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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 PUBLIC INSTRUMENTALITIES AND THEIR  
10 QUALIFIED AFFILIATES IN THE DEVELOPMENT OF LOW AND MODERATE  
11 INCOME HOUSING.

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

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

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

17 (1) All project units are offered for rent, of which at  
18 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; or
- 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  
21                  affordable to households with an income of up to one  
22                  hundred forty per cent of the area median income as



1           determined by the United States Department of Housing  
2           and Urban Development;  
3 provided that if there is an insufficient number of persons or  
4 families who meet the income qualifying criteria, the developer  
5 of the housing project may make units available to households  
6 with higher incomes to ensure full occupancy of the housing  
7 project.

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

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

20           "Project party" means a public instrumentality or qualified  
21 affiliate engaged in the development of low and moderate income  
22 housing.



1 "Qualified affiliate" means a corporation, partnership,  
2 limited liability company, or trust in which each shareholder,  
3 partner, member, or beneficiary is a private organization or a  
4 public instrumentality.

5 "Refinancing of outstanding obligations" or "refinancing"  
6 means the liquidation, the retirement, or the provision for  
7 retirement through the proceeds of bonds issued by the State of  
8 any indebtedness of a project party incurred to finance or help  
9 finance a lawful purpose of the project party not financed  
10 pursuant to this part which constitutes low and moderate income  
11 housing, or the consolidation of such indebtedness with  
12 indebtedness of the State incurred by the project party related  
13 to the purpose for which the indebtedness of the project party  
14 was initially incurred.

15 "Special purpose revenue bonds" or "bonds" means bonds,  
16 notes, or other evidence of indebtedness of the State issued  
17 pursuant to this part.

18 **§39A-B Department powers as to public instrumentalities**  
19 **and their qualified affiliates in the development of low and**  
20 **moderate income housing.** In addition to powers that it may now  
21 have, the department shall have all powers necessary or



1 convenient to accomplish the purposes of this part. The powers  
2 of the department include but are not limited to the following:

- 3 (1) Notwithstanding and without compliance with section  
4 103-7, but with the approval of the governor, to enter  
5 into and carry out a project agreement, or an  
6 amendment or supplement to an existing project  
7 agreement, with a project party, and to enter into and  
8 carry out any agreement whereby the obligation of a  
9 project party under a project agreement will be  
10 unconditionally guaranteed by a person other than a  
11 project party;
- 12 (2) To issue special purpose revenue bonds pursuant to and  
13 in accordance with this part;
- 14 (3) To lend the proceeds of the special purpose revenue  
15 bonds issued for a project to the project party for  
16 use and application by the project party for the  
17 project;
- 18 (4) As security for the payment of the principal, premium,  
19 if any, and interest of the special purpose revenue  
20 bonds issued for this project, to pledge, assign,  
21 hypothecate, or otherwise encumber all or any part of  
22 the revenues and receipts derived or to be derived by



1 the department under the project agreement for the  
2 project for which such bonds are issued; to pledge and  
3 assign the interest and rights of the department under  
4 the project agreement or other agreement with respect  
5 to the project or the special purpose revenue bonds;  
6 and to pledge and assign any bond, debenture, note, or  
7 other evidence of indebtedness received by the  
8 department with respect to the project; or any  
9 combination of the foregoing;

10 (5) To extend or renew any project agreement or any other  
11 agreement related to the project agreement; provided  
12 that any such renewal or extension shall be subject to  
13 the approval of the governor unless made in accordance  
14 with provisions for such extension or renewal  
15 contained in a project agreement or related agreement  
16 theretofore approved by the governor; and

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

20 When the department finances or refinances a project by the  
21 issuance of special purpose revenue bonds as contemplated by  
22 this part, the State shall not exercise the power of eminent



1 domain to acquire a project or any part of the project for lease  
2 or transfer to a project party.

