
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 SECTION 1. The senate and house of representatives of the
2 twenty-third legislature of the State of Hawaii, regular session
3 of 2005, enacted Act 196, Relating to Housing, and section 35 of
4 that act established the joint legislative housing and homeless
5 task force to further identify near-term solutions to Hawaii's
6 affordable housing and homeless problem. The task force issued
7 its report with findings and recommendations in January 2006.
8 The task force recommended in general that the State: (1)
9 leverage more sources of financing for affordable housing; (2)
10 make available more public land for the development of
11 affordable housing; (3) streamline government approvals and
12 permitting of affordable housing projects; (4) build more
13 offsite infrastructure to serve affordable housing; (5)
14 appropriate additional funds for transitional housing, shelters,
15 and services for the homeless population; and (6) preserve and
16 maintain the existing public housing stock.

17 The specific recommendations of the task force for
18 financing affordable housing include: (1) increasing the amount



1 of conveyance tax revenues deposited into the rental housing
2 trust fund; (2) establishing a new state affordable housing tax
3 credit decoupled from the federal tax credit; (3) allowing state
4 rent supplement funds to be used for operating expenses of state
5 low-income housing; (4) providing a state income tax deduction
6 for contributions of land for affordable housing and for keeping
7 private rental units affordable; (5) increasing the low-income
8 renters' tax credit and eligibility therefor; (6) authorizing
9 issuance of revenue bonds to finance maintenance and repair of
10 public housing units, infrastructure development for affordable
11 housing, housing loan programs, and mortgage security and
12 guarantee programs; (7) authorizing issuance of general
13 obligation bonds to finance downpayment loans for eligible
14 homebuyers and interim construction loans; and (8) appropriating
15 funds for operating subsidies of state low-income housing units
16 and homeless and transitional housing and services.

17 The purpose of this omnibus Act is to implement certain
18 recommendations of the task force with regard to financing
19 affordable housing.



1 PART I

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

5 "PART . ASSISTING PUBLIC INSTRUMENTALITIES AND THEIR
6 QUALIFIED AFFILIATES IN THE DEVELOPMENT OF LOW AND MODERATE
7 INCOME HOUSING.

8 §39A-A Definitions. Whenever used in this part, unless a
9 different meaning clearly appears from the context:

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

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

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

1 "Project party" means a public instrumentality or qualified
2 affiliate engaged in the development of low and moderate income
3 housing.

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

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

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

21 **§39A-B Department powers as to public instrumentalities**
22 **and their qualified affiliates in the development of low and**



1 **moderate income housing.** In addition to powers that it may now
2 have, the department shall have all powers necessary or
3 convenient to accomplish the purposes of this part. The powers
4 of the department include but are not limited to the following:

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



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

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

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

1 When the department finances or refinances a project by the
2 issuance of special purpose revenue bonds as contemplated by
3 this part, the State shall not exercise the power of eminent
4 domain to acquire a project or any part of the project for lease
5 or transfer to a project party.

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

19 **§39A-D Conditions precedent to negotiating and entering**
20 **into a project agreement.** Prior to entering into negotiations
21 with any project party, the department shall require that the
22 State be reimbursed for any and all costs and expenses (direct



1 or indirect) incurred by it in implementing and administering
2 this part, as determined by the department, even though a
3 project agreement may not be entered into and may further
4 require the deposit of moneys with the department for such
5 reimbursement. The department shall return any amount of the
6 deposit exceeding the amount required to reimburse the State to
7 the party that made the deposit. The State shall not be
8 required to pay to the project party any interest or earnings on
9 the deposit.

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

21 **§39A-E Project agreement.** No special purpose revenue
22 bonds shall be issued unless, at the time of issuance, the



1 department shall have entered into a project agreement with
2 respect to the project for the financing or refinancing of which
3 such revenue bonds are to be issued. Any project agreement
4 entered into by the department shall contain provisions
5 unconditionally obligating the project party to:

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

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

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

20 (C) Pay all fees and expenses, including the fees and
21 expenses of the paying agents and trustees,



1 incurred in connection with such special purpose
2 revenue bonds; and

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

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

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

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



1 shall be issued in the name of the department and not in the
2 name of the State.

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



1 bonds, whether incurred prior to or after the issuance of such
2 bonds.

3 The legislature finds and determines that the exercise of
4 the powers vested in the department by this part constitutes
5 assistance to public instrumentalities and their qualified
6 affiliates in the development of low and moderate income
7 housing, and that the issuance of special purpose revenue bonds
8 to finance or refinance projects of or for project parties or to
9 loan the proceeds of the bonds to assist project parties in the
10 development of low and moderate income housing is in the public
11 interest.

