

JAN 25 2006

S.B. NO. 2392

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# A BILL FOR AN ACT

RELATING TO FINANCING AGREEMENTS.

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

1           SECTION 1. Section 37D-2, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) There is hereby established and authorized the  
4 financing agreement program of the State. Any agency desiring to  
5 acquire or improve projects through the financing agreement  
6 program established and authorized by this chapter shall submit a  
7 written request to the department providing such information as  
8 the department shall require. Notwithstanding any other law to  
9 the contrary, and except for the Hawaii health systems  
10 corporation, only with the approval by the attorney general as to  
11 form and legality and upon the written request of one or more  
12 participating agencies may the department enter into a financing  
13 agreement in accordance with this chapter, except that the board  
14 of regents of the University of Hawaii may enter into a financing  
15 agreement in accordance with this chapter without the approval of  
16 the director and of the attorney general as to form and legality  
17 if the principal amount of the financing agreement does not

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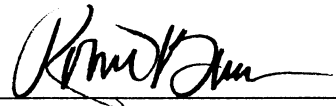
1 exceed \$3,000,000. In addition, the board of regents of the  
2 University of Hawaii is authorized to enter into financing  
3 agreements in accordance with this chapter with the approval of  
4 the director and the approval of the general counsel of the  
5 University of Hawaii as to form and legality. A financing  
6 agreement may be entered into by the department on behalf of one  
7 or more participating agencies at any time (before or after  
8 commencement or completion of any improvements or acquisitions to  
9 be financed) and shall be upon terms and conditions the  
10 department finds to be advantageous. In each case of a written  
11 request by the judiciary to participate in the financing  
12 agreement program, the department shall implement the request;  
13 provided that the related financing agreement shall be upon terms  
14 and conditions the department finds to be advantageous. Any  
15 financing agreement entered into by the department without the  
16 approval required by this section shall be void and of no effect.  
17 A single financing agreement may finance a single item or  
18 multiple items of property to be used by multiple agencies or may  
19 finance a single item or multiple items of property to be used by  
20 a single agency. The department shall bill any participating  
21 agency that benefits from property acquired with the proceeds of  
22 a financing agreement for such participating agency's pro rata  
23 share of:

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1 (1) The department's costs of administration of the  
2 financing agreement program; and  
3 (2) The financing costs, including the principal and  
4 interest components of the financing agreement and  
5 insurance premiums;  
6 on a monthly or other periodic basis, and may deposit payments  
7 received in connection with the billings with a trustee as  
8 security for a financing agreement. Any participating agency  
9 receiving such a bill shall be authorized and shall pay the  
10 amounts billed from the available moneys."

11 SECTION 2. New statutory material is underscored.

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

13  
14 INTRODUCED BY:   
BY REQUEST

JUSTIFICATION SHEET

**SB. NO. 2392**

DEPARTMENT: University of Hawaii

TITLE: A BILL FOR AN ACT RELATING TO FINANCING AGREEMENTS.

PURPOSE: To grant the Board of Regents flexibility to enter into agreements pursuant to chapter 37D, Hawaii Revised Statutes, with the approval of the Director of Finance and the University of Hawaii General Counsel.

MEANS: Amend section 37D-2(a), Hawaii Revised Statutes.

JUSTIFICATION: The Board of Regents has initiated several public/private partnerships for various projects within the University of Hawaii system. As state funding for University projects becomes increasingly limited, it is imperative that non-traditional sources of funding be explored as a means of developing critical University facilities. The Board of Regents must have the ability to approve and implement financing agreements in a timely manner. The proposed revisions are consistent with the spirit and intent of the constitutional amendment granting the University greater self-governance.

Impact on the public: Positive impact on the ability to explore funding sources for the construction of University projects as an alternative to traditional state general obligation bond funding.

Impact on the department and other agencies: The proposed amendment will provide the University with the flexibility to enter into financing agreements more quickly and

efficiently. Other agencies of the State will not be adversely impacted. With the assumption of greater responsibility by the University, these agencies will not have to provide assistance to the University for financing agreements.

GENERAL FUNDS: None.

OTHER FUNDS: Special and Revolving Funds

PPBS PROGRAM  
DESIGNATION: UOH-900, UOH-100, UOH-700

OTHER AFFECTED  
AGENCIES: Department of Budget and Finance,  
Attorney General

EFFECTIVE DATE: July 1, 2006.