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## A BILL FOR AN ACT

RELATING TO BONDS.

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

1           SECTION 1. Section 10-4, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "**§10-4 Office of Hawaiian affairs; established; general**  
4 **powers.** There shall be an office of Hawaiian affairs  
5 constituted as a body corporate which shall be a separate entity  
6 independent of the executive branch. The office, under the  
7 direction of the board of trustees, shall have the following  
8 general powers:

- 9           (1) To adopt, amend, and repeal bylaws governing the  
10           conduct of its business and the performance of the  
11           powers and duties granted to or imposed upon it by  
12           law;
- 13           (2) To acquire in any lawful manner any property, real,  
14           personal, or mixed, tangible or intangible, or any  
15           interest therein; to hold, maintain, use, and operate  
16           the same; and to sell, lease, or otherwise dispose of  
17           the same at such time, in such manner and to the



- 1 extent necessary or appropriate to carry out its  
2 purpose;
- 3 (3) To determine the character of and the necessity for  
4 its obligations and expenditures, and the manner in  
5 which they shall be incurred, allowed, and paid,  
6 subject to provisions of law specifically applicable  
7 to the office of Hawaiian affairs;
- 8 (4) To enter into and perform such contracts, leases,  
9 cooperative agreements, or other transactions with any  
10 agency or instrumentality of the United States, or  
11 with the State, or with any political subdivision  
12 thereof, or with any person, firm, association, or  
13 corporation, as may be necessary in the conduct of its  
14 business and on such terms as it may deem appropriate;
- 15 (5) To execute, in accordance with its bylaws, all  
16 instruments necessary or appropriate in the exercise  
17 of any of its powers;
- 18 (6) To issue revenue bonds pursuant to this chapter to  
19 finance the cost of an office project or to fund a  
20 loan program, and to provide for the security thereof,  
21 in the manner and pursuant to the procedure prescribed  
22 in part II;



- 1           (7) To lend or otherwise apply the proceeds of the bonds  
2           issued for an office project or a loan program either  
3           directly or through a trustee or a qualified person  
4           for use and application in the acquisition, purchase,  
5           construction, [~~installation, or modification~~]  
6           reconstruction, improvement, betterment, extension, or  
7           maintenance of an office project[7] or the  
8           establishment, funding, and administration of a loan  
9           program, or agree with the qualified person whereby  
10          any of these activities shall be undertaken or  
11          supervised by that qualified person or by a person  
12          designated by the qualified person;
- 13          (8) With or without terminating a project agreement[7] or  
14          loan agreement, as applicable, to exercise any and all  
15          rights provided by law for entry and re-entry upon or  
16          to take possession of an office project or enforce a  
17          loan agreement at any time or from time to time upon  
18          breach or default by a qualified person under a  
19          project agreement[7] or loan agreement, including any  
20          action at law or in equity for the purpose of  
21          effecting its rights of entry or re-entry or obtaining  
22          possession of the project or enforcing the loan



1           agreement or for the payments of rentals, user taxes,  
2           or charges, or any other sum due and payable by the  
3           qualified person to the office pursuant to the project  
4           agreement[+] or loan agreement; and

5           (9) To take such actions as may be necessary or  
6           appropriate to carry out the powers conferred upon it  
7           by law."

8           SECTION 2. Section 10-21, Hawaii Revised Statutes, is  
9           amended to read as follows:

10           "**§10-21 Definitions.** Whenever used in this part:

11           "Loan program" means the activities and policies undertaken  
12 by the office to provide assistance to any department of the  
13 State or to any county or board, agency, or instrumentality  
14 thereof, or to nongovernmental individuals or organizations, by  
15 making loans or causing loans to be made available to them or by  
16 buying, refinancing, or guaranteeing loans made to or other  
17 obligations incurred by them for the betterment of Native  
18 Hawaiians.