3       **§39A-C Compliance with state and local law.** The issuance  
4 of special purpose revenue bonds with respect to any project  
5 under this part shall not relieve any project party or other  
6 user of the project from the laws, ordinances, and rules of the  
7 State or any of its political subdivisions, or any departments  
8 or boards thereof, with respect to the construction, operation,  
9 and maintenance of projects; compliance with zoning laws or  
10 regulations; obtaining of building permits; and compliance with  
11 building codes, health codes, and other laws, ordinances, or  
12 rules of a similar nature pertaining to the project. Such laws  
13 shall apply to the party or another user to the same extent that  
14 it would be if the costs of the project were directly financed  
15 by the project party.

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



1 require the deposit of moneys with the department for such  
2 reimbursement. The department shall return any amount of the  
3 deposit exceeding the amount required to reimburse the State to  
4 the party that made the deposit. The State shall not be  
5 required to pay to the project party any interest or earnings on  
6 the deposit.

7 The department shall not enter into any project agreement  
8 with respect to any project unless the department shall first  
9 find and determine either that the project party is a  
10 responsible party, whether by reason of economic assets or  
11 experience in the type of enterprise to be undertaken through  
12 the project or some other reason, or that the obligations of the  
13 project party under the project agreement will be  
14 unconditionally guaranteed by a person who is a responsible  
15 party, whether by reason of economic assets or experience in the  
16 type of enterprise to be undertaken through the project or some  
17 other reason.

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





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

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

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

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

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

21 (D) Pay the expenses (direct or indirect) incurred by  
22 the State, as determined by the department, in



1                   administering such bonds or in carrying out the  
2                   project agreement; and

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

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

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

21           In determining the cost of any project, the department may  
22 also include the following: financing charges, fees, the



1 expenses of trustees, and the cost of paying agents to issue  
2 special purpose revenue bonds to fund the project; interest on  
3 the bonds and the expenses of the State in connection with the  
4 bonds and the project to be financed or refinanced from the  
5 proceeds of the bonds accruing or incurred prior to and during  
6 the period of construction, not to exceed twelve months  
7 thereafter; amounts necessary to establish or increase reserves  
8 for the special purpose revenue bonds; the cost of plans,  
9 specifications, studies, surveys, and estimates of costs and of  
10 revenues; other expenses incidental to determining the  
11 feasibility or practicability of the project; administration  
12 expenses; the cost of interest incurred by the project party  
13 with respect to the project prior to the issuance of the special  
14 purpose revenue bonds; fees and expenses incurred in connection  
15 with the refinancing of outstanding obligations; other costs,  
16 commissions, and expenses incidental to the project; the  
17 financing or refinancing of the project and placing the project  
18 in operation; and the issuance of the special purpose revenue  
19 bonds, whether incurred prior to or after the issuance of such  
20 bonds.

21 The legislature finds and determines that the exercise of  
22 the powers vested in the department by this part constitutes



1 assistance to public instrumentalities and their qualified  
2 affiliates in the development of low and moderate income  
3 housing, and that the issuance of special purpose revenue bonds  
4 to finance or refinance projects of or for project parties or to  
5 loan the proceeds of the bonds to assist project parties in the  
6 development of low and moderate income housing is in the public  
7 interest. The legislature further finds that this governmental  
8 assistance to qualified affiliates of public instrumentalities  
9 is necessary to encourage public-private partnerships to develop  
10 affordable housing for low- and moderate-income families in the  
11 State.

12 **§39A-G Authorization of special purpose revenue bonds.**

13 (a) The department, with the approval of the governor, may  
14 issue special purpose revenue bonds for each single project or  
15 multi-project program for public instrumentalities and qualified  
16 affiliates engaged in the development of low and moderate income  
17 housing that has been authorized by a separate act of the  
18 legislature, by an affirmative vote of two-thirds of the members  
19 to which each house is entitled; provided that the legislature  
20 shall find that the issuance of the special purpose revenue  
21 bonds is in the public interest; and provided further that no  
22 authorization shall be made for a period exceeding five years of



1 its enactment. Any such special purpose revenue bond  
2 authorization, or any portion of such special purpose revenue  
3 bond authorization, which has not been issued at the close of  
4 the fiscal year for the period for which the authorization is  
5 made, shall lapse. Special purpose revenue bonds issued  
6 pursuant to this part may be in one or more series for a single  
7 project, multiple projects, a single-project party, or multiple-  
8 project parties pursuant to the authority of one, or the  
9 combined authority of more than one, separate act of the  
10 legislature.

