
A BILL FOR AN ACT

RELATING TO THE HAWAII ENERGY LOAN PROGRAM.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **HAWAII ENERGY LOAN PROGRAM**

6 § -1 **Definitions.** As used in this chapter, unless the
7 context requires otherwise:

8 "Alternative fuel project" means:

9 (1) A fleet of vehicles that are modified or acquired
10 directly from a factory that:

11 (A) Uses an alternative fuel including electricity,
12 ethanol, gasohol with at least ten per cent
13 denatured alcohol content, hydrogen, hythane,
14 methane, methanol, natural gas, propane, or any
15 other fuel approved by the coordinator; and

16 (B) Produces lower or equivalent exhaust emissions or
17 are more energy efficient than vehicles fueled by
18 gasoline; and



1 (2) A facility, including a fueling station, necessary to
2 operate an alternative fuel vehicle fleet.

3 "Applicant" means an applicant for a Hawaii energy loan
4 program loan.

5 "Committee" means the Hawaii energy loan program advisory
6 committee.

7 "Coordinator" means the energy resources coordinator as
8 provided by section 196-3.

9 "Department" means the department of business, economic
10 development, and tourism.

11 "Director" means the director of business, economic
12 development, and tourism.

13 "Eligible federal agency" means a federal agency or public
14 corporation created by the federal government that proposes to
15 use a loan for an energy loan program project. "Eligible
16 federal agency" does not include a federal agency or public
17 corporation created by the federal government that proposes to
18 use a loan for an energy loan program project to generate
19 electricity for sale.

20 "Eligible state agency" means a state officer, board,
21 commission, department, or agency of the State that receives



1 funds held in the state general fund to pay for all or part of
2 its costs.

3 "Energy project" means:

4 (1) A system, mechanism, or series of mechanisms located
5 primarily in the State that directly or indirectly
6 uses or enables the use of, by the applicant or
7 another person, renewable resources including solar,
8 wind, wave, geothermal, biomass, waste heat or water
9 resources to produce energy, including heat,
10 electricity, and substitute fuels to meet an energy
11 need in the State;

12 (2) A system, mechanism, or series of mechanisms located
13 primarily in the State or providing substantial
14 benefits to the State that directly or indirectly
15 conserves energy or enables the conservation of energy
16 by the applicant or another person, including energy
17 used in transportation;

18 (3) A recycling project;

19 (4) An alternative fuel project;

20 (5) An improvement that increases the production or
21 efficiency, or extends the operating life, of a



1 system, mechanism, series of mechanisms, or project,
2 including the restarting of a dormant project;

3 (6) A system, mechanism, or series of mechanisms installed
4 in a facility or portions of a facility that directly
5 or indirectly reduces the amount of energy needed for
6 the construction and operation of the facility and
7 that meets applicable sustainability building
8 requirements;

9 (7) A project described in paragraphs (1) through (6),
10 whether or not the existing project was originally
11 financed under this chapter, together with any
12 refinancing necessary to remove prior liens or
13 encumbrances against the existing project; or

14 (8) A project described in paragraphs (1) through (7) that
15 conserves energy or produces energy by generation or
16 by processing or collection of a renewable resource.

17 "Hawaii business" means a sole proprietorship, partnership,
18 company, cooperative, corporation, or other business entity
19 organized or authorized to do business in the State for profit.

20 "Loan" includes the purchase or other acquisition of
21 evidence of indebtedness and money used for the purchase or
22 other acquisition of evidence of indebtedness.



1 "Loan contract" means the evidence of indebtedness and all
 2 instruments used in the purchase or acquisition of the evidence
 3 of indebtedness. For eligible federal or state agencies or tax
 4 exempt county agencies, a loan contract may include a lease
 5 purchase agreement with respect to personal property.

6 "Loan fund" means the Hawaii energy loan program fund
 7 established in section -10.

8 "Recycling project" means a facility or equipment that
 9 converts waste into a new and usable product.

