respect to the project for the financing or refinancing of which  
11 the bonds are to be issued. Any project agreement entered into  
12 by the department shall contain provisions unconditionally  
13 obligating the project party to:

14 (1) Pay to the department during the period or term of the  
15 project agreement, exclusive of any renewal or  
16 extension thereof and whether or not the project is  
17 used or occupied by the project party, a sum at a time  
18 and in an amount that shall be at least sufficient to:

19 (A) Pay the principal and interest on all special  
20 purpose revenue bonds issued with respect to the  
21 project as and when they become due, including



1 any premium payable upon any required redemption  
2 of the bonds;

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

6 (C) Pay all fees and expenses, including the fees and  
7 expenses of the paying agents and trustees,  
8 incurred in connection with the special purpose  
9 revenue bonds; and

10 (D) Pay the expenses, direct or indirect, incurred by  
11 the State, as determined by the department, in  
12 administering the bonds or in carrying out the  
13 project agreement;

14 and

15 (2) Operate, maintain, and repair the project as long as  
16 it is used to provide low- and moderate-income  
17 housing, and to pay all costs of operation,  
18 maintenance, and repair.

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



1           **§39A-F Issuance of special purpose revenue bonds to**  
2 **finance projects.** In addition to the other powers that it may  
3 otherwise have, the department may issue special purpose revenue  
4 bonds to finance or refinance the costs of developing low- and  
5 moderate-income housing or to loan the proceeds of bonds to  
6 assist project parties in the development of low- and moderate-  
7 income housing. All bonds issued under this part are special  
8 purpose revenue bonds and the provisions of part III of chapter  
9 39 shall not apply. All special purpose revenue bonds shall be  
10 issued in the name of the department and not in the name of the  
11 State.

12           In determining the cost of any project, the department may  
13 also include:

- 14           (1) Financing charges, fees, the expenses of trustees, and  
15           the cost of paying agents to issue special purpose  
16           revenue bonds to fund the project;
- 17           (2) Interest on the bonds and the expenses of the State in  
18           connection with the bonds and the project to be  
19           financed or refinanced from the proceeds of the bonds  
20           accruing or incurred prior to and during the period of  
21           construction, not to exceed twelve months thereafter;

- 1 (3) Amounts necessary to establish or increase reserves  
2 for the special purpose revenue bonds;
- 3 (4) The cost of plans, specifications, studies, surveys,  
4 and estimates of costs and of revenues;
- 5 (5) Other expenses incidental to determining the  
6 feasibility or practicability of the project;
- 7 (6) Administration expenses;
- 8 (7) The cost of interest incurred by the project party  
9 with respect to the project prior to the issuance of  
10 the special purpose revenue bonds;
- 11 (8) Fees and expenses incurred in connection with the  
12 refinancing of outstanding obligations;
- 13 (9) Other costs, commissions, and expenses incidental to  
14 the project;
- 15 (10) The financing or refinancing of the project and  
16 placing the project in operation; and
- 17 (11) The issuance of the special purpose revenue bonds,  
18 whether incurred prior to or after the issuance of the  
19 bonds.

20 The legislature finds and determines that the exercise of  
21 the powers vested in the department by this part constitutes  
22 assistance to not-for-profit private organizations, for-profit



1 private organizations, and public instrumentalities and their  
2 qualified affiliates in the development of low- and moderate-  
3 income housing, and that the issuance of special purpose revenue  
4 bonds to finance or refinance projects of or for project parties  
5 or to loan the proceeds of the bonds to assist project parties  
6 in the development of low- and moderate-income housing is in the  
7 public interest. The legislature further finds that this  
8 governmental assistance to not-for-profit private organizations,  
9 for-profit private organizations, and public instrumentalities  
10 and their qualified affiliates is necessary to encourage public-  
11 private partnerships to develop affordable housing for low- and  
12 moderate-income families in the state.

13 **§39A-G Authorization of special purpose revenue bonds.**

14 (a) The department, with the approval of the governor, may  
15 issue special purpose revenue bonds for each single project or  
16 multi-project program for not-for-profit private organizations,  
17 for profit private organizations, and public instrumentalities  
18 and their qualified affiliates engaged in the development of  
19 low- and moderate-income housing that has been authorized by a  
20 separate act of the legislature, by an affirmative vote of two-  
21 thirds of the members to which each house is entitled; provided  
22 that the legislature shall find that the issuance of the special



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

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

- 1 (1) Shall be dated;
- 2 (2) Shall bear interest at a rate or rates;
- 3 (3) Shall mature at a time or times, not to exceed forty  
4 years from their date or dates;
- 5 (4) Shall have a rank or priority; and
- 6 (5) May be made redeemable before maturity at the option  
7 of the department, at a price or prices and under  
8 terms and conditions,  
9 all as may be determined by the department.

