
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 enact legislation
2 that permits the issuance of special purpose revenue bonds for
3 governmental programs for low and moderate income housing
4 pursuant to article VII, section 12 of the state constitution.

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

8 **"PART . ASSISTING PUBLIC INSTRUMENTALITIES AND THEIR**
9 **QUALIFIED AFFILIATES IN THE DEVELOPMENT OF LOW**
10 **AND MODERATE INCOME HOUSING**

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

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

14 "Low and moderate income housing project" means any housing
15 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; 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 the special purpose revenue bonds to assist public
17 instrumentalities in partnership with qualified affiliates in
18 the development of low and moderate income housing, including,
19 without limitation, any 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 assists a public
4 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 that constitutes low and moderate income
11 housing, or the consolidation of the 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 the 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 renewal or extension shall be subject to the
13 approval of the governor unless made in accordance
14 with provisions for the extension or renewal contained
15 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 refines 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. These 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
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 the bonds are to be issued. Any project agreement entered into



1 by the department shall contain provisions unconditionally
2 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, a sum at a time
7 in an amount that will be at least sufficient to:

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

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

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

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



1 administering the 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 bonds to
15 assist project parties in the development of low and moderate
16 income housing. All bonds issued under this part are special
17 purpose revenue bonds and the provisions of part III of chapter
18 39 shall not apply. All special purpose revenue bonds shall be
19 issued in the name of the department and not in the name of the
20 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 the
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 special purpose revenue bond authorization,
2 or any portion of a special purpose revenue bond authorization,
3 which has not been issued at the close of the fiscal year for
4 the period for which the authorization is made, shall lapse.
5 Special purpose revenue bonds issued pursuant to this part may
6 be in one or more series for a single project, multiple
7 projects, a single-project party, or multiple-project parties
8 pursuant to the authority of one, or the combined authority of
9 more than one, separate act of the legislature.

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



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

17 (b) Prior to the preparation of definitive special purpose
18 revenue bonds, the department may issue interim receipts or
19 temporary bonds, with or without coupons, exchangeable for
20 definitive bonds when the bonds have been executed and are
21 available for delivery.



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

8 The new bond or coupon shall not be executed or delivered
9 until the holder of the mutilated, lost, stolen, or destroyed
10 bond or coupon has:

- 11 (1) Paid the reasonable expense and charges in connection
12 therewith;
- 13 (2) Filed with the department or its fiduciary evidence
14 satisfactory to the department or its fiduciary that
15 the bond or coupon was lost, stolen, or destroyed, if
16 such was the case, and that the holder was the owner;
17 and
- 18 (3) Has furnished indemnity satisfactory to the
19 department.

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



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

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

19 **§39A-H Special purpose revenue bond anticipation notes.**

20 Whenever the department shall have authorized the issuance of
21 special purpose revenue bonds under this part, special purpose
22 revenue bond anticipation notes of the department may be issued



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



1 **§39A-I Powers with respect to and security for special**
2 **purpose revenue bonds.** To secure the payment of any of the
3 special purpose revenue bonds issued pursuant to this part,
4 including interest on the bonds, or in connection with the
5 bonds, the department shall have the power to:

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



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

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



1 to payment, purchase, registration, transfer,
2 exchange, and redemption as the department may deem
3 necessary, advisable, or expedient, including, without
4 limitation, the holding of the special purpose revenue
5 bonds and coupons that have been paid and the
6 supervision of the destruction of the bonds and
7 coupons according to the law;

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

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

15 The department may do all things in the issuance of the bonds
16 and for their security that are consistent with the Constitution
17 of the State of Hawaii.

18 **§39A-J Security for special purpose revenue bonds.**

19 Special purpose revenue bonds shall be payable solely from the
20 revenues derived by the department from payments made to the
21 department under the project agreement, project agreements, or
22 other supplemental agreements entered into with respect to the



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



1 purpose revenue bonds. Any subsequent issue of special purpose
2 revenue bonds and other debt issued or incurred in accordance
3 with the provisions of the trust indenture shall be secured
4 equally and ratably with the first issue of the special purpose
5 revenue bond by a lien on the revenues in accordance with this
6 part and without priority based on the date of sale, date of
7 execution, or date of delivery.

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

18 **§39A-K Special purpose revenue bonds not a general**
19 **obligation of the State.** No holder or holders of any special
20 purpose revenue bonds issued under this part shall ever have the
21 right to compel any exercise of the taxing power of the State to
22 pay for the bonds or the interest on the bonds, and no moneys



1 other than the revenues pledged to the bonds shall be applied
2 toward their payment. Each special purpose revenue bond issued
3 under this part shall recite in substance that the bond,
4 including interest on the bond, is not a general obligation of
5 the State and is payable solely from the revenues pledged to the
6 payment thereof and that the bond is not secured directly or
7 indirectly by the full faith and credit of the State, by the
8 general credit of the State, or by any revenue or taxes of the
9 State other than the revenues specifically pledged thereto.