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 PART II

4 SECTION 3. Chapter 201G, Hawaii Revised Statutes, is
5 amended by adding a new section to subpart F of part II to be
6 appropriately designated and to read as follows:

7 **"§201G-A Credit against income taxes.** (a) In accordance
8 with section 235-A, the administration may approve and certify
9 for credit against state income taxes the qualified basis of any
10 newly constructed or moderately or substantially rehabilitated
11 project:

- 12 (1) Developed under this chapter;
- 13 (2) Developed under a government assistance program
14 approved by the administration, including but not
15 limited to, the United States Department of
16 Agriculture 502 program and Federal Housing
17 Administration 235 program;
- 18 (3) Developed under the sponsorship of a private nonprofit
19 corporation that provides home rehabilitation or new
20 homes for qualified families in need of decent,
21 low-cost housing; or

1 (4) Developed by a person or firm qualified under section
2 201G-116 where at least fifty per cent of the
3 available units are for households with incomes at or
4 below one hundred per cent of the area median family
5 income, as determined by the United States Department
6 of Housing and Urban Development, of which at least
7 twenty per cent of the available units are for
8 households with incomes at or below sixty per cent of
9 the area median family income as determined by the
10 United States Department of Housing and Urban
11 Development.

12 (b) All claims for tax credit under this section shall be
13 certified by the administration and filed with the department of
14 taxation. Any claim for tax credit that is filed and approved
15 shall not be considered a subsidy for the purpose of this
16 subpart.

17 (c) For the purposes of this section, "moderate
18 rehabilitation" and "substantial rehabilitation" shall have the
19 same meanings as in section 201G-116.

20 (d) For the purposes of this section, "qualified basis"
21 shall have the same meaning as in section 235-110.8; provided
22 that the administration may by rule establish criteria for the



1 determination of qualified basis for the purposes of this
2 section.

3 (e) The administration may establish, revise, charge, and
4 collect a reasonable service fee, as necessary, in connection
5 with its approvals and certifications under this section. The
6 fees shall be deposited into the dwelling unit revolving fund."

7 SECTION 4. Chapter 201G, Hawaii Revised Statutes, is
8 amended by adding a new section to subpart H of part III to be
9 appropriately designated and to read as follows:

10 **"§201G-B Downpayment loan program revolving fund.** There
11 is created within the state treasury a revolving fund to be
12 administered by the administration and to be known as the
13 downpayment loan revolving fund. The revolving fund shall be
14 funded from the proceeds of general obligation bonds or other
15 appropriations from the state legislature, and shall be used to
16 carry out the purposes of this subpart."

17 SECTION 5. Chapter 235, Hawaii Revised Statutes, is
18 amended by adding a new section to part VI to be appropriately
19 designated and to read as follows:

20 **"§235-A Affordable housing tax credit.** (a) Each taxpayer
21 subject to the tax imposed by this chapter, who has filed a net
22 income tax return for a taxable year, may claim an affordable



1 housing tax credit against the taxpayer's net income tax
2 liability. The amount of the credit shall be deductible from
3 the taxpayer's net income tax liability, if any, imposed by this
4 chapter for the taxable year in which the credit is properly
5 claimed on a timely basis. A credit under this section shall
6 not be claimed if the taxpayer claims a low-income housing tax
7 credit pursuant to section 235-110.8.

8 (b) The affordable housing tax credit shall be fifteen per
9 cent of the qualified basis of each project calculated pursuant
10 to section 201G-A.

11 (c) The credit allowed under this section shall be claimed
12 against net income tax liability for the taxable year. For the
13 purpose of deducting this tax credit, net income tax liability
14 means net income tax liability reduced by all other credits
15 allowed the taxpayer under this chapter. A tax credit under
16 this section which exceeds the taxpayer's income tax liability
17 may be used as a credit against the taxpayer's income tax
18 liability in subsequent years until exhausted.

19 (d) All claims for a tax credit under this section must be
20 filed on or before the end of the twelfth month following the
21 close of the taxable year for which the credit may be claimed.
22 Failure to properly and timely claim the credit shall constitute

1 a waiver of the right to claim the credit. A taxpayer may claim
2 a credit under this section only if the project is a qualified
3 project approved and certified under section 201G-A.

4 (e) The director of taxation may adopt any rules under
5 chapter 91 and forms necessary to carry out this section."

6 SECTION 6. Section 201G-44, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§201G-44 Administration of state low-income public**

9 **housing projects and programs.** (a) The administration [~~may~~]
10 shall construct, develop, and administer property or housing for
11 the purpose of state low-income public housing projects and
12 programs.

13 (b) The administration [~~may~~] shall offer any
14 decommissioned low-income public housing project, except for
15 federal housing projects, to nonprofit or for-profit
16 organizations or government agencies for rehabilitation into
17 emergency or transitional shelter facilities for the homeless or
18 rehabilitation into rental units that set aside at least fifty
19 per cent of the units to persons or families with incomes at or
20 below fifty per cent of the area median family income; provided
21 that:



1 (1) The housing project is wholly owned by the State on
2 either state-owned or ceded lands;

3 ~~(2) [The administration has determined that the housing~~
4 ~~project is no longer suitable for its original use and~~
5 ~~intends to demolish the housing project;~~

6 [+3)] The administration has determined that the housing
7 project is not eligible for rehabilitation using the
8 administration's current resources; and

9 [+4)] (3) The nonprofit or for-profit organization or
10 government agency demonstrates expertise in
11 rehabilitation of housing projects and has community,
12 public, and private resources to substantially pay for
13 the rehabilitation.