10 The department shall determine the form of the special  
11 purpose revenue bonds, including any interest coupons to be  
12 attached, and the manner of execution of the special purpose  
13 revenue bonds. The department shall also fix the denomination  
14 or denominations of the special purpose revenue bonds and the  
15 place or places of payment of principal and interest, which may  
16 be at any bank or trust company approved by the director of  
17 finance within or without the state. The special purpose  
18 revenue bonds may be issued in coupon or in registered form, or  
19 both, as the department may determine. Provisions may be made  
20 for the registration of any coupon bonds as to principal alone  
21 and also as to both principal and interest and for the  
22 reconversion into coupon bonds of any bonds registered as to



1 both principal and interest. The department may sell special  
2 purpose revenue bonds in a manner, either at public or private  
3 sale, and for a price as it may determine.

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

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

16 The new bond or coupon shall not be executed or delivered  
17 until the holder of the mutilated, lost, stolen, or destroyed  
18 bond or coupon has:

19 (1) Paid the reasonable expense and charges in connection  
20 therewith;

21 (2) Filed with the department or its fiduciary evidence  
22 satisfactory to the department or its fiduciary that





1 the bond or coupon was lost, stolen, or destroyed, if  
2 such was the case, and that the holder was the owner;  
3 and

4 (3) Has furnished indemnity satisfactory to the  
5 department.

6 (d) In its discretion, the department may direct that  
7 CUSIP identification numbers shall be printed on the bonds. If  
8 CUSIP identification numbers are imprinted on the bonds:

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

12 (2) No liability shall attach to the department or any of  
13 its officers or agents, including any fiscal agent,  
14 paying agent, or registrar for the bonds, because of  
15 the numbers or their use, including any use made by  
16 the department or any of its officers or agents, or  
17 because of any inaccuracy, error, or omission with  
18 respect thereto or in the numbers' use.

19 In its discretion, the department may require that all  
20 costs of obtaining and imprinting the CUSIP identification  
21 numbers shall be paid by the purchaser of the bonds.

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

5 **§39A-H Special purpose revenue bond anticipation notes.**

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



1 paid in that manner. The authorization, issuance, and details  
2 of the notes shall be governed by the provision of this part  
3 with respect to special purpose revenue bonds insofar as the  
4 same may apply; provided that each note, together with all  
5 renewals and extensions of the note, or refundings of the note  
6 by other notes issued under this section, shall mature within  
7 five years from the date of the original note.

8 **§39A-I Powers with respect to and security for special**  
9 **purpose revenue bonds.** To secure the payment of any of the  
10 special purpose revenue bonds issued pursuant to this part,  
11 including interest on the bonds, or in connection with the  
12 bonds, the department shall have the power to:

13 (1) Pledge all or any part of the revenues derived by the  
14 department from the project agreement to the punctual  
15 payment of special purpose revenue bonds issued with  
16 respect to the project financed or refinanced from  
17 bond proceeds, including interest on the bonds, and to  
18 covenant against pledging any revenues or receipts to  
19 any other bonds or any other obligations of the  
20 department for any other purpose, except as otherwise  
21 stated in the law providing for the issuance of



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

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



1 duties, and obligations of the department thereunder,  
2 including the right to receive revenues thereunder.  
3 The department may appoint the trustee to serve as  
4 fiscal agent for the payment of the principal and  
5 interest and for the purchase, registration, transfer,  
6 exchange, and redemption of the special purpose  
7 revenue bonds. The department may also authorize and  
8 empower the trustee to perform functions with respect  
9 to payment, purchase, registration, transfer,  
10 exchange, and redemption as the department may deem  
11 necessary, advisable, or expedient, including, without  
12 limitation, the holding of the special purpose revenue  
13 bonds and coupons that have been paid and the  
14 supervision of the destruction of the bonds and  
15 coupons according to the law;

16 (8) Execute all instruments necessary or convenient in the  
17 exercise of the powers herein granted or in the  
18 performance of its covenants and duties; and

19 (9) Make covenants and perform any acts as may be  
20 necessary, convenient, or desirable to secure the  
21 bonds, although such covenants, acts, or items may not  
22 be enumerated here.