11 The department may combine into a single issue of special  
12 purpose revenue bonds two or more proposed issues of special  
13 purpose revenue bonds to assist public instrumentalities and  
14 their qualified affiliates in the development of low and  
15 moderate income housing, separately authorized and approved by  
16 the governor as aforesaid, in the total amount not exceeding the  
17 aggregate of the proposed separate issues of special purpose  
18 revenue bonds. The special purpose revenue bonds of each issue  
19 shall be dated, shall bear interest at such rate or rates, shall  
20 mature at such time or times (not to exceed forty years from  
21 their date or dates), shall have such rank or priority, and may  
22 be made redeemable before maturity at the option of the



1 department, at such price or prices and under such terms and  
2 conditions, all as may be determined by the department. The  
3 department shall determine the form of the special purpose  
4 revenue bonds, including any interest coupons to be attached,  
5 and the manner of execution of the special purpose revenue  
6 bonds. The department shall also fix the denomination or  
7 denominations of the special purpose revenue bonds and the place  
8 or places of payment of principal and interest, which may be at  
9 any bank or trust company approved by the director of finance  
10 within or without the State. The special purpose revenue bonds  
11 may be issued in coupon or in registered form, or both, as the  
12 department may determine. Provisions may be made for the  
13 registration of any coupon bonds as to principal alone and also  
14 as to both principal and interest and for the reconversion into  
15 coupon bonds of any bonds registered as to both principal and  
16 interest. The department may sell special purpose revenue bonds  
17 in such manner, either at public or private sale, and for such  
18 price as it may determine.

19 (b) Prior to the preparation of definitive special purpose  
20 revenue bonds, the department may issue interim receipts or  
21 temporary bonds, with or without coupons, exchangeable for



1 definitive bonds when such bonds have been executed and are  
2 available for delivery.

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

10 The new bond or coupon shall not be executed or delivered  
11 until the holder of the mutilated, lost, stolen, or destroyed  
12 bond or coupon has: (1) paid the reasonable expense and charges  
13 in connection therewith; (2) filed with the department or its  
14 fiduciary evidence satisfactory to the department or its  
15 fiduciary that such bond or coupon was lost, stolen, or  
16 destroyed, if such was the case, and that the holder was the  
17 owner; and (3) has furnished indemnity satisfactory to the  
18 department.

19 (d) In its discretion, the department may direct that  
20 CUSIP identification numbers shall be printed on the bonds. In  
21 the event that the numbers are imprinted on the bonds: (1) no  
22 such number shall constitute a part of the contract evidenced by



1 the particular bond upon which it is imprinted; and (2) no  
2 liability shall attach to the department or any of its officers  
3 or agents, including any fiscal agent, paying agent, or  
4 registrar for the bonds, because of the numbers or their use,  
5 including any use made by the department or any of its officers  
6 or agents, or because of any inaccuracy, error, or omission with  
7 respect thereto or in such use. In its discretion, the  
8 department may require that all costs of obtaining and  
9 imprinting such numbers shall be paid by the purchaser of such  
10 bonds. For the purposes of this subsection, "CUSIP  
11 identification numbers" means the numbering system adopted by  
12 the Committee for Uniform Security Identification Procedures  
13 formed by the Securities Industry Association.