14 The land and improvements may be leased to the nonprofit or
15 for-profit organization or government agency for a period not to
16 exceed ninety-nine years for a sum of \$1 per year.

17 (c) The administration shall adopt necessary rules in
18 accordance with chapter 91, including the establishment and
19 collection of reasonable fees for administering the public
20 housing projects or programs and to carry out any state program
21 under subsection (a)."



1 SECTION 7. Section 201G-45, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§201G-45 State low-income housing revolving fund.** The
4 director of finance shall establish a revolving fund to be known
5 as "the state low-income housing revolving fund".

6 Notwithstanding any law to the contrary, moneys received by the
7 administration under or pursuant to this subpart, including
8 appropriations, refunds, reimbursements, rentals, fees, and
9 charges received from tenants, shall be deposited in the state
10 low-income housing revolving fund. Except as otherwise provided
11 in this chapter, the state low-income housing revolving fund may
12 be expended by the administration for any and all of the
13 purposes of this subpart, including, without prejudice to the
14 generality of the foregoing, the expenses of management,
15 operation, and maintenance of state low-income housing,
16 including but not limited to the cost of insurance, a
17 proportionate share of the administrative expenses of the
18 administration, and the cost of repairs, equipment, and
19 improvement; the acquisition, clearance, and improvement of
20 property; the construction and reconstruction of building sites;
21 the construction, reconstruction, repair, remodeling, extension,
22 equipment, and furnishing of any public housing project; the



1 development and administration of any public housing project;
2 the payment of rentals; and administration and other expenses."

3 SECTION 8. Section 201G-121, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

5 "(a) In any county, the administration may develop or may
6 enter into agreements for housing projects with an eligible
7 developer if in the administration's reasonable judgment a
8 project [~~is primarily designed for lower income housing.~~]
9 provides a reasonable number of lower income housing units. The
10 agreement may provide for the housing to be placed under the
11 control of the administration, or to be sold by the
12 administration, or to be sold to the administration as soon as
13 the units are completed and shall contain terms, conditions, and
14 covenants as the administration, by rules, deems appropriate.
15 Every agreement shall provide for the developer to furnish a
16 performance bond, in favor of the administration, assuring the
17 timely and complete performance of the housing project.
18 Sureties on the bond must be satisfactory to the
19 administration."

20 SECTION 9. Section 201G-161, Hawaii Revised Statutes, is
21 amended by amending subsection (f) to read as follows:

1 (f) Any pledge made by the administration shall create a
2 perfected security interest in the revenues, moneys, or property
3 so pledged and thereafter received by the administration from
4 and after the time that a financing statement with respect to
5 the revenues, moneys, or property so pledged and thereafter
6 received shall be filed with the bureau of conveyances. Upon
7 the filing, the revenues, moneys, or property so pledged and
8 thereafter received by the administration shall immediately be
9 subject to the lien of such pledge without any physical delivery
10 thereof or further act, and the lien of any such pledge shall be
11 ~~[prior to the lien of all parties having claims by any kind in~~
12 ~~tort, contract, or otherwise against the administration,~~
13 ~~irrespective of whether such parties have notice thereof]~~
14 subject to section 39-63 and part VIII of chapter 39 relating to
15 security interests. This section shall apply to any financing
16 statement heretofore or hereafter filed with the bureau of
17 conveyances with respect to any pledge made to secure revenue
18 bonds issued under this part."

19 SECTION 10. Section 201G-162, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§201G-162 Issuance of bonds for the development of**
22 **infrastructure.** Without limiting section 201G-161, the



1 administration, pursuant to and in accordance with this subpart,
2 is hereby authorized to issue bonds for the purpose of financing
3 the development of infrastructure [~~on land owned by the~~
4 ~~administration~~] for projects under section 201G-118."

5 SECTION 11. Section 201G-231, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "~~[+]§201G-231[+]~~ **Rent supplements.** (a) The
8 administration is authorized to make, and contract to make,
9 annual payments to a "housing owner" on behalf of a "qualified
10 tenant", as those terms are defined in this subpart, in such
11 amounts and under such circumstances as are prescribed in or
12 pursuant to this subpart. No payment on behalf of a qualified
13 tenant shall exceed a segregated amount of \$160 a month.

14 (b) The administration is authorized to pay, from funds
15 available under this subpart, for expenses of maintenance and
16 repair of state low-income housing under subpart B of part II of
17 this chapter."

18 SECTION 12. Section 201G-232, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§201G-232 Housing owner defined.** As used in this
21 subpart, the term "housing owner" means:



- 1 (1) A private nonprofit corporation or other private
2 nonprofit legal entity, a limited dividend corporation
3 or other limited dividend legal entity, or a
4 cooperative housing corporation, that is a mortgagor
5 under section 202, 207, 213, 221(d)(3), 221(d)(5), or
6 231 of the National Housing Act, as amended, or that
7 conforms to the standards of those sections but that
8 is not a mortgagor under those sections or any other
9 private mortgagor under the National Housing Act, as
10 amended, for very low income, low-income, or
11 moderate-income family housing, regulated or
12 supervised under federal or state laws or by political
13 subdivisions of the State, or agencies thereof, as to
14 rents, charges, capital structure, rate of return, and
15 methods of operation, from the time of issuance of the
16 building permit for the project~~[; and]~~;
- 17 (2) The administration, for purposes of maintenance of any
18 housing project under subpart B of part II of this
19 chapter; and
- 20 ~~[-2-]~~ (3) Any other owner of a standard housing unit or
21 units deemed qualified by the administration."

