
A BILL FOR AN ACT

RELATING TO CLEAN ENERGY BONDS.

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

1 **PART I**

2 SECTION 1. The legislature finds that the initial capital
3 investment required by property owners to install renewable
4 energy systems and energy efficiency improvements on residential
5 and commercial properties is a significant barrier to reaching
6 the State's clean energy targets. Increased activity in
7 residential and commercial projects is essential for the State
8 to reach energy efficiency and clean energy goals. Employing
9 innovative financing to remove known barriers and stimulate
10 enterprise in the clean energy sector is beneficial to the
11 public.

12 A Hawaii clean energy bond is a federal taxable, state tax-
13 exempt, revenue bond to fund property assessed clean energy that
14 is in the public interest. The bond proceeds will be deposited
15 into the clean energy bond loan revolving fund under the
16 direction of the department of business, economic development,
17 and tourism, which will make loans to commercial and residential
18 property owners for energy efficiency improvements and small



1 renewable energy systems. The loans will be repaid through a
2 special assessment of real property taxes on the borrower's
3 property by the participating counties and remitted to the
4 department under cooperative agreements. The liability to repay
5 the bonds is attached to the borrower's property, rather than to
6 the borrower.

7 Assisting renewable energy projects and investments in
8 Hawaii can provide jobs, as well as long-term energy,
9 environmental, and economic benefits. Moreover, this Act is
10 compatible with the goals and objectives of the Hawaii clean
11 energy initiative.

12 The legislature finds that the Hawaii clean energy bond
13 loan program:

- 14 (1) Supports energy efficiency and renewable energy
15 projects for residential and commercial structures;
- 16 (2) Provides another source of financing energy projects;
- 17 (3) Fosters energy savings;
- 18 (4) Stimulates job growth; and
- 19 (5) Is in the public interest and for the public health,
20 safety, and general welfare of the State.

21 The purpose of this Act is to establish a Hawaii clean
22 energy bond loan program.



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PART II

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

"CHAPTER

HAWAII CLEAN ENERGY BOND LOAN PROGRAM

§ -1 **Definitions.** As used in this chapter:

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

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

"Energy efficiency improvements":

- (1) Means installation or physical modifications to property designed to reduce energy consumption;
- (2) For the purposes of this chapter, do not include fixtures specific to a certain trade or appliances such as washing machines, dryers, dishwashers, non-centralized air-conditioning units, and all similar appliances; and
- (3) Shall include but not be limited to the following:
 - (A) Air sealing and ventilation;
 - (B) Insulation;



- 1 (C) Space heating and cooling;
- 2 (D) Solar hot water systems;
- 3 (E) Hardwired lighting;
- 4 (F) Daylighting;
- 5 (G) Windows;
- 6 (H) Doors and skylights;
- 7 (I) Reflective roofs; and
- 8 (J) Energy efficiency improvements to pool equipment
- 9 and landscaping.

10 "Loan program" means the Hawaii clean energy bond loan
11 program.

12 "Property owner" means the person who holds title to or is
13 in possession of the subject real property, or the person's
14 lessee or agent.

15 "Renewable energy system":

16 (1) Means a system that produces thermal or electrical
17 energy from renewable sources, including units with an
18 electrical back-up component, intended for use within
19 the residential or commercial property on which it is
20 located; and

21 (2) Shall include but not be limited to the following
22 systems:



- 1 (A) Solar photovoltaic systems;
- 2 (B) Small wind systems with capacity to generate no
- 3 more than fifty kilowatts of electricity; and
- 4 (C) Biogas systems.

5 § -2 Hawaii clean energy bond loan program.

6 Notwithstanding section 39-112, there is established the Hawaii
7 clean energy bond loan program which shall be administered by
8 the director.

9 § -3 Hawaii clean energy bond loan revolving fund. (a)

10 There is established the Hawaii clean energy bond loan revolving
11 fund, into which shall be deposited:

- 12 (1) Proceeds from the issuance of revenue bonds that are
- 13 deposited into the revolving fund;
- 14 (2) Repayments of moneys loaned from the revolving fund
- 15 and interest earned on those moneys;
- 16 (3) Moneys received from the operation of the loan
- 17 program;
- 18 (4) Appropriations made by the legislature to the
- 19 revolving fund;
- 20 (5) Interest earned from the investment of moneys in the
- 21 revolving fund; and
- 22 (6) Any moneys received from grants.