14 **§39A-H Special purpose revenue bond anticipation notes.**  
15 Whenever the department shall have authorized the issuance of  
16 special purpose revenue bonds under this part, special purpose  
17 revenue bond anticipation notes of the department may be issued  
18 in anticipation of the issuance of the bonds and of the receipt  
19 of the proceeds of sale thereof, for the purpose for which the  
20 bonds have been authorized. All special purpose revenue bond  
21 anticipation notes shall be authorized by the department, and  
22 the maximum principal amount of the notes shall not exceed the





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

17 **§39A-I Powers with respect to and security for special**  
18 **purpose revenue bonds.** To secure the payment of any of the  
19 special purpose revenue bonds issued pursuant to this part,  
20 including interest on the bonds, or in connection with the  
21 bonds, the department shall have the power to:



- 1           (1) Pledge all or any part of the revenues derived by the  
2           department from the project agreement to the punctual  
3           payment of special purpose revenue bonds issued with  
4           respect to the project financed or refinanced from  
5           bond proceeds, including interest on the bonds, and to  
6           covenant against pledging any such revenues or  
7           receipts to any other bonds or any other obligations  
8           of the department for any other purpose, except as  
9           otherwise stated in the law providing for the issuance  
10          of additional special purpose revenue bonds to be  
11          equally and ratably secured by a lien upon such  
12          revenues;
- 13          (2) Pledge and assign the interest of the department under  
14          the project agreement and other related agreements and  
15          the rights, duties, and obligations of the department  
16          thereunder, including the right to receive revenues;
- 17          (3) Covenant as to the use and disposition of the proceeds  
18          from the sale of the bonds;
- 19          (4) Covenant to set aside or pay over reserves and sinking  
20          funds for the bonds and as to the disposition thereof;
- 21          (5) Covenant and prescribe as to what occurrences shall  
22          constitute "events of default" and the terms and

1 conditions upon which any or all of the bonds shall  
2 become or may be declared due before maturity and as  
3 to the terms and conditions upon which such  
4 declaration and its consequences may be waived;

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

8 (7) Designate a national or state bank or trust company  
9 within or without the State, incorporated in the  
10 United States, to serve as trustee for the holders of  
11 the special purpose revenue bonds and to enter into a  
12 trust indenture or trust agreement or indenture of  
13 mortgage with the trustee. The trustee may be  
14 authorized by the department to receive and receipt  
15 for, hold, and administer the proceeds of the special  
16 purpose revenue bonds issued for the project and to  
17 apply the proceeds to the purposes for which the bonds  
18 are issued, or to receive and receipt for, hold, and  
19 administer the revenues derived by the department  
20 under the project agreement and to apply the revenues  
21 to the payment of the principal and interest on the  
22 bonds, or both, and any excess revenues to the payment



1 of expenses incurred by the State in administering the  
2 bonds or in carrying out the project agreement. If a  
3 trustee is appointed, any trust indenture or trust  
4 agreement or indenture of mortgage entered into by the  
5 department with the trustee may contain whatever  
6 covenants and provisions as may be necessary,  
7 convenient, or desirable to secure the bonds. The  
8 department may pledge and assign to the trustee the  
9 interest of the department under the project agreement  
10 and other related agreements as well as the rights,  
11 duties, and obligations of the department thereunder,  
12 including the right to receive revenues thereunder.  
13 The department may appoint the trustee to serve as  
14 fiscal agent for the payment of the principal and  
15 interest and for the purchase, registration, transfer,  
16 exchange, and redemption of the special purpose  
17 revenue bonds. The department may also authorize and  
18 empower the trustee to perform such functions with  
19 respect to payment, purchase, registration, transfer,  
20 exchange, and redemption as the department may deem  
21 necessary, advisable, or expedient, including, without  
22 limitation, the holding of the special purpose revenue



1           bonds and coupons that have been paid and the  
2           supervision of the destruction of the bonds and  
3           coupons according to the law;

4           (8) Execute all instruments necessary or convenient in the  
5           exercise of the powers herein granted or in the  
6           performance of its covenants and duties; and

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

11          The department shall have the power to do all things in the  
12          issuance of the bonds and for their security that are consistent  
13          with the Constitution of the State of Hawaii.