1 The department may do all things in the issuance of the bonds  
2 and for their security that are consistent with the Constitution  
3 of the State of Hawaii.

4 **§39A-J Security for special purpose revenue bonds.**

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



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

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





1 the holders of the special purpose revenue bonds in the project  
2 and the revenues therefrom may be made subject to the prior lien  
3 of the project party's mortgage.

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

18 **§39A-L Validity of special purpose revenue bonds.** The  
19 special purpose revenue bonds bearing the signature or facsimile  
20 signature of officers on the date of the signing of the bonds  
21 shall be valid and sufficient for all purposes, notwithstanding  
22 that before the delivery of and payment for the bonds, all the



1 persons whose signatures appear on the bonds shall have ceased  
2 to be officers of the department. The special purpose revenue  
3 bonds shall contain a recital that they are issued pursuant to  
4 this part, and the recital shall be conclusive evidence of their  
5 validity and of the regularity of their issuance.

6 **§39A-M Use of revenues derived from project agreement.**

7 The department may appropriate, apply, or expend the revenues  
8 derived with respect to the project agreement for a project for  
9 the following purposes:

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

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

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



1           **§39A-N Special purpose revenue bonds exempt from taxation.**

2 Special purpose revenue bonds and the income derived from the  
3 bonds issued pursuant to this part shall be exempt from all  
4 state, county, and municipal taxation, except for inheritance,  
5 transfer, and estate taxes.

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

18           **§39A-P Exemption from taxation of department property.**

19 All revenues derived by the department from any project or under  
20 the project agreement pertaining to it shall be exempt from all  
21 state, county, and municipal taxation. Any right, title, and



1 interest of the department in any project shall also be exempt  
2 from all state, county, and municipal taxation.

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

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

16 The legislature may also provide, by an act passed by an  
17 affirmative vote of two-thirds of the members to which each  
18 house is entitled, for the issuance of a single issue of special  
19 purpose revenue bonds for the combined purposes of:

20 (1) Financing or refinancing the cost of a project or  
21 improvement or expansion of the project; and



1           (2) Refunding special purpose revenue bonds that shall  
2           have been issued under this part and shall then be  
3           outstanding, whether or not the outstanding special  
4           purpose revenue bonds have matured or are then subject  
5           to redemption.

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

1           **§39A-R Status of special purpose revenue bonds under**  
2 **Uniform Commercial Code.** Notwithstanding any of the provisions  
3 of this part or any recitals in any special purpose revenue  
4 bonds issued under this part, all special purpose revenue bonds  
5 shall be deemed to be investment securities under the Uniform  
6 Commercial Code, chapter 490, subject only to the provisions of  
7 the special purpose revenue bonds pertaining to registration.

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



1           **§39A-T Access to and public disclosure of financial**  
2 **records of project party.** (a) Each project party with a  
3 project agreement with the department shall allow the department  
4 full access to its financial records. Upon the request of the  
5 department for the examination of the financial records, the  
6 project party shall allow the department to examine the  
7 requested records within a reasonably prompt time from the date  
8 of the request. If the department requests copies of the  
9 records, the project party shall provide the copies.

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

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

19           **§39A-U Estimate of benefits.** (a) Each project party with  
20 a project agreement with the department shall estimate the  
21 benefits derived from the use of the proceeds of special purpose  
22 revenue bonds. The benefits estimated shall be based on a



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

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

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

14 **§39A-V Construction of this part.** The powers conferred by  
15 this part shall be in addition and supplemental to the powers  
16 conferred by any other law. Insofar as the provisions of this  
17 part are inconsistent with the provisions of any other law, this  
18 part shall control."

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



**1** SECTION 4. This Act shall take effect on July 1, 2006.

HB NO. 2991 HD2  
SD2  
CD1

**Report Title:**

SPRBs; Low- and Moderate-income Housing

**Description:**

Authorizes the issuance of special purpose revenue bonds to not-for-profit private organizations, for-profit private organizations, and public instrumentalities and their qualified affiliates for the development of qualified low- and moderate-income housing projects. (HB2991 CD1)