1 SECTION 13. Section 201G-436, Hawaii Revised Statutes, is
2 amended by amending subsection (c) to read as follows:

3 "(c) The administration shall establish an application
4 process for fund allocation that gives preference to projects
5 ~~[meeting the criteria set forth below that are listed in~~
6 ~~descending order of priority:~~

- 7 ~~(1) Serve the original target group;~~
- 8 ~~(2) Provide at least five per cent of the total number of~~
9 ~~units for persons and families with incomes at or~~
10 ~~below thirty per cent of the median family income;~~
- 11 ~~(3) Provide maximum number of units for persons or~~
12 ~~families with incomes at or below eighty per cent of~~
13 ~~the median family income;~~
- 14 ~~(4) Are committed to serving the target population over a~~
15 ~~longer period of time;~~
- 16 ~~(5) Increase the integration of income levels of the~~
17 ~~immediate community area;~~
- 18 ~~(6) Meet the geographic needs of the target population of~~
19 ~~the proposed rental housing project, such as proximity~~
20 ~~to employment centers and services; and~~
- 21 ~~(7) Have favorable past performance in developing, owning,~~
22 ~~managing, or maintaining affordable rental housing]~~

1 in accordance with the priorities set forth in subsection
2 201G-432(e).

3 The administration may include other criteria in the above
4 process as it deems necessary to carry out the purposes of this
5 part[-], including but not limited to:

- 6 (1) Commitment to serving the target population over a
7 longer period of time;
- 8 (2) Increase in the integration of income levels of the
9 immediate community area;
- 10 (3) Ability to meet the geographic needs of the target
11 population of the proposed rental housing project,
12 such as proximity to employment centers and services;
13 and
- 14 (4) Favorable past performance in developing, owning,
15 managing, or maintaining affordable rental housing.

16 If the administration, after applying the process described
17 in this subsection, finds a nonprofit project equally ranked
18 with a for-profit or government project, the administration
19 shall give preference to the nonprofit project in allotting fund
20 moneys. "

21 SECTION 14. Section 235-55.7, Hawaii Revised Statutes, is
22 amended by amending subsection (c) to read as follows:



1 "(c) Each taxpayer with an adjusted gross income of less
2 than [~~\$30,000~~] \$50,000 who has paid more than \$1,000 in rent
3 during the taxable year for which the credit is claimed may
4 claim a tax credit of [~~\$50~~] \$75 multiplied by the number of
5 qualified exemptions to which the taxpayer is entitled; provided
6 that each taxpayer with an adjusted gross income less than
7 \$30,000 who has paid more than \$1,000 in rent during the taxable
8 year for which the credit is claimed may claim a tax credit of
9 \$100 multiplied by the number of qualified exemptions to which
10 the taxpayer is entitled; provided further, that each taxpayer
11 sixty-five years of age or over may claim double the tax credit;
12 and provided that a resident individual who has no income or no
13 income taxable under this chapter may also claim the tax credit
14 as set forth in this section."

15 SECTION 15. Section 247-7, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§247-7 Disposition of taxes.** All taxes collected under
18 this chapter shall be paid into the state treasury to the credit
19 of the general fund of the State, to be used and expended for
20 the purposes for which the general fund was created and exists
21 by law; provided that of the taxes collected each fiscal year:

1 (1) Ten per cent shall be paid into the land conservation
2 fund established pursuant to section 173A-5;

3 (2) [~~Thirty~~] Sixty-five per cent shall be paid into the
4 rental housing trust fund established by section
5 201G-432; and

6 (3) Twenty-five per cent shall be paid into the natural
7 area reserve fund established by section 195-9;
8 provided that the funds paid into the natural area
9 reserve fund shall be annually disbursed by the
10 department of land and natural resources in the
11 following priority:

12 (A) To natural area partnership and forest
13 stewardship programs after joint consultation
14 with the forest stewardship committee and the
15 natural area reserves system commission;

16 (B) Projects undertaken in accordance with watershed
17 management plans pursuant to section 171-58 or
18 watershed management plans negotiated with
19 private landowners, and management of the natural
20 area reserves system pursuant to section 195-3;
21 and

1 (C) The youth conservation corps established under
2 chapter 193."