14          **§39A-J Security for special purpose revenue bonds.**

15          Special purpose revenue bonds shall be payable solely from the  
16          revenues derived by the department from payments made to the  
17          department under the project agreement, project agreements, or  
18          other supplemental agreements entered into with respect to the  
19          project or projects for the financing of which the special  
20          purpose revenue bonds were issued. The special purpose revenue  
21          bonds shall be secured solely by such revenues and by the  
22          pledges and assignments authorized by this part. Subject to the



1 prior and superior rights of outstanding bonds, claims,  
2 obligations, or mechanic's and materialman's liens, all special  
3 purpose revenue bonds of the same issue shall have a prior and  
4 paramount lien on the revenue derived from the project agreement  
5 or agreements with respect to the project or projects for which  
6 the bonds were issued. The lien shall be over and ahead of all  
7 special purpose revenue bonds of any issue payable from the  
8 revenues that may be subsequently issued and over and ahead of  
9 any claims or obligations of any nature against the revenues  
10 subsequently arising or subsequently incurred; provided that the  
11 right and privilege may be reserved by the department in the  
12 trust indenture securing an issue of special purpose revenue  
13 bonds to subsequently issue additional special purpose revenue  
14 bonds, subject to legislative authorization of the issue as  
15 provided in section 39A-G. The department may also permit the  
16 project party or another party on its behalf to incur debt, from  
17 time to time, payable from the revenues derived from the project  
18 agreement on a parity with the first issue of the special  
19 purpose revenue bonds. Any subsequent issue of special purpose  
20 revenue bonds and other debt issued or incurred in accordance  
21 with the provisions of the trust indenture shall be secured  
22 equally and ratably with the first issue of the special purpose



1 revenue bond by a lien on the revenues in accordance with this  
2 part and without priority based on the date of sale, date of  
3 execution, or date of delivery.

4 Notwithstanding any other provisions herein, all or part of  
5 the property constituting the project and all interest of the  
6 project party in the project and the revenues of the project  
7 party therefrom may be subjected to the present and future lien  
8 of any mortgage of the project party securing the project  
9 party's bonds. The rights of the department and any trustee for  
10 the holders of the special purpose revenue bonds and the holders  
11 of the special purpose revenue bonds in the project and the  
12 revenues therefrom may be made subject to the prior lien of the  
13 project party's mortgage.

14 **§39A-K Special purpose revenue bonds not a general**  
15 **obligation of the State.** No holder or holders of any special  
16 purpose revenue bonds issued under this part shall ever have the  
17 right to compel any exercise of the taxing power of the State to  
18 pay such bonds or the interest on the bonds, and no moneys other  
19 than the revenues pledged to such bonds shall be applied toward  
20 their payment. Each special purpose revenue bond issued under  
21 this part shall recite in substance that such bond, including  
22 interest on the bond, is not a general obligation of the State



1 and is payable solely from the revenues pledged to the payment  
2 thereof and that such bond is not secured directly or indirectly  
3 by the full faith and credit of the State, by the general credit  
4 of the State, or by any revenue or taxes of the State other than  
5 the revenues specifically pledged thereto.

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

16 **§39A-M Use of revenues derived from project agreement.**  
17 The department shall have the right to appropriate, apply, or  
18 expend the revenues derived with respect to the project  
19 agreement for a project for the following purposes:

20 (1) To pay when due all special purpose revenue bonds,  
21 premium (if any), and interest on the bonds for the  
22 payment of which the revenues are or have been





1 pledged, charged, or otherwise encumbered, including  
2 reserves; and

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

6 Unless and until adequate provision has been made for the  
7 foregoing purposes, the department shall not transfer the  
8 revenues derived from the project agreement to the general fund  
9 of the State.

10 **§39A-N Special purpose revenue bonds exempt from taxation.**

11 Special purpose revenue bonds and the income derived from the  
12 bonds issued pursuant to this part shall be exempt from all  
13 state, county, and municipal taxation, except for inheritance,  
14 transfer, and estate taxes.

