
A BILL FOR AN ACT

RELATING TO HOUSING.

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

1 PART I

2 SECTION 1. The purpose of this Act is to address several
3 housing issues including:

4 (1) Transferring the responsibility for administering the
5 issuance of special purpose revenue bonds for low- and
6 moderate-income housing projects to the Hawaii housing
7 finance and development corporation from the
8 department of budget and finance;

9 (2) Transferring the private activity bond volume cap
10 entirely to the State, with an allocation of eighty
11 per cent of the cap to the Hawaii housing finance and
12 development corporation and the remainder to the
13 department of budget and finance;

14 (3) Requiring only grants to be made from the rental
15 housing trust fund as equity gap financing; and

16 (4) Repealing the sunset date on the provision
17 transferring a portion of the conveyance tax proceeds
18 to the rental housing trust fund.



1 PART II

2 SECTION 2. The purpose of this part is to transfer the
3 responsibility for administering the issuance of special purpose
4 revenue bonds for low- and moderate-income housing projects to
5 the Hawaii housing finance and development corporation from the
6 department of budget and finance.

7 SECTION 3. Section 39A-281, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding a new definition of "corporation" to be
10 appropriately inserted and to read:

11 "Corporation" means the Hawaii housing finance and
12 development corporation."

13 2. By repealing the definition of "department".

14 [~~"Department" means the department of budget and~~
15 ~~finance."~~]

16 SECTION 4. Section 39A-285, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§39A-285 Project agreement.** No special purpose revenue
19 bonds shall be issued unless, at the time of issuance, the
20 [~~department~~] corporation shall have entered into a project
21 agreement with respect to the project for the financing or
22 refinancing of which the bonds are to be issued. Any project



1 agreement entered into by the [~~department~~] corporation shall
2 contain provisions unconditionally obligating the project party
3 to:

4 (1) Pay to the [~~department~~] corporation during the period
5 or term of the project agreement, exclusive of any
6 renewal or extension thereof and whether or not the
7 project is used or occupied by the project party, a
8 sum, at a time, and in an amount that shall be
9 sufficient to:

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

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

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



1 (D) Pay the fees, costs, and expenses (direct or
 2 indirect) assessed by the [~~department~~]
 3 corporation in administering the bonds or in
 4 carrying out the project agreement; and

5 (2) Operate, maintain, and repair the project as long as
 6 it is used to provide low- and moderate-income
 7 housing, and to pay all costs of operation,
 8 maintenance, and repair.

9 Moneys received by the [~~department~~] corporation pursuant to
 10 paragraph (1)(D) shall not be, nor be deemed to be, revenues of
 11 the project and shall be paid to the director of finance for
 12 deposit into the general fund of the State."

13 SECTION 5. Section 39A-286, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "[+]§39A-286[+] **Issuance of special purpose revenue bonds**
 16 **to finance projects.** In addition to the other powers that it
 17 may otherwise have, the [~~department~~] corporation may issue
 18 special purpose revenue bonds to finance or refinance the costs
 19 of developing low- and moderate-income housing projects or to
 20 loan the proceeds of bonds to assist project parties in the
 21 development of low- and moderate-income housing[~~-~~] projects.

22 All bonds issued under this part are special purpose revenue



1 bonds and the provisions of part III of chapter 39 shall not
2 apply. All special purpose revenue bonds shall be issued in the
3 name of the [~~department~~] corporation and not in the name of the
4 State[~~-~~] or department of budget and finance.

5 In determining the cost of any project, the [~~department~~]
6 corporation may also include:

- 7 (1) Financing charges, fees, the expenses of trustees, and
8 the cost of paying agents to issue special purpose
9 revenue bonds to fund the project;
- 10 (2) Interest on the bonds and the expenses of the State in
11 connection with the bonds and the project to be
12 financed or refinanced from the proceeds of the bonds
13 accruing or incurred prior to and during the period of
14 construction, not to exceed twelve months thereafter;
- 15 (3) Amounts necessary to establish or increase reserves
16 for the special purpose revenue bonds;
- 17 (4) The cost of plans, specifications, studies, surveys,
18 and estimates of costs and of revenues;
- 19 (5) Other expenses incidental to determining the
20 feasibility or practicability of the project;
- 21 (6) Administration expenses;



- 1 (7) The cost of interest incurred by the project party
- 2 with respect to the project prior to the issuance of
- 3 the special purpose revenue bonds;
- 4 (8) Fees and expenses incurred in connection with the
- 5 refinancing of outstanding obligations;
- 6 (9) Other costs, commissions, and expenses incidental to
- 7 the project;
- 8 (10) The financing or refinancing of the project and
- 9 placing the project in operation; and
- 10 (11) The issuance of the special purpose revenue bonds,
- 11 whether incurred prior to or after the issuance of the
- 12 bonds.