19           "Office project" or "project" means:

20           (1) The lawful acquisition of any property, real,  
21           personal, or mixed, tangible or intangible, or any  
22           interests therein, pursuant to section 10-4(2);



1           (2) Any capital improvement projects on lands held by the  
2           office pursuant to section 10-4(2) or in the public  
3           land trust, including but not limited to the  
4           construction of buildings and other improvements;  
5           infrastructure development, and other enterprises  
6           which are acquired, constructed, reconstructed,  
7           rehabilitated, improved, altered, or repaired by or on  
8           behalf of the office;

9           (3) Pilot projects, demonstrations, or both, where those  
10          projects or demonstrations fulfill criteria  
11          established by the board, pursuant to section 10-5(7);  
12          and

13          (4) Any other projects determined by rules adopted by the  
14          board pursuant to chapter 91 or otherwise authorized  
15          by the board in accordance with applicable law to be  
16          for the betterment of native Hawaiians and are  
17          consistent with the purposes of this chapter.

18 For purposes of this chapter, the terms "office project" or  
19 "project" may include projects of the foregoing types that are  
20 undertaken by the office in cooperation with other governmental  
21 entities or nongovernmental individuals or organizations.



1 "Reserves" means reserves required or permitted in the  
2 covenants in the resolution or resolutions of the board  
3 authorizing the obtaining of loans or issuance of revenue bonds  
4 under this part.

5 "Revenue bonds" means revenue bonds, interim certificates,  
6 notes, debentures, or other evidence of indebtedness of the  
7 board authorized by or issued under this part.

8 "Revenues of the office" or "office's revenue" means all  
9 rates, rentals, fees and charges, and user taxes, received by  
10 the office of Hawaiian affairs, and all money and revenue  
11 derived from the operations of the office of Hawaiian affairs,  
12 other than:

- 13 (1) General appropriations; and  
14 (2) Funds, the terms of which preclude their being used  
15 for payment of the costs of acquisition, purchase,  
16 construction, reconstruction, improvement, betterment,  
17 extension, or [~~costs of~~] maintenance of an office  
18 project or the costs of a loan program or the payment  
19 of principal or interest of revenue bonds.

20 For purposes of the issuance of revenue bonds, the office of  
21 Hawaiian affairs or any office project or projects shall  
22 constitute a public undertaking, improvement, or system."



1 SECTION 3. Section 10-22, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§10-22 Powers of the board. In addition to the powers  
4 which it now possesses, the board shall have power to:

5 (1) Prescribe and collect rents, fees, and charges for the  
6 use of or services furnished by any office project or  
7 the facilities thereof[~~7~~] or of any loan program;

8 (2) Issue revenue bonds under this chapter, in such  
9 principal amounts as may be authorized by the  
10 legislature from time to time, to finance in whole or  
11 in part the cost of acquisition, purchase,  
12 construction, reconstruction, improvement, betterment,  
13 extension, or maintenance[~~7, or both,~~] of any office  
14 project[~~7~~] or the establishment, funding, or  
15 administration of any loan program, including reserves  
16 therefor;

17 (3) Pledge to the punctual payment of such revenue bonds  
18 and interest thereon, the revenue of the office  
19 project or projects or loan program or programs for  
20 [~~the construction or maintenance of~~] which the bonds  
21 have been issued, or the revenues of the office, or  
22 both, in an amount sufficient to pay such bonds and

1 interest as the same become due and to create and  
2 maintain reasonable reserves therefor; and  
3 (4) Advance such moneys of the office, not otherwise  
4 required, as are necessary to pay the expenses  
5 incurred in making the preparations for the initial  
6 issuance of revenue bonds under this part, and to take  
7 any other action necessary or proper for carrying into  
8 execution and administering this part, including  
9 providing for the full use of office projects or the  
10 establishment, funding, and administration of any loan  
11 program in every way conducive to the furtherance of  
12 any or all purposes of the office."

13 SECTION 4. Section 10-23, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 "[+]§10-23[+] **Authorization of office projects and loan**  
16 **programs, issuance of revenue bonds.** Authorization of  
17 acquisition, purchase, construction, reconstruction,  
18 improvement, betterment, extension, or maintenance~~[, or both,~~  
19 of an office project or projects or the establishment, funding,  
20 and administration of any loan program, and authorization for  
21 issuance of revenue bonds under this part shall be by resolution  
22 or resolutions of the board. The resolution may be adopted at





1 the same meeting at which it is introduced by a majority of all  
2 the members of the board then in office and shall take effect  
3 immediately upon adoption."