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

20 **§39A-M Use of revenues derived from project agreement.**
21 The department may appropriate, apply, or expend the revenues



1 derived with respect to the project agreement for a project for
2 the following purposes:

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

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

11 Unless and until adequate provision has been made for the
12 foregoing purposes, the department shall not transfer the
13 revenues derived from the project agreement to the general fund
14 of the State.

15 **§39A-N Special purpose revenue bonds exempt from taxation.**

16 Special purpose revenue bonds and the income derived from the
17 bonds issued pursuant to this part shall be exempt from all
18 state, county, and municipal taxation, except for inheritance,
19 transfer, and estate taxes.

20 **§39A-O Federal tax-exempt status.** To the extent
21 practicable, special purpose revenue bonds issued pursuant to
22 this part shall be issued to comply with requirements imposed by



1 applicable federal law providing that the interest on the
2 special purpose revenue bonds shall be excluded from gross
3 income for federal income tax purposes (except as certain
4 minimum taxes or environmental taxes may apply). The department
5 may enter into agreements, establish funds or accounts, and take
6 any action required to comply with applicable federal law.
7 Nothing in this part shall be deemed to prohibit the issuance of
8 special purpose revenue bonds, the interest on which may be
9 included in gross income for federal income tax purposes.

10 **§39A-P Exemption from taxation of department property.**

11 All revenues derived by the department from any project or under
12 the project agreement pertaining to it shall be exempt from all
13 state, county, and municipal taxation. Any right, title, and
14 interest of the department in any project shall also be exempt
15 from all state, county, and municipal taxation.

16 Except as otherwise provided by law, the interest of the
17 project party or user of a project under the project agreement
18 or related agreement shall not be exempt from taxation to a
19 greater extent than it would be if the costs of the project were
20 directly financed by the project party or other user.

21 **§39A-Q Refunding special purpose revenue bonds.** The
22 legislature, by an act passed by an affirmative vote of



1 two-thirds of the members to which each house is entitled, may
2 authorize the issuance of refunding special purpose revenue
3 bonds for the purpose of refunding any special purpose revenue
4 bonds then outstanding and issued under this part, whether or
5 not the outstanding special purpose revenue bonds have matured
6 or are then subject to redemption.

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

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

18 Nothing in this section shall require or be deemed to
19 require the legislature to elect to redeem or prepay special
20 purpose revenue bonds being refunded. Moreover, nothing in this
21 section shall require or be deemed to require the legislature to
22 elect to redeem or prepay the special purpose revenue bonds



1 being refunded, which were issued in the form customarily known
2 as term bonds in accordance with any sinking fund installment
3 schedule specified in any law authorizing the issuance thereof,
4 or, if the department elects to redeem or prepay any bonds, to
5 redeem or prepay as of any particular date or dates. The
6 issuance of the special purpose revenue bonds, the maturities
7 and other details regarding the bonds, the rights and remedies
8 of the bondholders, and the rights, powers, privileges, duties,
9 and obligations of the department with respect to the bonds and
10 bondholders, shall be governed by the foregoing provisions of
11 this part insofar as may be applicable.

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

19 **§39A-S Special purpose revenue bonds as legal investments**
20 **and lawful security.** The special purpose revenue bonds issued
21 pursuant to this part shall be and are declared to be legal and
22 authorized investments for banks, savings banks, trust



1 companies, savings and loan associations, insurance companies,
2 credit unions, fiduciaries, trustees, guardians, and for all
3 public funds of the State and its political corporations or
4 subdivisions. The special purpose revenue bonds shall be
5 eligible to secure the deposit of any and all public funds of
6 the State and of the counties or other political corporations or
7 subdivisions of the State. The bonds shall be lawful and
8 sufficient security for these deposits to the extent of their
9 value when accompanied by all unmatured coupons pertaining to
10 the bonds.

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

20 (b) To provide the public with full knowledge of the use
21 of the proceeds and benefits derived from special purpose
22 revenue bonds issued under this part, the department shall



1 require each project party with a project agreement with the
2 department to make available to the public all relevant
3 financial records that pertain to the use of or savings
4 resulting from the use of special purpose revenue bonds.

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

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

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



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

3 **§39A-V Construction of this part.** The powers conferred by
4 this part shall be in addition and supplemental to the powers
5 conferred by any other law. Insofar as the provisions of this
6 part are inconsistent with the provisions of any other law, this
7 part shall control."

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

12 SECTION 4. This Act shall take effect on July 1, 2050.



HB2991, SD2

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, 2050. (SD2)