10 "Sinking fund" means the Hawaii energy loan program
 11 administration and bond sinking fund established in section -
 12 28.

13 "Small business" means:

14 (1) A Hawaii business that is:

15 (A) A retail or service business employing not more
 16 than fifty persons at the time the loan is made;
 17 or

18 (B) An industrial or manufacturing business employing
 19 not more than two hundred persons at the time the
 20 loan is made; or

21 (2) A Hawaii subsidiary of a sole proprietorship,
 22 partnership, company, cooperative, corporation, or



1 other business entity that employs in the subsidiary
2 and the parent entity at the time the loan is made:

3 (A) Not more than fifty persons if the subsidiary is
4 a retail or service business; or

5 (B) Not more than two hundred persons if the
6 subsidiary is an industrial or manufacturing
7 business.

8 § -2 **Application for loan funds; content; fee.** (a) Any
9 resident of the State, Hawaii business, nonprofit corporation,
10 eligible federal agency, eligible state agency, public
11 corporation created by the State, intergovernmental entity
12 created pursuant to an intergovernmental agreement under -15,
13 or county may file with the department an application to obtain
14 loan funds for an energy project.

15 (b) Applications for loan funds shall be in writing on a
16 form prescribed by the department and shall:

17 (1) Describe the nature and purpose of the proposed energy
18 project;

19 (2) State whether any purposes other than energy
20 production, but consistent with energy production,
21 will be served by the proposed energy project, and the
22 nature of the other purposes;



1 (3) Include an evaluation of the potential of the energy
2 project to meet energy needs;

3 (4) State whether any moneys other than loan fund moneys
4 are proposed to be used for the development of the
5 energy project and whether any other moneys are
6 available or have been sought for the project; and

7 (5) Describe the source of funds for repayment of the loan
8 applied for.

9 (c) A fee of one-tenth of one per cent of the amount of
10 the loan applied for or \$2,500, whichever is less, shall be
11 submitted with each application. The applicant may be required
12 to pay for costs incurred with the application that exceed the
13 application fee that the coordinator determines are incurred
14 solely in connection with processing the application. The
15 applicant shall be advised of any additional costs payable by
16 the applicant before the costs are incurred.

17 § -3 Confidentiality. (a) The following records,
18 communications, and information furnished by or on behalf of an
19 applicant shall be confidential if requested in writing by the
20 person providing the information:

21 (1) Personal financial statements;

22 (2) Financial statements of applicants;



1 (3) Customer lists;
2 (4) Information of an applicant pertaining to litigation
3 to which the applicant is a party if the complaint has
4 been filed, or, if the complaint has not been filed,
5 if the applicant shows that litigation is reasonably
6 likely to occur;

7 (5) Production, sales, and cost data; and

8 (6) Technical information or data related to an
9 applicant's proposed energy project, including any
10 description, analysis, evaluation, or projection
11 regarding the project or a component of the project.

12 (b) Confidentiality established by this section does not
13 apply to concluded litigation and does not limit any right
14 granted by discovery statutes to a party to litigation or
15 potential litigation.

16 § -4 **Hawaii energy loan program advisory committee.** (a)

17 The coordinator shall appoint a Hawaii energy loan program
18 advisory committee to review applications made pursuant to this
19 chapter and to make recommendations to the coordinator.

20 (b) The advisory committee shall consist of seven members
21 who shall serve a term of two years, commencing on the date of
22 appointment until a successor is appointed.



1 (c) Members shall represent the interest of the residents
 2 of the State and shall include members knowledgeable in the
 3 areas of energy technology, natural resource development,
 4 environmental protection, finance, agriculture, state or county
 5 government operations, or utility operations.

6 (d) The committee shall elect its presiding officer, adopt
 7 rules for procedures, and meet on the call of the presiding
 8 officer or a majority of members.

9 (e) The department shall provide administrative facilities
 10 and services for the committee.

11 (f) Members shall not be compensated but shall be
 12 reimbursed for necessary expenses, including travel.