1 (b) Moneys in the Hawaii clean energy bond loan revolving
2 fund shall be used for the following purposes:

3 (1) To make loans to residential and commercial property
4 owners for energy efficiency improvements and
5 renewable energy systems;

6 (2) To repay any debt service on the revenue bonds, the
7 proceeds of which are deposited into the revolving
8 fund; and

9 (3) For administrative expenses relating to the operation
10 of the fund and the loan program.

11 § -4 Powers. The director may:

12 (1) Enter into contracts relating to the operation of the
13 loan program including administering the loan program;
14 and

15 (2) Perform all functions necessary to effectuate the
16 purposes of this chapter.

17 § -5 Rules. The department shall adopt rules pursuant
18 to chapter 91 to carry out the purposes of this chapter,
19 including the following:

20 (1) Prescribing the qualifications for eligibility of
21 applicants for loans;



- 1 (2) Establishing preferences and priorities in determining
- 2 eligibility for loans;
- 3 (3) Establishing the conditions, consistent with the
- 4 purposes of this chapter, for the granting of or for
- 5 the continuance of a grant of a loan;
- 6 (4) Providing for inspection at reasonable hours of the
- 7 structures, equipment, books, and records of the
- 8 entity that has applied for or has been granted a
- 9 loan, and requiring the submission of reports as may
- 10 be requested by the department; and
- 11 (5) Establishing rates and charges for the operation of
- 12 the loan program.

13 § -6 **Loans.** (a) The department may make loans to

14 qualifying commercial and residential property owners for energy

15 efficiency improvements and small renewable energy systems in a

16 participating county. A participating county is a county that

17 has agreed to take part in the loan program by taking the legal

18 action as is necessary under its real property tax system to

19 levy upon a property benefited by the loan a special assessment

20 of an amount necessary to repay each loan financed under the

21 loan program. The participating county shall remit the moneys



1 to the Hawaii clean energy bond loan revolving fund and shall
2 receive reasonable compensation for its services.

3 (b) The loan repayment charge may include the amount of
4 the loan, interest on the loan, and the costs incurred by the
5 department to implement and administer the loan program.

6 (c) The loans shall be subject to the terms and conditions
7 specified in rules adopted by the department.

8 (d) The department shall record a lien on the property
9 benefited by the loan. The lien shall attach to the property on
10 which the installation or improvements pursuant to this chapter
11 were made. A lien authorized by this chapter shall be
12 subordinate to a mortgage secured by the Fannie Mae or Freddie
13 Mac federal programs.

14 (e) Notwithstanding any law to the contrary, if the
15 director determines that the department is unable to issue a
16 sufficient number of loans to offset the reasonable cost to the
17 department of operating the loan program, the director may delay
18 or suspend the loan program in one or more participating
19 counties or may delay or suspend any feature of the loan
20 program.

21 § -7 **Liens.** The lien recorded pursuant to section
22 -6(d) shall relate to and take effect from the date of



1 completion of all contracted improvements, installations, and
2 operations undertaken by the property owner in accordance with
3 this chapter."

4 **PART III**

5 SECTION 3. **Purpose.** This part shall govern, with respect
6 to the Hawaii clean energy bond loan program, the practice and
7 procedure before the State, program administrator, department of
8 business, economic development, and tourism, and the department
9 of budget and finance and shall be construed to promote
10 increased activity in residential and commercial renewable
11 energy projects, stimulate the State's clean energy sector,
12 reach energy efficiency and clean energy goals, increase energy
13 security, encourage economic diversification, provide increased
14 career opportunities for Hawaii residents, and attract funding
15 and investment into the State. The Hawaii clean energy bond
16 loan program shall begin on July 1, 2011 and no loans will be
17 issued after December 31, 2030. The purpose of this part is to
18 clarify the role of the program administrator and the program
19 application processes for counties and applicants.

20 SECTION 4. **Definitions.** In addition to the definitions
21 contained in part II of this Act, the following definitions
22 shall apply to this part:



1 "Commercial properties" and "residential properties" mean
2 those properties as defined by the county code for the
3 particular county in which the property is located and do not
4 fall under the category of facilities.

5 "Days" means business days.