13 The legislature finds and determines that the exercise of
14 the powers vested in the [~~department~~] corporation by this part
15 constitutes assistance to not-for-profit private organizations,
16 for-profit private organizations, and public instrumentalities
17 and their qualified affiliates in the development of low- and
18 moderate-income housing, and that the issuance of special
19 purpose revenue bonds to finance or refinance projects of or for
20 project parties or to loan the proceeds of the bonds to assist
21 project parties in the development of low- and moderate-income
22 housing is in the public interest. The legislature further



1 finds that this governmental assistance to not-for-profit
 2 private organizations, for-profit private organizations, and
 3 public instrumentalities and their qualified affiliates is
 4 necessary to encourage public-private partnerships to develop
 5 affordable housing for low- and moderate-income families in the
 6 State."

7 SECTION 6. Section 39A-292, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 "[+]§39A-292[+] **Validity of special purpose revenue bonds.**

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

20 SECTION 7. Sections 39A-282, 39A-284, 39A-287, 39A-288,
 21 39A-289, 39A-290, 39A-293, 39A-295, 39A-296, 39A-297, 39A-300,
 22 and 39A-301, Hawaii Revised Statutes, are amended by



1 substituting the term "corporation" for the term "department"
2 wherever the latter term occurs.

3 PART III

4 SECTION 8. The purpose of this part is to transfer the
5 private activity bond volume cap entirely to the State, with an
6 allocation of eighty per cent to the Hawaii housing finance and
7 development corporation and the remainder to the department of
8 budget and finance.

9 SECTION 9. Section 39B-1, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By adding a new definition of "corporation" to read:

12 ""Corporation" means the Hawaii housing finance and
13 development corporation."

14 2. By amending the definition of "issuer" to read:

15 ""Issuer" means any state department, board, commission,
16 officer, corporation, or authority[7] or private not-for-profit
17 corporation authorized under the laws of the State to issue
18 private activity bonds. The term includes the Hawaii housing
19 finance and development corporation and the department of budget
20 and finance unless the context requires otherwise."

21 SECTION 10. Section 39B-2, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "**§39B-2 Allocation of annual state ceiling.** (a) The
2 annual state ceiling shall be allocated for each calendar year
3 [~~in the following proportions:~~

4 ~~(1) An amount equal to fifty per cent of the annual state~~
5 ~~ceiling]~~ entirely to the State[~~+~~

6 ~~(2) An amount equal to 37.55 per cent of the annual state~~
7 ~~ceiling to the city and county of Honolulu;~~

8 ~~(3) An amount equal to 5.03 per cent of the annual state~~
9 ~~ceiling to the county of Hawaii;~~

10 ~~(4) An amount equal to 2.41 per cent of the annual state~~
11 ~~ceiling to the county of Kauai; and~~

12 ~~(5) An amount equal to 5.01 per cent of the annual state~~
13 ~~ceiling to the county of Maui].~~ Of the total allocation for

14 each calendar year:

15 (1) Eighty per cent shall be allocated to the corporation;
16 and

17 (2) Twenty per cent shall be allocated to the department.

18 (b) [~~The department, with~~] With the approval of the
19 governor, the corporation or department may assign all or any
20 part of [~~the~~] its allocation [~~of the State~~] to [~~any~~] the other,
21 another issuer, or any county for a specific calendar year or
22 years.



1 At the request of the corporation or department, [~~any~~
2 ~~issuer or county to which~~] the assignee of any part of [~~the~~
3 ~~State's~~] an allocation [~~has been assigned~~] shall return all or
4 part of the assignment[~~, in which case~~]. After the return, the
5 corporation or department may provide for [~~its~~] the use or
6 reassignment[~~-~~] of the returned allocation.