13 § -5 **Standards for energy projects; review of**
 14 **applications; referral to committee; committee criteria.** (a)

15 After consultation with the Hawaii energy loan program advisory
 16 committee, the coordinator shall establish by rule standards and
 17 criteria for energy projects to be funded under this chapter.

18 The standards and criteria shall operate to encourage diversity
 19 in projects funded, give preference to the maximum extent
 20 practical to projects proposed by individuals and small
 21 businesses, ensure acceptability of environmental impacts, and
 22 shall require consideration of the potential contribution of a



1 project if developed at other suitable locations to meeting the
2 energy needs of this State. The standards and criteria shall
3 give the least preference to projects proposed by an eligible
4 federal agency.

5 (b) All applications shall be reviewed by the department.
6 The department may require the applicant to submit additional
7 information or revise the application. The department shall:

8 (1) Determine whether the application meets the standards
9 and criteria adopted under subsection (a); and

10 (2) Recommend approval or denial of the loan application,
11 and, if approval is recommended, in what amount the
12 loan should be made.

13 (c) After concluding its review, unless the application
14 meets the criteria established by the committee, the department
15 shall refer the application and its findings and recommendation
16 to the committee for its review. The department shall notify
17 the applicant of the date, time, and place of any oral
18 presentation to the committee on the application. The committee
19 shall review the application and the findings and
20 recommendations of the department and advise the coordinator
21 whether the proposed energy project meets the criteria
22 established under subsection (a), whether the project should be



1 financed with moneys from the loan fund, and in what amount the
2 loan should be made if approved.

3 (d) The committee may provide for direct referral of an
4 application by the department to the coordinator if the
5 application meets the criteria established by the committee.

6 § -6 Approval or rejection of project financing by
7 coordinator; certification of amount of loan; findings; notice.

8 (a) After consideration of the recommendation of the Hawaii
9 energy loan program advisory committee or the department, or
10 both, the coordinator may approve or reject the financing of an
11 energy project described in an application filed pursuant to
12 this chapter, using moneys in the Hawaii energy program loan
13 fund. Approval of a loan by the coordinator shall include a
14 certification of the amount of the loan.

15 (b) The coordinator's approval of a loan for an energy
16 project shall be based on a finding that:

- 17 (1) The proposed energy project meets standards and
- 18 criteria established pursuant to this chapter;
- 19 (2) The proposed project is consistent with the
- 20 preservation and enhancement of environmental quality;
- 21 (3) The proposed project is feasible and a reasonable risk
- 22 from practical and economic standpoints;



- 1 (4) The plan for development of the project is
- 2 satisfactory;
- 3 (5) The applicant is qualified, creditworthy, and
- 4 responsible and is willing and able to enter into a
- 5 contract with the director for development and
- 6 repayment as provided in section -14;
- 7 (6) There is a need for the proposed energy project and
- 8 the applicant's financial resources are adequate to
- 9 provide the working capital to maintain the project
- 10 after completion;
- 11 (7) Moneys in the loan fund are or will be available for
- 12 the development of the proposed energy project;
- 13 (8) The loan does not finance any project for which the
- 14 projected economic value of the energy savings of the
- 15 project during the first year the project is
- 16 implemented is equal to or greater than the cost of
- 17 the project; and
- 18 (9) The loan will not preclude individuals and small
- 19 businesses from access to loan funds.
- 20 (c) The coordinator shall notify the applicant and the
- 21 presiding officer of the committee of the coordinator's action
- 22 and of the reasons for that action. The coordinator shall



1 inform the applicant of the review procedure established in this
2 chapter.

3 § -7 **Committee review of rejection or approval in**
4 **different amount; committee appeal to governor; finality of**
5 **governor's action.** (a) If the coordinator rejects a loan
6 application or approves a loan amount different than that
7 requested by the applicant, an applicant may request the Hawaii
8 energy loan program advisory committee to review the
9 coordinator's action.

10 (b) The committee may review the coordinator's action on
11 its own motion or at the request of the applicant. A majority
12 of the members of the committee may authorize the presiding
13 officer of the committee to appeal the coordinator's action to
14 the governor.