3 SECTION 16. Act 291, Session Laws of Hawaii 1980, section
4 11, as amended by Act 304, Session Laws of Hawaii 1996, section
5 1, and by Act 185, Session Laws of Hawaii 2004, section 2, is
6 amended to read as follows:

7 "SECTION 11. **Issuance of revenue bond; amount authorized.**

8 Revenue bonds may be issued by the [~~housing and community~~
9 ~~development corporation of Hawaii~~] Hawaii housing finance and
10 development administration pursuant to part III, chapter 39 and
11 part III of chapter 201G, Hawaii Revised Statutes, in an
12 aggregate principal amount not to exceed [~~\$300,000,000,~~

13 , at such times and in such amounts as the [~~housing~~
14 ~~and community development corporation of Hawaii~~] Hawaii housing
15 finance and development administration deems advisable for the
16 purpose of undertaking and maintaining any of the housing loan
17 programs under subpart B of part III of chapter 201G, Hawaii
18 Revised Statutes, relating to the funding or purchasing of
19 eligible project loans.

20 The proceeds of such revenue bonds shall be deposited into
21 the housing project bond special funds or housing loan program



1 revenue bond special funds created pursuant to section 201G-170,
2 Hawaii Revised Statutes."

3 SECTION 17. Act 291, Session Laws of Hawaii 2001,
4 sections 1 and 2, are amended to read as follows:

5 "SECTION 1. The [~~housing and community development~~
6 ~~corporation of Hawaii,~~] Hawaii housing finance and development
7 administration, with the approval of the director of finance and
8 the governor, is authorized pursuant to part III, chapter 39,
9 Hawaii Revised Statutes, and part III, chapter 201G, Hawaii
10 Revised Statutes, to issue revenue bonds in an aggregate
11 principal amount not to exceed [~~\$30,000,000,~~] \$100,000,000, at
12 such times and in such amounts as it deems advisable for the
13 purpose of carrying out the provisions of subpart Q of part III
14 of chapter 201G, Hawaii Revised Statutes[~~-~~], relating to the
15 rental housing trust fund.

16 The proceeds of such revenue bonds shall be deposited into
17 the rental housing trust fund created in section 201G-432,
18 Hawaii Revised Statutes.

19 SECTION 2. There is appropriated out of the rental housing
20 trust fund the sum of [~~\$30,000,000,~~] \$100,000,000, or so much
21 thereof as may be necessary, for fiscal year [~~2001-2002,~~]



1 2006-2007, to carry out the purposes of the rental housing trust
2 fund.

3 The sum appropriated shall be expended by the [~~housing and~~
4 ~~community development corporation of Hawaii.~~] Hawaii housing
5 finance and development administration."

6 SECTION 18. There is appropriated out of the rental
7 housing trust fund the sum of \$10,000,000, or so much thereof as
8 may be necessary, for fiscal year 2006-2007, to carry out the
9 purposes of the rental housing trust fund relating to the
10 preservation and substantial rehabilitation of rental housing
11 units; provided that \$50,000 of the sum appropriated shall be
12 used for a study of the feasibility of decommissioning public
13 housing units and an action plan for placing them under private
14 ownership and management.

15 The sum appropriated shall be expended by the Hawaii public
16 housing administration to repair and modernize vacant public
17 housing units; provided that the administration shall report to
18 the legislature its determination of dilapidated units not
19 feasible to repair, and its action plan for decommissioning
20 these units, no later than twenty days prior to the convening of
21 the regular session of 2007.



1 SECTION 19. The Hawaii housing finance and development
 2 administration, with the approval of the director of finance and
 3 the governor, is authorized pursuant to part III, chapter 39,
 4 Hawaii Revised Statutes, and part III; chapter 201G, Hawaii
 5 Revised Statutes, to issue revenue bonds in an aggregate
 6 principal amount not to exceed , at such times and in
 7 such amounts as it deems advisable for the purpose of carrying
 8 out the provisions of subpart A of part III of chapter 201G,
 9 Hawaii Revised Statutes, relating to the development of
 10 infrastructure and the purchase of low-income housing projects.

11 The proceeds of such revenue bonds shall be deposited into
 12 the housing finance revolving fund created in section 201G-170,
 13 Hawaii Revised Statutes.

14 SECTION 20. There is appropriated out of the housing
 15 finance revolving fund the sum of , or so much thereof
 16 as may be necessary, for fiscal year 2006-2007, to carry out the
 17 purposes of section 201G-162, Hawaii Revised Statutes, relating
 18 to the development of infrastructure for affordable housing.

19 The sum appropriated shall be expended by the Hawaii
 20 housing finance and development administration.

21 SECTION 21. There is appropriated out of the housing
 22 finance revolving fund the sum of , or so much thereof

1 as may be necessary, for fiscal year 2006-2007, to carry out the
2 purposes of section 201G-163, Hawaii Revised Statutes, relating
3 to the purchase of low-income housing projects.

4 The sum appropriated shall be expended by the Hawaii
5 housing finance and development administration.

6 SECTION 22. The Hawaii housing finance and development
7 administration, with the approval of the director of finance and
8 the governor, is authorized pursuant to part III, chapter 39,
9 Hawaii Revised Statutes, and part III, chapter 201G, Hawaii
10 Revised Statutes, to issue general obligation bonds in an
11 aggregate principal amount not to exceed , at such
12 times and in such amounts as it deems advisable for the purpose
13 of carrying out the provisions of subpart H of part III of
14 chapter 201G, Hawaii Revised Statutes, relating to the
15 downpayment loan program.