7 [~~(c)~~] ~~The department may request return of all or any part~~
8 ~~of the allocations of one or more counties made pursuant to~~
9 ~~subsection (a), and may assign and reassign the allocation to~~
10 ~~any other county or issuer for a specified calendar year or~~
11 ~~years.~~

12 [~~(d)~~] (c) A county, by resolution of its governing body, or
13 any issuer, by written certificate of [~~such~~] the issuer, may
14 request [~~additional allocations~~] an assignment of the
15 corporation's or department's annual state ceiling [~~from, or~~
16 ~~assign all or any part of its portion of the~~] allocation [~~of the~~
17 ~~annual state ceiling to, the State~~] for a specified calendar
18 year or years."

19 SECTION 11. Section 39B-3, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[~~+~~]**\$39B-3**[~~+~~] **Application of assigned allocation.** The
22 extent to which all or any part of an assigned allocation made



1 to a county or an issuer pursuant to section 39B-2 is applied to
2 a project subject to the annual state ceiling shall be evidenced
3 by a certificate of the issuer or the director of finance of a
4 county, as applicable. This section shall also apply to the
5 corporation and department when applying any part of its
6 respective allocation to a project subject to the annual state
7 ceiling."

8 SECTION 12. Section 39B-4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§39B 4[+] **Report** [~~of unused allocation; reversion to~~
11 ~~State.] **on use of bonds.** The [~~director of finance of each~~
12 ~~county shall report to the department in writing by December 15~~
13 ~~of each year as to the amount of allocation to such county which~~
14 ~~has not been applied to private activity bonds in such year or~~
15 ~~assigned pursuant to this chapter.~~~~

16 ~~In preparing such report, the director of finance of the~~
17 ~~county shall deduct any allocation which is unused or unassigned~~
18 ~~as of December 15 but will be applied to private activity bonds~~
19 ~~on or prior to December 31 of such year.~~

20 ~~Unless the director of finance of the county or any issuer,~~
21 ~~by written certificate, indicates to the department prior to~~
22 ~~December 15 of each year that it intends to carry forward all or~~



1 ~~any portion of its allocation which has not been applied to~~
2 ~~private activity bonds in such year or assigned pursuant to this~~
3 ~~chapter, such unused or unassigned allocation shall revert to~~
4 ~~the State on December 31 and the State shall be entitled to~~
5 ~~carry forward such unused or unassigned allocation as permitted~~
6 ~~by federal law.] corporation and department shall separately~~
7 submit to the governor and legislature by January 31 of each
8 year a report setting forth the amount of the allocation used or
9 assigned during the previous calendar year and the projects for
10 which allocations or assignments were made."

11 PART IV

12 SECTION 13. The purpose of this part is to:

- 13 (1) Require only grants to be made from the rental housing
14 trust fund as equity gap financing; and
15 (2) Repeal the sunset date on the provision transferring a
16 portion of the conveyance tax proceeds to the rental
17 housing trust fund.

18 SECTION 14. Section 201H-202, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§201H-202 Rental housing trust fund.** (a) There is
21 established the rental housing trust fund to be administered by
22 the corporation.



1 (b) An amount from the fund, to be set by the corporation
2 and authorized by the legislature, may be used for
3 administrative expenses incurred by the corporation in
4 administering the fund; provided that fund moneys may not be
5 used to finance day-to-day administrative expenses of projects
6 allotted fund moneys.

7 (c) The following may be deposited into the fund:
8 appropriations made by the legislature, private contributions,
9 repayment of loans~~[7]~~ made before the effective date of this Act
10 or in accordance with section 17 of this Act, interest, other
11 returns, and moneys from other sources.

12 (d) The fund shall be used to provide [~~loans or~~] grants
13 [~~for the development, pre-development, construction,~~
14 ~~acquisition, preservation, and substantial rehabilitation of~~
15 ~~rental housing units.~~] as equity gap financing to leverage
16 special purpose revenue bonds or other financing for rental
17 housing projects. Permitted uses of the [~~fund~~] grants may
18 include but are not limited to planning, design, land
19 acquisition, costs of options, agreements of sale, downpayments,
20 [~~equity financing,~~] capacity building of nonprofit housing
21 developers, or other housing development services or activities
22 as provided in rules adopted by the corporation pursuant to



1 chapter 91. The rules may provide for a means of recapturing
2 [~~loans or~~] grants made from the fund if a rental housing project
3 financed under the fund is refinanced or sold at a later date.
4 [~~The rules may also provide that moneys from the fund shall be~~
5 ~~leveraged with other financial resources to the extent~~
6 ~~possible.~~]