15 (c) An appeal of the coordinator's action may be initiated
16 by the presiding officer of the committee no later than forty-
17 five days after the date the applicant receives notice of the
18 coordinator's action.

19 (d) A decision of the governor shall be final. If the
20 governor fails to act within thirty days after receiving an
21 appeal, the appeal shall be considered to be denied.



1 (e) A decision of the coordinator or the governor on an
2 application for loan funds under this chapter is not subject to
3 judicial review.

4 § -8 **Gifts credited to loan fund.** The coordinator may
5 accept gifts of money or other property from any source, given
6 for the purposes of the Hawaii energy loan program. Money so
7 received shall be paid into the loan fund. Money or other
8 property received shall be used for the purposes for which it
9 was received.

10 § -9 **Limit on loan to amount not funded by other**
11 **sources.** If an applicant receives from any source other than
12 the loan fund any funds to assist in the development of the
13 proposed energy project, the amount of the loan to the applicant
14 shall be limited to that amount necessary for the development of
15 those portions of the project not funded by other sources.

16 § -10 **Hawaii energy loan program fund.** (a) There is
17 created the Hawaii energy loan program fund, from which moneys
18 shall be loaned by the department to provide financing for the
19 development of energy projects as provided in this chapter and
20 into which may be deposited:

21 (1) All moneys received as repayment for loans provided by
22 this chapter;



1 (2) Interest and fees collected by the department under
2 this chapter;

3 (3) Proceeds of bonds pursuant to section -24; and

4 (4) Gifts received pursuant to section -8.

5 (b) All payments received on account of principal shall be
6 credited to the Hawaii energy loan program fund.

7 (c) All moneys in the fund shall be used for the purposes
8 provided in this chapter.

9 § -11 **Administration of Hawaii energy loan program funds**
10 **and accounts.** The duties of the director of finance to
11 establish, maintain and keep accounts of, and make disbursements
12 or transfers out of, the funds and accounts that relate to the
13 Hawaii energy loan program established by this chapter are
14 transferred to the director of business, economic development,
15 and tourism. Notwithstanding the transfer of these fiscal
16 functions to the department of business, economic development,
17 and tourism, the department's performance of these fiscal
18 functions shall remain subject to the control of the department
19 of budget and finance.

20 § -12 **Rulemaking authority; biennial report.** (a) In
21 accordance with chapter 91, the coordinator may adopt rules
22 necessary to carry out the purposes of this chapter.



1 (b) The coordinator shall submit to the legislature and
2 the governor a biennial report of the transactions of the loan
3 fund and the sinking fund in sufficient detail to accurately
4 indicate the condition of the funds. The report shall be
5 submitted to the legislature no later than twenty days prior to
6 the convening of the regular session of odd-numbered years.

7 § -13 **Department to develop marketing plan.** The
8 department shall develop, implement, and periodically update a
9 marketing plan to inform potential applicants of the
10 availability of energy project loans. The priority of the
11 marketing plan shall be to inform individuals and small
12 businesses that energy project loans are available.

13 § -14 **Loan contract; security; content.** Except as
14 otherwise provided, if the coordinator approves the financing of
15 an energy project, the coordinator, on behalf of the State, and
16 the applicant may enter into a loan contract, secured by a first
17 lien or by other good and sufficient collateral. For purposes
18 of this section, the interest of the department under a lease
19 purchase contract entered into with an eligible federal or state
20 agency or a county may constitute good and sufficient
21 collateral. The loan contract:



- 1 (1) May provide that the coordinator, on behalf of the
2 State, is required to approve the arrangements made by
3 the applicant for the development, operation, and
4 maintenance of the energy project, using moneys in the
5 loan fund for the project development;
- 6 (2) Shall provide a plan for repayment by the applicant to
7 the sinking fund of moneys borrowed from the loan fund
8 used for the development of the energy project and
9 interest on those moneys used at a rate of interest
10 that the director determines is necessary to provide
11 adequate funds to recover the administrative expenses
12 incurred under this chapter. The director shall set
13 the interest rate at an incremental rate above the
14 interest rate on the underlying bonds. The
15 incremental rate for projects proposed by an eligible
16 federal agency shall be greater than the incremental
17 rate charged to any other governmental borrower. The
18 repayment plan, among other matters:
- 19 (A) Shall provide for commencement of repayment by
20 the applicant of moneys used for project
21 development and interest thereon not later than
22 two years after the date of the loan contract or



1 at any other time as the director may provide.
2 In addition to any other prepayment option
3 provided in a borrower's loan agreement, the
4 department shall provide a borrower the
5 opportunity to prepay the borrower's loan,
6 without any additional premium, by defeasing the
7 loan to the call date of the bond or bonds
8 funding the applicable loan, or any refunding
9 bonds linked to the loan, but defeasance shall
10 occur only if the coordinator finds that after
11 the defeasance, the sinking fund will have
12 sufficient funds to make payments required under
13 section -28;

14 (B) May provide for reasonable extension of the time
15 for making any repayment in emergency or hardship
16 circumstances, if approved by the coordinator;

17 (C) Shall provide for evidence of debt assurance of
18 and security for repayment by the applicant
19 considered necessary or proper by the
20 coordinator;

21 (D) Shall set forth the period of loan that shall not
22 exceed the usable life of the completed project,



1 or thirty years from the date of the loan
2 contract, whichever is less; and
3 (E) May set forth a procedure for formal declaration
4 of default of payment by the coordinator,
5 including formal notification of all relevant
6 federal, state, and county agencies; and further,
7 a procedure for notification of all relevant
8 federal, state, and county agencies that
9 declaration of default has been rescinded when
10 appropriate.
11 (3) May include provisions satisfactory to the coordinator
12 for field inspection, the coordinator to be the final
13 judge of completion of the project;
14 (4) May provide that the liability of the State under the
15 loan contract is contingent upon the availability of
16 moneys in the loan fund for use in the planning and
17 development of the project;
18 (5) May include further provisions that the coordinator
19 considers necessary to ensure expenditure of the funds
20 for the purposes set forth in the approved
21 application; and



1 (6) May provide that the coordinator may institute an
 2 appropriate action or suit to prevent use of the
 3 project financed by the loan fund by any person who is
 4 delinquent in the repayment of any moneys due the
 5 sinking fund.

6 § -15 **Loan contract in form of intergovernmental**
 7 **agreement; provisions.** A loan contract with an eligible state
 8 agency for an energy project may be made in the form of an
 9 intergovernmental agreement. The agreement shall specify that:

- 10 (1) The energy project shall be security for the loan;
- 11 (2) The applicant pledges to request each biennium during
 12 the term of the loan, spending authorization or
 13 appropriation of funds from the legislature or pledges
 14 to otherwise provide funds sufficient to pay the loan
 15 payments due that biennium; and
- 16 (3) If applicable, the pledge of the applicant to repay
 17 the loan shall be contingent upon the continued
 18 spending authorization or appropriation by the
 19 legislature of funds sufficient to pay the loan.

20 § -16 **Payment from loan fund.** If the coordinator
 21 approves a loan for an energy project, the director shall pay



1 moneys for the project from the loan fund in accordance with the
2 terms of the loan contract, as prescribed by the coordinator.

3 § -17 **Security for loan.** (a) When a loan is made under
4 this chapter to an applicant other than a county, the loan shall
5 be secured pursuant to a mortgage, trust deed, security
6 agreement, pledge, assignment, or similar instrument, by a
7 security interest or lien on real or personal property in the
8 full amount of the loan or as the coordinator shall require for
9 adequate security, including but not limited to long-term
10 leasehold interests or equitable interests in real property or
11 personal property. In lieu of, or in addition to, any of the
12 collateral otherwise described in this subsection, the applicant
13 may secure the loan by providing credit enhancement, including
14 but not limited to a letter of credit or payment bond, or a
15 guaranty acceptable to the coordinator.