16 The proceeds of such general obligation bonds shall be
17 deposited into the downpayment loan program revolving fund
18 created in section 201G-B, Hawaii Revised Statutes.

19 SECTION 23. There is appropriated out of the downpayment
20 loan program revolving fund the sum of , or so much
21 thereof as may be necessary, for fiscal year 2006-2007, to carry

1 out the purposes of the downpayment loan program revolving fund
2 relating to direct downpayment loans to eligible borrowers.

3 The sum appropriated shall be expended by the Hawaii
4 housing finance and development administration.

5 SECTION 24. The Hawaii housing finance and development
6 administration, with the approval of the director of finance and
7 the governor, is authorized pursuant to part III, chapter 39,
8 Hawaii Revised Statutes, and part III, chapter 201G, Hawaii
9 Revised Statutes, to issue general obligation bonds in an
10 aggregate principal amount not to exceed , at such
11 times and in such amounts as it deems advisable for the purpose
12 of carrying out the provisions of subpart E of part II of
13 chapter 201G, Hawaii Revised Statutes, relating to housing
14 development programs.

15 The proceeds of such general obligation bonds shall be
16 deposited into the dwelling unit revolving fund created in
17 section 201G-411, Hawaii Revised Statutes.

18 SECTION 25. There is appropriated out of the dwelling unit
19 revolving fund the sum of \$400,000, or so much thereof as may be
20 necessary, for fiscal year 2006-2007, to carry out the purposes
21 of section 201G-411 relating to financing interim construction
22 loans for self-help housing.



1 The sum appropriated shall be expended by the Hawaii
2 housing finance and development administration.

3 SECTION 26. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$20,000,000, or so
5 much thereof as may be necessary for fiscal year 2006-2007, for
6 the purpose of homeless assistance.

7 The sum appropriated shall be expended by the Hawaii
8 housing finance and development administration for homeless and
9 transitional housing and services.

10 PART III

11 SECTION 27. The joint legislative housing and homeless
12 task force, established pursuant to Act 196, Session of Hawaii
13 2005, has reported that seven hundred fifty federal public
14 housing units and seventy-five state public housing units in
15 Hawaii are vacant, in many instances for substantial periods of
16 time up to six months. The vacant units represent thirteen per
17 cent of the inventory of public housing units in Hawaii.
18 Meanwhile, there are approximately six thousand homeless
19 individuals in Hawaii, and the pent-up demand for affordable
20 rental housing for the low-income and workforce population
21 exceeds twenty thousand units.



1 A physical needs assessment of all sixty-five federal
2 public housing properties in Hawaii, conducted for the housing
3 and community development corporation of Hawaii in 2003,
4 reported in detail on a number of problems and deficiencies
5 resulting from poor design and deferred maintenance in Hawaii's
6 public housing stock. The cost just to remedy the maintenance
7 deficiencies in these properties was estimated at almost
8 \$11,000,000. In part as a result of this assessment, the
9 corporation was designated as a "troubled" public housing agency
10 by the United States Department of Housing and Urban Development
11 in 2004, and was required to enter into a memorandum of
12 agreement for the purpose of improving its score in a number of
13 areas.

14 Although some progress has been made and the corporation
15 has since been discharged from its obligations under the
16 memorandum of agreement, much more remains to be done. Targets
17 still outstanding include developing a strategy for reducing
18 unit preparation time; generating work orders immediately after
19 completion of unit inspections; correcting or abating emergency
20 work orders within twenty-four hours; and increasing unit
21 occupancy to ninety-five per cent in all projects.

1 A recent internal assessment by corporation staff indicates
2 that nearly five hundred vacant federal units and substantially
3 all of the vacant state units still require modernization or
4 major to minor repairs. The total cost for this work is
5 estimated at \$9,600,000.

6 While government continues to assess the State's long-term
7 needs and available resources, immediate short-term solutions
8 are needed to remedy the high vacancy rates and poor physical
9 condition of the public housing stock. Solutions for immediate
10 relief will require unprecedented levels of cooperation between
11 the State and private entities, and bold yet productive
12 proposals for action.

13 The purpose of this Act is to establish a public housing
14 rapid assessment team within the Hawaii public housing
15 administration, and to appropriate funds for the expedited
16 maintenance and repair of vacant public housing units within one
17 year of the effective date of this Act.

18 SECTION 28. Section 46-14.5, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"[+]§46-14.5[+] Land use density; low-income rental units.**

21 (a) Notwithstanding any other law to the contrary, the counties
22 are authorized to provide flexibility in land use density

1 provisions to encourage the development of any rental housing
2 project where at least a portion of the rental units are set
3 aside for persons and families with incomes at or below one
4 hundred forty per cent of the area median family income, of
5 which twenty per cent are set aside for persons and families
6 with incomes at or below eighty per cent of the area median
7 family income.