4 SECTION 5. Section 10-25.5, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "[+]§10-25.5[+] **Support facility for variable rate revenue**  
7 **bonds.** If revenue bonds issued pursuant to this chapter are  
8 issued bearing interest at a rate or rates that vary from time  
9 to time or with a right of holders to tender the revenue bonds  
10 for purchase, or both, the board may contract for a support  
11 facility or facilities and remarketing arrangements as are  
12 required to market the revenue bonds to the greatest advantage  
13 of the board and the office upon such terms and conditions as  
14 the board deems necessary and proper.

15 The board may enter into contracts or agreements with the  
16 entity or entities providing a support facility; provided that  
17 any contract or agreement shall provide, in essence, that any  
18 amount due and owing by the board under the contract or  
19 agreement on an annual basis shall be payable from the revenue  
20 of the office project or loan program or the revenue of the  
21 office; provided further that any obligation issued or arising  
22 pursuant to the terms of the contract or agreement in the form



1 of revenue bonds, notes, or other evidences of indebtedness  
2 shall only arise at such time as either:

- 3 (1) Moneys or securities have been irrevocably set aside  
4 for the full payment of a like principal amount of  
5 revenue bonds issued pursuant to this chapter; or
- 6 (2) A like principal amount of the issue or series of  
7 revenue bonds to which the support facility relates  
8 are held in escrow by the entity or entities providing  
9 the support facility."

10 SECTION 6. Section 10-27, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§10-27 Covenants in resolution authorizing revenue bonds.**

13 Any resolution or resolutions authorizing the issuance of  
14 revenue bonds under this part may contain covenants as to:

- 15 (1) The purpose or purposes to which the proceeds of the  
16 sale of revenue bonds may be applied; the use and  
17 disposition of such proceeds; the investment thereof  
18 pending such use and disposition; and the use and  
19 disposition of the income from such investment;
- 20 (2) The use and disposition of the revenue of the office  
21 project or projects or the loan program or programs  
22 for [~~the construction or maintenance of~~] which the



1 revenue bonds are issued are to be included; the use  
2 and disposition of the revenue of all office  
3 projects[7] and loan programs, and of the revenues of  
4 the office, including the creation and maintenance of  
5 reserves; the investment of such revenues and of the  
6 moneys in such reserves; and the use and disposition  
7 of the income from such investments;

8 (3) The minimum amount of revenues to be produced by the  
9 office projects, the loan programs, or the office,  
10 over and above the amount required to be produced by  
11 the first sentence and paragraphs (1) to (3) of  
12 section 10-31;

13 (4) The use and disposition of the proceeds of the sale of  
14 any office project, or part thereof;

15 (5) The acquisition, purchase, construction,  
16 reconstruction, improvement, betterment, extension,  
17 and maintenance of any office project other than the  
18 office project or projects for the construction or  
19 maintenance of which revenue bonds are issued;

20 (6) The issuance of other or additional revenue bonds  
21 payable either from the revenue of the office project  
22 or projects or the loan program or programs for [the



1           ~~construction or maintenance of~~] which the revenue  
2           bonds are issued or from the revenue of the office or  
3           payable from the revenue of other office projects[~~+~~  
4           or loan programs;

5           (7) The maintenance of the office project[~~+~~] and  
6           administration of the loan program, including the  
7           creation by the board of such supervisory positions,  
8           which shall not be subject to chapter 76, as are  
9           necessary to facilitate the issuance of revenue bonds  
10          by ensuring the adequacy of revenues;

11          (8) The insurance to be carried on office projects or for  
12          loan programs and the use and disposition of insurance  
13          moneys;

14          (9) Books of account and inspection and audit thereof;