16 (b) When a loan is made to a county for the development of
17 an energy project under this chapter, the loan shall be secured
18 as the coordinator shall require for adequate security. The
19 security may be in the form of a lien, mortgage, interest under
20 a lease-purchase contract, or other form of security acceptable
21 to the coordinator and the county.



1 (c) When a loan made under this chapter is secured by a
2 lien on the real property of the applicant, the coordinator
3 shall perfect the lien by recording as provided by law.

4 (d) Upon payment of all amounts loaned to an applicant
5 pursuant to this chapter, the coordinator shall file a
6 satisfaction or release notice that indicates repayment of the
7 loan.

8 (e) The coordinator may cause to be instituted appropriate
9 proceedings to foreclose liens for delinquent loan payments, and
10 shall pay the proceeds of any such foreclosure, less the
11 coordinator's expenses incurred in foreclosing, into the sinking
12 fund. In a foreclosure proceeding, the coordinator may bid on
13 property offered for sale in the proceedings and may acquire
14 title to the property on behalf of the State.

15 (f) The coordinator may take any action, make any
16 disbursement, hold any funds, or institute any action or
17 proceeding necessary to protect the State's interest.

18 (g) The coordinator may settle, compromise, or release,
19 for reasons other than uncollectibility, all or part of any loan
20 obligation so long as the coordinator's action is consistent
21 with the purposes of this chapter and does not impair the



1 ability to pay the administrative expenses of the department or
2 the obligations of any bonds then outstanding.

3 § -18 **Withholding of state funds due to county that**
4 **defaults on loan.** In addition to any other remedy available to
5 the department, if a county entitled by law to share in the
6 apportionment of any state revenues or funds defaults on any
7 payments due to the State under a loan contract entered into
8 under this chapter, the department may certify that fact to the
9 department of budget and finance and the department of budget
10 and finance shall withhold payment of any revenues or funds in
11 the state treasury to which the county is entitled, in an amount
12 not to exceed the balance owing on the loan, until the
13 department certifies that the default has been remedied.

14 § -19 **Remedies.** If an applicant fails to comply with a
15 contract entered into with the coordinator for development and
16 repayment, the coordinator, in addition to remedies provided in
17 this chapter, may seek other appropriate legal remedies to
18 secure the loan and may contract with any other person for
19 continuance of development and for repayment of moneys from the
20 loan fund used therefore and interest thereon.

21 § -20 **Refinancing of project; use of funds.** If any
22 energy project is refinanced or an additional grant or loan



1 intended to finance the project development is obtained from
 2 other sources after the execution of the loan from the State,
 3 all such funds shall be used to repay the State unless the
 4 coordinator finds that repayment of the State from the
 5 additional grant or loan would be contrary to public interest.

6 **§ -21 County may enter into loan contract; purchase of**
 7 **county's general or revenue obligation.** (a) Notwithstanding
 8 any other provision of law, a county may enter into a loan
 9 contract with the department to finance an energy project.

10 (b) In order to finance an energy project, the
 11 coordinator, on behalf of the State and in lieu of entering into
 12 a loan contract under subsection (a) of this section, may
 13 purchase or otherwise acquire a county's general obligations or
 14 revenue obligations, including but not limited to bonds, notes,
 15 certificates of participation, warrants, or lease purchase
 16 agreements.

17 **§ -22 Issuance of bonds.** To provide loans for energy
 18 projects and the purposes of this chapter, bonds may be issued
 19 as provided in this chapter.

20 **§ -23 Procedure for bond issuance and sale.** Bonds shall
 21 be issued in accordance with the applicable provisions of state



1 law. The bonds may be sold at a public sale or at a private,
2 negotiated sale.

3 § -24 **Bond proceeds credited to loan fund; use of funds.**

4 Except as otherwise provided, all moneys obtained from the sale
5 of bonds under this chapter shall be credited to the loan fund.