8 (b) Notwithstanding any other law to the contrary, any
9 maintenance and repair work performed in public housing projects
10 pursuant to this Act shall be exempt from any county permit
11 requirements. The rapid assessment team shall perform all
12 repair and maintenance work in conformity with all county
13 building code regulations."

14 SECTION 29. Section 103D-102, Hawaii Revised Statutes, is
15 amended by amending subsection (b) to read as follows:

16 "(b) Notwithstanding subsection (a), this chapter shall
17 not apply to contracts by governmental bodies:

18 (1) Solicited or entered into before July 1, 1994, unless
19 the parties agree to its application to a contract
20 solicited or entered into prior to July 1, 1994;

21 (2) To disburse funds, irrespective of their source:



- 1 (A) For grants or subsidies as those terms are
2 defined in section 42F-101, made by the State in
3 accordance with standards provided by law as
4 required by article VII, section 4, of the State
5 Constitution; or by the counties pursuant to
6 their respective charters or ordinances;
- 7 (B) To make payments to or on behalf of public
8 officers and employees for salaries, fringe
9 benefits, professional fees, or reimbursements;
- 10 (C) To satisfy obligations that the State is required
11 to pay by law, including paying fees, permanent
12 settlements, subsidies, or other claims, making
13 refunds, and returning funds held by the State as
14 trustee, custodian, or bailee;
- 15 (D) For entitlement programs, including public
16 assistance, unemployment, and workers'
17 compensation programs, established by state or
18 federal law;
- 19 (E) For dues and fees of organizations of which the
20 State or its officers and employees are members,
21 including the National Association of Governors,



- 1 the National Association of State and County
- 2 Governments, and the Multi-State Tax Commission;
- 3 (F) For deposit, investment, or safekeeping,
- 4 including expenses related to their deposit,
- 5 investment, or safekeeping;
- 6 (G) To governmental bodies of the State;
- 7 (H) As loans, under loan programs administered by a
- 8 governmental body; and
- 9 (I) For contracts awarded in accordance with chapter
- 10 103F[-];
- 11 (3) To procure goods, services, or construction from a
- 12 governmental body other than the University of Hawaii
- 13 bookstores, from the federal government, or from
- 14 another state or its political subdivision;
- 15 (4) To procure the following goods or services which are
- 16 available from multiple sources but for which
- 17 procurement by competitive means is either not
- 18 practicable or not advantageous to the State:
- 19 (A) Services of expert witnesses for potential and
- 20 actual litigation of legal matters involving the
- 21 State, its agencies, and its officers and



- 1 employees, including administrative quasi-
- 2 judicial proceedings;
- 3 (B) Works of art for museum or public display;
- 4 (C) Research and reference materials including books,
- 5 maps, periodicals, and pamphlets, which are
- 6 published in print, video, audio, magnetic, or
- 7 electronic form;
- 8 (D) Meats and foodstuffs for the Kalaupapa
- 9 settlement;
- 10 (E) Opponents for athletic contests;
- 11 (F) Utility services whose rates or prices are fixed
- 12 by regulatory processes or agencies;
- 13 (G) Performances, including entertainment, speeches,
- 14 and cultural and artistic presentations;
- 15 (H) Goods and services for commercial resale by the
- 16 State;
- 17 (I) Services of printers, rating agencies, support
- 18 facilities, fiscal and paying agents, and
- 19 registrars for the issuance and sale of the
- 20 State's or counties' bonds;
- 21 (J) Services of attorneys employed or retained to
- 22 advise, represent, or provide any other legal



1 service to the State or any of its agencies, on
2 matters arising under laws of another state or
3 foreign country, or in an action brought in
4 another state, federal, or foreign jurisdiction,
5 when substantially all legal services are
6 expected to be performed outside this State;

7 (K) Financing agreements under chapter 37D; ~~and~~

8 (L) Any other goods or services which the policy

9 board determines by rules or the chief

10 procurement officer determines in writing is

11 available from multiple sources but for which

12 procurement by competitive means is either not

13 practicable or not advantageous to the State; and

14 (M) Goods and services for maintenance and repair

15 work for public housing projects under chapter

16 201G. This provision shall be repealed on

17 December 31, 2007; and

18 (5) Which are specific procurements expressly exempt from
19 any or all of the requirements of this chapter by:

20 (A) References in state or federal law to provisions

21 of this chapter or a section of this chapter, or



1 references to a particular requirement of this
2 chapter; and

3 (B) Trade agreements, including the Uruguay Round
4 General Agreement on Tariffs and Trade (GATT)
5 which require certain non-construction and non-
6 software development procurements by the
7 comptroller to be conducted in accordance with
8 its terms."

9 SECTION 30. Section 104-2, Hawaii Revised Statutes, is
10 amended by amending subsection (a) to read as follows:

11 "(a) This chapter shall apply to every contract in excess
12 of \$2,000 for construction of a public work project to which a
13 governmental contracting agency is a party; provided that this
14 chapter shall not apply to experimental and demonstration
15 housing developed pursuant to section 46-15, or housing
16 developed pursuant to chapter 201G, including maintenance and
17 repair work on public housing projects if the cost of the
18 project or the work is less than \$500,000 and the eligible
19 bidder or eligible developer is a private nonprofit corporation.

