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A BILL FOR AN ACT

RELATING TO THE OBLIGATION OF FUNDS.

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

1 SECTION 1. Section 37-40, Hawaii Revised Statutes is  
2 amended to read as follows:

3 "**§37-40 Exceptions; trust funds.** Except as to  
4 administrative expenditures, and except as otherwise provided by  
5 law, expenditures from trust funds may be made by any department  
6 or establishment without appropriation or allotment; provided  
7 that no expenditure shall be made from and no obligation shall  
8 be incurred against any trust fund in excess of the amount  
9 standing to the credit of the fund or for any purpose for which  
10 the fund may not lawfully be expended~~[ ]~~; provided that  
11 obligations in excess of the amount standing to the credit of a  
12 department of Hawaiian home lands trust fund or moneys of the  
13 Hawaii housing finance and development corporation may be  
14 incurred when the director of finance determines that:

15 (1) Moneys to pay the obligation made in excess of the  
16 amount standing to the credit of the trust fund are  
17 expected to be received by the trust fund within a  
18 reasonable time period; or

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1       (2) Moneys to pay the obligation made in excess of the  
2           amount standing to the credit of the Hawaii housing  
3           finance and development corporation are expected to be  
4           received by the corporation within a reasonable time  
5           period; and

6       (3) With the approval of the governor, such action is in  
7           the best interests of the State and will not impede or  
8           hamper the financial obligations of the State.

9       The director of finance may impose such conditions as the  
10       director believes are reasonably necessary.

11       Nothing in sections 37-31 to 37-41 shall require any trust fund  
12       established pursuant to law be reappropriated annually."

13       SECTION 2. Section 103D-309, Hawaii Revised Statutes, is  
14       amended by amending subsection (a) to read as follows:

15       "(a) Contracts awarded pursuant to section 103D-302, 103D-  
16       303, or 103D-306, shall neither be binding nor have any force  
17       and effect of law unless the comptroller, the director of  
18       finance of a county, or the respective chief financial officers  
19       of the department of education, the judiciary, or the  
20       legislative branches of the State or county, as the case may be,  
21       endorses thereon a certificate that there is an appropriation or  
22       balance of an appropriation over and above all outstanding

1 contracts, sufficient to cover the amount required by the  
2 contract; provided that if the contract is a multi-term  
3 contract, the comptroller, director of finance, or chief  
4 financial officer shall only be required to certify that there  
5 is an appropriation or balance of an appropriation over and  
6 above all outstanding contracts, that is sufficient to cover the  
7 amount required to be paid under the contract during the fiscal  
8 year or remaining portion of the fiscal year of each term of the  
9 multi-year contract; provided further that the administrator of  
10 the state procurement office shall attest in writing to any  
11 recommendation or solicitations. This section shall not apply  
12 to any contract under which the total amount to be paid to the  
13 contractor cannot be accurately estimated at the time the  
14 contract is to be awarded, or to any contract for which  
15 consideration is in kind or forbearance, or to any contract  
16 awarded pursuant to section 103D-306 that is a one-time payment  
17 through a purchase order~~[ ]~~, or to any contract which  
18 encumbrance is approved under section 37-40."

19 SECTION 3. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

21 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

Calvin K. King

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BY REQUEST

JAN 22 2008

**Report Title:**

DHHL, HHFDC; obligation of funds.

**Description:**

Allows the Department of Hawaiian Homelands and Hawaii Housing Finance and Development Corporation to start housing projects when they have the initial portion of construction funds for affordable housing projects rather than waiting until they have the entire financing appropriated.

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO THE OBLIGATION OF FUNDS.

PURPOSE: To enable Department of Hawaiian Home Lands and the Hawaii Housing Finance and Development Corporation to begin projects without having the full and final amount of the capital costs on hand at the beginning of the project.

MEANS: Amend sections 37-40 and 103D-309(a), Hawaii Revised Statutes.

JUSTIFICATION: Currently, state-funded housing projects are required to have full capitalization funding on hand before proceeding. This requirement is unreasonable in projects where an income stream is derived by selling or leasing completed homes or improved lands. Changing the law to follow the private industry standard that allows a developer-contractor to be bonded and to proceed with only those funds needed to complete an identifiable phase of the project, will allow state-financed affordable housing projects to be expedited. The Hawaii Housing Finance and Development Corporation has issued requests for proposals to develop an additional 700 units over the next five years. The proposed amendment could further facilitate these and other developments.

Impact on the public: Will enable individuals on Hawaiian Home Lands waiting lists to purchase and occupy their homes more quickly and will expedite an increase in the inventory of affordable homes for the general public through the efforts of the Hawaii Housing Finance and Development Corporation.

Impact on the department and other agencies: Will allow the Department of Hawaiian Home Lands and the Hawaii Housing Finance and Development Corporation to fulfill their missions faster and more effectively.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION:

None.

OTHER AFFECTED  
AGENCIES:

Department of Hawaiian Home Lands, Hawaii  
Housing Finance and Development Corporation,  
Budget and Finance.

EFFECTIVE DATE:

Upon approval.