15 **§39A-O Federal tax-exempt status.** To the extent  
16 practicable, special purpose revenue bonds issued pursuant to  
17 this part shall be issued to comply with requirements imposed by  
18 applicable federal law providing that the interest on the  
19 special purpose revenue bonds shall be excluded from gross  
20 income for federal income-tax purposes (except as certain  
21 minimum taxes or environmental taxes may apply). The department  
22 may enter into agreements, establish funds or accounts, and take



1 any action required to comply with applicable federal law.  
2 Nothing in this part shall be deemed to prohibit the issuance of  
3 special purpose revenue bonds, the interest on which may be  
4 included in gross income for federal income-tax purposes.

5 **§39A-P Exemption from taxation of department property.**

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

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

16 **§39A-Q Refunding special purpose revenue bonds.** The  
17 legislature, by an act passed by an affirmative vote of  
18 two-thirds of the members to which each house is entitled, may  
19 authorize the issuance of refunding special purpose revenue  
20 bonds for the purpose of refunding any special purpose revenue  
21 bonds then outstanding and issued under this part, whether or



1 not such outstanding special purpose revenue bonds have matured  
2 or are then subject to redemption.

3 The legislature is further authorized to provide, by an act  
4 passed by an affirmative vote of two-thirds of the members to  
5 which each house is entitled, for the issuance of a single issue  
6 of special purpose revenue bonds for the combined purposes of:  
7 (1) financing or refinancing the cost of a project or  
8 improvement or expansion of the project; and (2) refunding  
9 special purpose revenue bonds that shall have been issued under  
10 this part and shall then be outstanding, whether or not such  
11 outstanding special purpose revenue bonds have matured or are  
12 then subject to redemption.

13 Nothing in this section shall require or be deemed to  
14 require the legislature to elect to redeem or prepay special  
15 purpose revenue bonds being refunded. Moreover, nothing in this  
16 section shall require or be deemed to require the legislature to  
17 elect to redeem or prepay the special purpose revenue bonds  
18 being refunded, which were issued in the form customarily known  
19 as term bonds in accordance with any sinking fund installment  
20 schedule specified in any law authorizing the issuance thereof,  
21 or, in the event the department elects to redeem or prepay any  
22 such bonds, to redeem or prepay as of any particular date or



1 dates. The issuance of such special purpose revenue bonds, the  
2 maturities and other details regarding the bonds, the rights and  
3 remedies of the bondholders, and the rights, powers, privileges,  
4 duties, and obligations of the department with respect to the  
5 bonds and bondholders, shall be governed by the foregoing  
6 provisions of this part insofar as may be applicable.

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

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



1 the State and of the counties or other political corporations or  
2 subdivisions of the State. The bonds shall be lawful and  
3 sufficient security for such deposits to the extent of their  
4 value when accompanied by all unmatured coupons pertaining to  
5 the bonds.

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

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



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

3 **§39A-U Estimate of benefits.** (a) Each project party with  
4 a project agreement with the department shall estimate the  
5 benefits derived from the use of the proceeds of special purpose  
6 revenue bonds. The benefits estimated shall be based on a  
7 comparison between the use of the proceeds of the special  
8 purpose revenue bonds instead of other means of financing and  
9 shall be in terms of dollars projected to be or actually saved  
10 by consumers of the services of the project party. The format  
11 of and method for determining the estimates shall be established  
12 by the department and shall be uniform for each project party.

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

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

20 **§39A-V Construction of this part.** The powers conferred by  
21 this part shall be in addition and supplemental to the powers  
22 conferred by any other law. Insofar as the provisions of this



1 part are inconsistent with the provisions of any other law, this  
2 part shall control."

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

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



HB2991, SD1

**Report Title:**

SPRBs; Low- and Moderate-income Housing

**Description:**

Authorizes the issuance of special purpose revenue bonds to public instrumentalities and their qualified affiliates for the development of qualified low- and moderate-income housing projects. Effective date July 1, 2096. (SD1)