20 For the purposes of this subsection:



1 "Contract" includes but is not limited to any agreement,
2 purchase order, or voucher in excess of \$2,000 for construction
3 of a public work project.

4 "Governmental contracting agency" includes any person or
5 entity that causes either directly or indirectly the building or
6 development of a public work.

7 "Party" includes eligible bidders for and eligible
8 developers of any public work and any housing under chapter
9 201G; provided that this subsection shall not apply to any
10 housing developed under section 46-15 or chapter 201G if the
11 entire cost of the project is less than \$500,000 and the
12 eligible bidder or eligible developer is a private nonprofit
13 corporation.

14 "Public work" means any project, including development of
15 any housing pursuant to section 46-15 or chapter 201G, and
16 development, construction, renovation, and maintenance related
17 to refurbishment of any real or personal property, where the
18 funds or resources required to undertake the project are to any
19 extent derived either directly or indirectly from public
20 revenues of the State or any county, or from the sale of
21 securities or bonds whose interest or dividends are exempt from
22 state or federal taxes."



1 SECTION 31. Section 201G-133, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§201G-133 Rate of wages for laborers and mechanics.** The
4 administration shall require an eligible bidder or eligible
5 developer of a housing project developed under this subpart to
6 comply with the requirements of section 104-2 for those laborers
7 and mechanics hired to work on that housing project; provided
8 that this section shall not apply to:

9 (1) A housing project developed under this chapter if the
10 entire cost of the project is less than \$500,000 and
11 the eligible bidder or eligible developer is a private
12 nonprofit corporation[~~-~~]; and

13 (2) Maintenance and repair work on public housing projects
14 under chapter 201G."

15 SECTION 32. There is established a public housing rapid
16 assessment team to be attached to the Hawaii public housing
17 administration for administrative purposes. The rapid
18 assessment team shall:

19 (1) Consist of individuals qualified in construction
20 contracting, engineering, and building maintenance and
21 repair who shall rapidly assess the condition of
22 vacant federal and state public housing units



1 administered and managed by the Hawaii public housing
2 administration. The team shall be headed by a project
3 leader appointed by the director of the
4 administration. The individuals shall be chosen by
5 the project leader and shall be employed as three-
6 month contract employees;

7 (2) Solicit, review, and award bids from licensed
8 contractors to perform the necessary maintenance and
9 repair work as determined by the rapid assessment
10 team, with the approval of the director;

11 (3) Hire and supervise unlicensed persons and engage and
12 supervise volunteers capable of performing basic
13 repair and maintenance where a licensed contractor is
14 not necessary; and

15 (4) Oversee and supervise the necessary maintenance and
16 repair work.

17 SECTION 33. The Hawaii public housing administration
18 shall:

19 (1) Together with the rapid assessment team, develop a
20 program plan and a budget for the contract and
21 administrative expenses of the maintenance and repair
22 work;

- 1 (2) Work with public housing project managers to
- 2 facilitate site inspections by the rapid assessment
- 3 team;
- 4 (3) Prepare the necessary employment contracts to meet the
- 5 objectives of the maintenance and repair program on an
- 6 expedited basis;
- 7 (4) Submit review and assessment reports to the governor,
- 8 the senate president, and the house speaker every
- 9 sixty days for the duration of the program; and
- 10 (5) Undertake all other necessary activities for program
- 11 development and implementation.

12 SECTION 34. There is appropriated out of the general
 13 revenues of the State of Hawaii the sum of \$10,000,000 or so
 14 much thereof as may be necessary for fiscal year 2006-2007 for
 15 the establishment of a public housing rapid assessment team to
 16 be administered by Hawaii public housing administration.

17 The sum appropriated shall be expended by Hawaii public
 18 housing administration for the purposes of this Act.

19 PART IV

20 SECTION 35. In codifying the new sections added by
 21 sections 2 through 5 of this Act, the revisor of statutes shall

1 substitute appropriate section numbers for the letters used in
2 designating the new sections in this Act.

3 SECTION 36. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 37. This Act shall take effect on July 1, 2006.



Report Title:

Affordable Housing; Taxation; Bonds; Appropriations; Rapid Assessment Team; Omnibus

Description:

Provides for special purpose revenue bond financing of low and moderate income housing projects. Establishes a new state affordable housing tax credit decoupled from the federal tax credit. Broadens the requirements on developers to provide a reasonable number of lower income housing units. Allows rent supplement funds to be used for operating expenses of state low-income housing. Increases the low-income renters' tax credit and eligibility therefor. Increases the amount of conveyance tax revenues deposited into the rental housing trust fund. Authorizes issuance of revenue bonds to finance maintenance and repair of public housing units, infrastructure development for affordable housing, housing loan programs, and mortgage security and guarantee programs. Authorizes issuance of general obligation bonds to finance downpayment loans for eligible homebuyers and interim construction loans. Appropriates general funds for operating subsidies of state low-income housing units and homeless and transitional housing and services. Establishes a public housing rapid assessment team and appropriates funds therefor. (SD1)