6 SECTION 5. **Program administrator.** The powers and duties
7 of the program administrator or "administrator" are as contained
8 in this part. The administrator shall be selected through a
9 competitive bidding process pursuant to chapter 103D, Hawaii
10 Revised Statutes. The administrator shall have the authority to
11 hire private subcontractors for the purposes of energy
12 inspections and audits. The administrator shall:

- 13 (1) Establish criteria and procedures for the
14 qualification of technologies and systems, perform
15 energy inspections and audits, including identifying
16 the energy efficiency improvements and renewable
17 energy systems that qualify for the loan program
18 financing, and develop appropriate procedures for the
19 qualification of these improvements and systems;
- 20 (2) Calculate a property's current energy consumption and
21 energy costs when an application is submitted by the
22 property owner, and estimate the potential cost



1 benefits that could be realized through energy
2 efficiency improvements or installation of renewable
3 energy systems on the subject property;
4 (3) Provide education and training on energy efficiency
5 improvements to applicants, including education and
6 training on the selection and use of improvements to
7 maximize energy efficiency;
8 (4) Prescribe loan repayment periods and provide projected
9 property tax assessment estimates when the applicant
10 opts to take advantage of the financing made available
11 under this Act, including establishing deadlines for
12 loan repayments and providing applicant property
13 owners the projected property tax assessment estimates
14 that will be due and collected along with the ad
15 valorem property tax bill; provided that the length of
16 time allowed for the property owner to repay the
17 assessment shall not exceed the life expectancy of the
18 systems or improvements; provided further that where
19 multiple systems or improvements have been installed,
20 the length of time shall not exceed the average
21 lifetime of all projects, weighted by cost;



- 1 (5) Assist the counties with administrative duties related
2 to the execution of this Act, including:
- 3 (A) Initiation and authorship of any and all written
4 agreements between participating property owners
5 and the counties or funding institutions;
- 6 (B) Public outreach and program promotion within the
7 counties, including community informational
8 briefings and making available information
9 related to the program; and
- 10 (C) Any revision to existing county documents and
11 systems needed to efficiently collect property
12 tax assessment payments from property owners;
- 13 (6) Distribute state bond proceeds appropriated for this
14 program to participating property owners, private
15 contractors, or funding institutions, including
16 responsibility for ensuring loan repayment to the
17 State from revenues generated by participating county
18 property tax assessments under this part; and
- 19 (7) Collect, compile, and report all data and information
20 relating to the loan program to the State, department,
21 and the department of budget and finance; provided
22 that the criteria, qualifications and procedures, and



1 lifetimes of projects described in paragraphs (1) and
2 (3) shall be determined with approval from the
3 department.

4 SECTION 6. **Program application requirements for counties.**

5 (a) Local ordinance requirement. For a county to access
6 funding generated by the sale of bonds issued by the State, the
7 county shall voluntarily agree to participate in the State's
8 loan program by enacting an ordinance or other legally binding
9 action. Subsequently, county officials shall develop a report,
10 which shall be submitted to the department for approval.

11 (b) County report. County reports shall include:

- 12 (1) A draft contract agreement between participating
13 property owners and the county government;
- 14 (2) A list of eligible distributed renewable energy
15 systems;
- 16 (3) A list of eligible energy-efficiency improvements;
- 17 (4) A designated county official who is authorized to
18 enter into contractual assessments on behalf of the
19 county;
- 20 (5) A maximum aggregate dollar amount for any contractual
21 assessments;



1 (6) A method for prioritizing applications or requests in
2 the event that applications exceed the authorization
3 amount;

4 (7) A plan for dispersing the capital amount required to
5 pay for work performed pursuant to contractual
6 assessments; and

7 (8) An accounting of any costs incidental to the
8 financing, administration, and collection of the
9 contractual assessment for the county.

10 (c) Real property assessments and payments to the State.

11 The applicable portion of property assessment payments from the
12 affected properties within the participating county or counties,
13 upon agreement between the State and the county or counties,
14 shall be applied to service the State debt on the bonds issued
15 pursuant to this Act.

16 SECTION 7. **Program application process for property**
17 **owners.** (a) Properties with existing public liens are not
18 eligible for the loan program. The department may grant
19 exemptions to this restriction on a case-by-case basis upon
20 request from the applicant. Properties that are valued at less
21 than the total amount owed to the mortgage lender are not
22 eligible for the loan program. All subsequent liens placed on



1 the subject property after loan funds have been dispersed
2 pursuant to this Act shall be subordinate, with the exception of
3 mortgages secured by the Fannie Mae or Freddie Mac federal
4 programs. The loan applicant shall possess title for the
5 subject property as well as documentation to prove timely
6 mortgage payments if applicable.