7 (e) [~~Moneys available in~~] Grants from the fund shall be
8 used [~~for the purpose of providing, in whole or in part, loans~~
9 ~~or grants~~] for rental housing projects in the following order of
10 priority:

11 (1) Projects or units in projects that are allocated low
12 income housing credits pursuant to the state housing
13 credit ceiling under section 42(h) of the Internal
14 Revenue Code of 1986, as amended, or projects or units
15 in projects that are funded by programs of the United
16 States Department of Housing and Urban Development and
17 United States Department of Agriculture Rural
18 Development wherein:

19 (A) At least fifty per cent of the available units
20 are for persons and families with incomes at or
21 below eighty per cent of the median family income
22 of which at least five per cent of the available



1 units are for persons and families with incomes
2 at or below thirty per cent of the median family
3 income; and

4 (B) The remaining units are for persons and families
5 with incomes at or below one hundred per cent of
6 the median family income;

7 provided that the corporation may establish rules to
8 ensure full occupancy of fund projects; and

9 (2) Mixed-income rental projects or units in a mixed
10 income rental project wherein all of the available
11 units are for persons and families with incomes at or
12 below one hundred forty per cent of the median family
13 income.

14 No loan for any rental housing project shall be made from
15 the fund.

16 (f) The corporation shall submit an annual report to the
17 legislature no later than twenty days prior to the convening of
18 each regular session describing the projects funded and, with
19 respect to rental housing projects targeted for persons and
20 families with incomes at or below thirty per cent of the median
21 family income, its efforts to develop those rental housing
22 projects, a description of proposals submitted for this target



1 group and action taken on the proposals, and any barriers to
2 developing housing units for this target group.

3 (g) For the purposes of this subpart, the applicable
4 median family income shall be the median family income for the
5 county or standard metropolitan statistical area in which the
6 project is located as determined by the United States Department
7 of Housing and Urban Development, as adjusted from time to time.

8 ~~[(h) The corporation may provide loans and grants under
9 this section; provided that the corporation shall establish
10 loan-to-value ratios to protect the fund from inordinate risk
11 and that under no circumstances shall the rules permit the loan
12 to-value ratio to exceed one hundred per cent; and provided
13 further that the underwriting guidelines include a debt-coverage
14 ratio of not less than 1.0 to 1.~~

15 ~~(i)]~~ (h) For the period commencing July 1, 2005~~[7]~~ through
16 June 30, 2009, the fund may be used to provide grants for rental
17 units set aside for persons and families with incomes at or
18 below thirty per cent of the median family income in any project
19 financed in whole or in part by the fund in proportion of those
20 units to the total number of units in the project. At the
21 conclusion of the period described in this subsection, the
22 corporation shall report to the legislature on the number and



1 use of grants provided and whether the grants were an effective
2 use of the funds for purposes of developing rental housing for
3 families at or below thirty per cent of the median family
4 income."

5 SECTION 15. Section 201H-204, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) Activities eligible for [~~assistance~~] grants from the
8 fund shall include but not be limited to:

9 (1) New construction, rehabilitation, or preservation of
10 low-income rental housing units that meet the criteria
11 for eligibility described in subsection (c);

12 [~~(2) The leveraging of moneys with the use of fund assets;~~

13 ~~(3)] (2) Pre-development activity grants [~~or loans~~] to
14 nonprofit organizations; and~~

15 [~~(4)] (3) Acquisition of housing units for the purpose of
16 preservation as low-income or very low-income rental
17 housing."~~

18 SECTION 16. Act 222, Session Laws of Hawaii 2007, is
19 amended by amending section 4 to read as follows:

20 "SECTION 4. Act 100, Session Laws of Hawaii 2006, is
21 amended by amending section 30 to read as follows:



1 SECTION 19. This Act shall take effect on July 1, 2008,
2 except that part III shall take effect on January 1, 2009.

3

INTRODUCED BY:

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JAN 1 8 2008



Report Title:

Affordable Housing Projects; Financing Sources Consolidation

Description:

Makes the Hawaii housing finance and development corporation responsible for issuing special purpose revenue bonds for low- and moderate-income housing projects. Requires only grants to be made from the rental housing trust fund as equity gap financing. Repeals the sunset date on the transfer of part of the conveyance tax proceeds to the rental housing trust fund. Transfers the private activity bond volume cap entirely to the State.