6 Those moneys shall be used only for the purposes of this
7 chapter, including payment of the costs of issuing the bonds and
8 of obtaining credit enhancement for the bonds, and making
9 payments of interest on bonds if there are insufficient funds in
10 the sinking fund to make the payments referred to in section

11 -26. Moneys loaned to counties but withheld by the
12 department for security or to pay for future project costs may
13 remain in the loan fund. Pending the use of the moneys in the
14 loan fund for proper purposes, the moneys may be invested in the
15 manner provided by law.

16 § -25 **Bonds as general obligation bonds.** All bonds
17 issued under this chapter shall contain a direct promise of the
18 State to pay the principal amount of the bonds, plus any accrued
19 interest and any redemption premium. The principal of and the
20 interest and redemption premium, if any, upon the bonds, when
21 due, shall be paid at the department of budget and finance. The
22 charges imposed by the department of budget and finance for its



1 services shall be paid, upon approval by the director of
2 finance, from the sinking fund.

3 § -26 **Refunding bonds.** (a) After consultation with the
4 director of finance, the coordinator may issue refunding bonds
5 for the purpose of refunding outstanding bonds issued under this
6 chapter. The refunding bonds may be sold in the same manner as
7 other bonds are sold under this chapter. All moneys obtained
8 from the sale of refunding bonds shall be credited to the
9 sinking fund. The issuance of the refunding bonds, the maturity
10 date, and other details thereof, the rights of the holders
11 thereof, and the duties of the governor and the director of
12 finance with respect thereto, shall be governed by state law.
13 The refunding bonds may be issued to refund bonds previously
14 issued for refunding purposes. Pending the use of moneys
15 obtained from the sale of refunding bonds for proper purposes,
16 the moneys may be invested in the manner provided by law.

17 (b) Notwithstanding any provision to the contrary, if the
18 department issues taxable refunding bonds at a lower interest
19 rate to refund outstanding general obligation bonds, and is
20 unable to allow loan recipients to receive a portion of the
21 interest savings, the coordinator shall allow the loan recipient
22 to prepay the outstanding loan balance upon the request of the



1 recipient. The coordinator shall respond to a request within
2 thirty days after receiving the request by specifying the
3 outstanding principal balance after applying reserves held by
4 the State for the borrower and the prepayment premium as listed
5 in the bond document, loan document, or bond purchase agreement.

6 (c) The department shall pursue opportunities for
7 refunding bonds to reduce interest sums payable by the
8 department. When the department refunds a bond with tax-exempt
9 bonds, the department shall share, on an equitable basis, the
10 savings from any refunding with the borrowers whose loans were
11 made with the proceeds of the refunded bonds in an amount
12 consistent with a finding by the director that the sinking fund
13 has, and will continue to have, sufficient funds to make
14 payments required under section -29. The department may not
15 refund tax-exempt bonds with taxable bonds, unless the
16 department is able to share the savings associated with such a
17 refunding with the borrowers whose loans are linked to such
18 bonds. At least one hundred twenty days before the date on
19 which the department intends to issue refunding bonds, the
20 coordinator shall notify each borrower whose loan was made from
21 the proceeds of the bonds being refunded and shall offer the
22 borrower the opportunity to prepay the borrower's loan. A



1 borrower shall respond within sixty days of the date of the
2 notice described in this subsection if the borrower intends to
3 prepay the borrower's loan.

4 § -27 **Bond repayment from sinking fund.** (a) The
5 director of finance shall make payment of the principal of and
6 the interest and redemption premium, if any, on any bond issued
7 under this chapter from the sinking fund.

8 (b) The director of finance shall compute and determine in
9 January of each year, after the sale of bonds under this
10 chapter, the amount of principal, interest and redemption
11 premiums that will fall due during the year on bonds then
12 outstanding and unpaid and shall maintain or hold in the sinking
13 fund sufficient moneys to pay such maturing obligations.