7 (b) Loan application prerequisites. The department, in
8 consultation with the administrator, shall establish eligibility
9 criteria for site inspections and individuals or entities
10 wishing to conduct site inspections. An onsite energy
11 inspection to determine total monthly energy consumption and
12 estimated potential energy savings is required for projects
13 valued at more than five per cent of the total value of the
14 subject property in order to participate in the program. Onsite
15 energy inspections or audits may be performed by private
16 contractors subcontracted by the administrator or by persons
17 employed by the administrator; provided that they meet the
18 criteria established by the department. The department retains
19 the authority to conduct onsite energy inspections for any and
20 all applications if deemed necessary by the director.

21 (c) Loan application review process. The administrator,
22 or in the case of projects valued at \$100,000 or more, the



1 department, shall accept the loan application so long as it is
2 complete and complies with the loan application prerequisites
3 and application process of this part. If the loan application
4 is accepted, the loan application reviewer shall notify the
5 applicant of acceptance in writing within thirty days. If the
6 loan application does not meet the requirements of this part,
7 the loan application reviewer shall provide the applicant with a
8 written report of the reasons why the loan application is
9 incomplete not more than thirty days from the submission of the
10 loan application. The loan application shall be approved or
11 denied not more than ninety days from the date of acceptance,
12 and the loan applicant shall be informed of the action in
13 writing not more than thirty days from the day the action is
14 taken on the loan application.

15 (d) Loan disbursement. Once a loan is approved, the loan
16 applicant will have thirty days upon receipt of the acceptance
17 to either agree or reject the terms of the loan. If the loan
18 applicant agrees to the terms of the loan then the financial
19 institution handling the applicable loan program funds will
20 disburse the appropriate amount to the businesses hired to
21 perform contractually agreed upon services.



1 (e) Loan repayment. Loans are repaid through a special
2 assessment on real property tax bills. The liability to repay
3 the loan is attached to the property as an assessment on real
4 property. The participating county in which the assessed
5 property is located is responsible for repayment to the State,
6 but shall not be held liable in the event of default on said
7 loans. Loans for amounts over \$5,000 may be repaid over a
8 period of ten to twenty years, at the program administrator's
9 discretion. The length of time allowed for the property owner
10 to repay the assessment shall not exceed the life expectancy of
11 the systems or improvements. Where multiple systems or
12 improvements have been installed, the length of time for the
13 property owner to repay the loan shall not exceed the average
14 lifetime of all projects, weighted by cost. Projects valued at
15 \$100,000 or more shall require approval by the department. A
16 loan pursuant to this Act shall not exceed \$250,000.

17 (f) Loan re-application. If a loan application is denied,
18 the applicant may re-apply for the denied loan only if the
19 problems that were grounds for denial under the preceding loan
20 application have been remedied.

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PART IV

1 SECTION 8. The director of finance is authorized to issue
2 revenue bonds in the sum of \$ or so much thereof as
3 may be necessary and the same sum or so much thereof as may be
4 necessary is appropriated for fiscal year 2011-2012 for deposit
5 into the Hawaii clean energy bond loan revolving fund.

6 The sum appropriated shall be expended by the department of
7 business, economic development, and tourism for the purposes of
8 this Act.

9 SECTION 9. This Act does not in any way prohibit or limit
10 the counties' authority to institute a similar financing program
11 for and within their respective county, independent of State
12 partnership or involvement.

13 SECTION 10. If any provision of this Act, or the
14 application thereof to any person or circumstance is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act, which can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 11. This Act shall take effect on July 1, 2011;
20 provided that part III shall be repealed upon the adoption of
21 administrative rules in accordance with chapter 91, Hawaii



H.B. NO. 476

1 Revised Statutes, by the department of business, economic
2 development, and tourism to effectuate part II of this Act.

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INTRODUCED BY:

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JAN 21 2011



Report Title:

Bond loan; clean energy

Description:

Establishes a clean energy bond loan program for renewable energy systems and energy efficiency improvements on residential and commercial properties; authorizes the issuance of revenue bonds to finance the program; establishes laws to implement the program which shall be repealed upon the adoption of administrative rules.

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