15          (10) A procedure by which the terms and conditions of the  
16          bond resolution or indenture may be subsequently  
17          amended or modified with the consent of the board, the  
18          vote or written assent of the holders of bonds or any  
19          proportion of the holders, or any trustee thereof; and

20          (11) The terms and conditions upon which the holders of  
21          revenue bonds [~~evidencing the obligation to repay~~  
22          ~~loans~~], or any proportion of the holders, or any



1 trustee thereof, shall be entitled to the appointment  
2 of a receiver by any court of competent jurisdiction,  
3 which court shall have jurisdiction in such  
4 proceedings, and which receiver may enter and take  
5 possession of the office project or projects, maintain  
6 them, prescribe rents, fees, and charges<sup>[7]</sup> therefrom,  
7 enforce or foreclose loans, and collect, receive, and  
8 apply all revenue thereafter arising therefrom in the  
9 same manner as the board itself might do, but the  
10 receiver shall have no power, nor be granted any  
11 power, to utilize, or permit the utilization of, any  
12 office project or to enforce any loan agreement other  
13 than in a manner consistent with and in furtherance of  
14 the purposes of the office.

15 This part and any such resolution or resolutions shall be a  
16 contract with the holders of bonds issued under this part, and  
17 the duties of the board and any such resolution or resolutions  
18 shall be enforceable by any bondholder by mandamus or other  
19 appropriate suit, action, or proceeding in any court of  
20 competent jurisdiction."

21 SECTION 7. Section 10-28, Hawaii Revised Statutes, is  
22 amended to read as follows:



1           "§10-28 **Validity of bonds.** Revenue bonds issued under  
2 this part shall bear the manual signatures of the chairperson of  
3 the board and the administrator, and shall be sealed with the  
4 seal of the board or in lieu thereof shall bear a lithographed  
5 or engraved facsimile of such seal. If the board designates a  
6 registrar other than itself for the revenue bonds, the  
7 resolution authorizing the revenue bonds may provide that none  
8 of the revenue bonds shall be valid or obligatory for any  
9 purpose unless authenticated by the registrar. If the  
10 resolution so provides, then all signatures of the board upon  
11 the revenue bonds may be facsimiles of the signatures, and the  
12 revenue bonds shall be valid and obligatory only if  
13 authenticated by the manual signature of an authorized officer  
14 or signatory of the registrar. Revenue bonds bearing the  
15 signature of officers in office at the date of the signing  
16 thereof shall be valid and binding obligations, notwithstanding  
17 that before the delivery thereof and payment therefor any or all  
18 of the persons whose signatures appear thereon shall have ceased  
19 to be officers. The validity of the bonds shall not be  
20 dependent on nor affected by the validity or regularity of any  
21 proceedings relating to the acquisition, purchase, construction,  
22 reconstruction, improvement, betterment, extension, or



1 maintenance of the office project or projects or the  
2 establishment, funding, or administration of the loan program or  
3 programs for which the bonds were issued. The resolution  
4 authorizing the issuance of revenue bonds may provide that the  
5 bonds shall contain a recital that they are issued pursuant to  
6 this part, which recital shall be conclusive evidence of their  
7 validity and of the regularity of their issuance."

8 SECTION 8. Section 10-29, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "[~~+~~]**\$10-29**[~~+~~] **Bonds.** The resolution or resolutions  
11 authorizing the issuance of revenue bonds may pledge to the  
12 payment thereof all or any part of the revenue of an office  
13 project or projects, of a loan program or programs, or of the  
14 office, and the pledge shall constitute a lien on the revenue of  
15 such project or projects to the extent and in the manner in the  
16 resolution or resolutions provided prior and paramount to any  
17 claim or other obligation of any nature against the revenue so  
18 pledged subsequently arising or subsequently incurred. The  
19 board may provide in the resolution or resolutions that all  
20 revenue bonds of the same issue shall be equally and ratably  
21 secured without priority by reason of number, date, or maturity  
22 of the bonds, date of sale, execution, or delivery thereof. Any



1 pledge of revenues contained in any resolution or resolutions  
2 adopted under this part shall be valid and binding from and  
3 after the adoption of the resolution or resolutions without  
4 physical delivery of the revenues therein pledged or the  
5 necessity of any further action by the State or the board, or  
6 any officer or agent of either the State or board."