14 § -28 **Bond indebtedness limited to constitutional limit.**

15 No bonds shall be issued or sold under this chapter nor
16 indebtedness incurred thereunder, which singly, or in the
17 aggregate with previous debts or liabilities incurred for energy
18 projects, shall exceed any limitation provided in the state
19 constitution at the date of the issuance and sale of such bonds.
20 If the maximum aggregate principal sum of bonds authorized to be
21 issued exceeds any limitation provided in the state
22 constitution, bonds shall be issued in the aggregate principal



1 sum of not to exceed that authorized under the limitation
2 provided in the state constitution.

3 § -29 Hawaii energy program administration and bond
4 sinking fund; uses; sources. (a) There is created the Hawaii
5 energy program administration and bond sinking fund, separate
6 and distinct from the general fund, to provide for payment of:

7 (1) Administrative expenses of the department and the
8 coordinator in processing applications, investigating
9 potential energy projects and proposed loans and
10 servicing and collecting outstanding loans made under
11 this chapter, if the expense is not paid directly by
12 the applicant;

13 (2) Administrative expenses of carrying out the duties,
14 functions, and powers imposed upon the director of
15 finance by this chapter;

16 (3) Principal, interest, and redemption premium, if any,
17 of all bonds issued pursuant to the provisions of this
18 chapter;

19 (4) Net investment earnings on any funds loaned to
20 counties but withheld as provided in this chapter; and

21 (5) Costs of issuing the bonds and of obtaining credit
22 enhancement for the bonds.



- 1 (b) The fund created by subsection (a) may consist of:
- 2 (1) Application fees, unless the department requires the
- 3 applicant to pay the fee directly for a cost incurred
- 4 in connection with the application;
- 5 (2) Repayment of moneys loaned to applicants from the loan
- 6 fund, including interest on the moneys;
- 7 (3) Any moneys appropriated to the fund by the
- 8 legislature;
- 9 (4) Moneys obtained from the sale of refunding bonds and
- 10 any accrued interest on the bonds;
- 11 (5) Interest earned on cash balances invested by the
- 12 director of finance; and
- 13 (6) Moneys transferred from the Hawaii energy program loan
- 14 fund.
- 15 (c) The coordinator, with the approval of the director of
- 16 finance, may transfer moneys from the sinking fund to the loan
- 17 fund if:
- 18 (1) A cash flow projection shows that, for the term of the
- 19 bonds outstanding at the time the coordinator
- 20 transfers the moneys, remaining moneys in the sinking
- 21 fund, together with expected loan contract payments
- 22 and fund earnings, will improve the financial basis of



1 the program and will continue to be adequate to pay
 2 bond principal, interest, redemption premiums, if any,
 3 and administration costs; and

4 (2) The transfer will not create the need for issuance of
 5 any bonds.

6 (d) The coordinator, with the approval of the director of
 7 finance, may establish separate and distinct accounts within the
 8 sinking fund to accomplish the purpose of this section.

9 § -30 **Procedure if sinking fund inadequate.** (a) If
 10 there are insufficient funds in the sinking fund to make the
 11 payments referred to in section , the coordinator may
 12 request an appropriation of the funds necessary for such
 13 payments from the legislature.

14 (b) When the coordinator determines that moneys in
 15 sufficient amount are available in the sinking fund, the
 16 director of finance shall reimburse the general fund without
 17 interest, in an amount equal to the amount allocated by the
 18 legislature pursuant to subsection (a) of this section. The
 19 moneys used to reimburse the general fund under this subsection
 20 shall not be considered a budget item on which a limitation is
 21 otherwise fixed by law, but shall be in addition to any specific



1 appropriations or amounts authorized to be expended from
2 continually appropriated moneys."

3 SECTION 2. In codifying the new chapter added by section 1
4 of this Act, the revisor of statutes shall insert appropriate
5 section numbers in designating the new sections in this Act.

6 SECTION 3. This Act shall take effect upon its approval.
7

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Report Title:

Hawaii Energy Loan Program

Description:

Establishes the Hawaii energy loan program to provide low-interest loans for energy programs that promote energy conservation and renewable energy resource development.