7 SECTION 9. Section 10-30, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "**§10-30 Payment and security of revenue bonds; revenue**  
10 **bonds not a debt of the State.** Revenue bonds issued under this  
11 part shall be payable from and secured solely by the revenues of  
12 the office project or projects, the revenues of the loan program  
13 or programs, or revenues of the office pledged to the payment  
14 thereof, or both, and those revenues shall be applied to the  
15 payment in accordance with the provisions of this part and the  
16 resolution or resolutions authorizing the issuance of the  
17 revenue bonds. No holder or holders of any revenue bonds issued  
18 under this part shall have the right to compel any exercise of  
19 the taxing power of the State or the making of any appropriation  
20 to pay the revenue bonds, or interest thereon. Each revenue  
21 bond shall recite in substance that the revenue bond, including  
22 interest thereon, is payable solely from and secured by the





1 revenue pledged to the payment thereof, and that the bond does  
2 not constitute a general or moral obligation or indebtedness of  
3 the State within the meaning of any law."

4 SECTION 10. Section 10-31, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§10-31 Office of Hawaiian affairs projects and loan  
7 programs to be self-supporting. The board shall impose and  
8 collect rates, rents, fees, and charges for the use or enjoyment  
9 and services of the facilities of each office project~~[7]~~ or for  
10 each loan program, as applicable, and shall revise such rates,  
11 rents, fees, and charges, whenever necessary, or direct all or  
12 any portion of the revenues of the office, so that in the  
13 aggregate, the revenues of the office project or the loan  
14 program, and the revenues of the office shall produce revenue at  
15 least sufficient to:

16 (1) Pay the cost of maintenance of the office project or  
17 projects~~[7]~~ or administering the loan program or  
18 programs, including reserves therefor;

19 (2) Pay when due all bonds and interest thereon, for the  
20 payment of which the revenue is or has been pledged,  
21 charged, or otherwise encumbered, including reserves  
22 therefor;



1 (3) Reimburse the general fund of the State for any bond  
2 requirements on general obligation bonds issued for an  
3 office project or projects or for a loan program or  
4 programs to the extent required by law; and

5 (4) Carry out all covenants and provisions of the  
6 resolution or resolutions authorizing the issuance of  
7 revenue bonds.

8 Neither this section nor any other section of this part  
9 shall preclude the making of appropriations to the board, the  
10 acceptance of gifts by the board, or the use of revenues of the  
11 office or other funds derived from the sale of stocks, bonds, or  
12 other assets in the possession of the board to pay all or part  
13 of the costs of construction, of maintenance, or both, of any or  
14 all office projects.

15 All moneys received pursuant to this section shall be  
16 administered as trust funds, as provided by this chapter, and in  
17 separate accounts designated for each office project~~[-]~~ or loan  
18 program."

19 SECTION 11. Section 10-34, Hawaii Revised Statutes, is  
20 amended to read as follows:

21 "[+]§10-34[+] **Funding and refunding bonds; authorization**  
22 **and purpose.** The board may, without further authorization from



1 the legislature, provide for the issuance of revenue bonds  
2 (herein referred to as refunding bonds) for the purpose of  
3 refunding, redeeming, or retiring at or at any time before  
4 maturity or at any time before the first date upon which the  
5 outstanding bonds to be refunded may be called for redemption,  
6 any bonds issued under this part, including any bonds which the  
7 holders may consent to be paid or refunded even though the bonds  
8 are not matured or are not callable or redeemable, and for the  
9 purpose of funding indebtedness not evidenced by revenue bonds  
10 but which was incurred for purposes for which revenue bonds may  
11 be issued pursuant to this part. The rate or rates of interest  
12 borne by the refunding bonds shall not be affected or limited by  
13 the rate or rates of interest borne by the bonds to be refunded  
14 or the indebtedness to be funded. All provisions of this part  
15 applicable to the issuance of revenue bonds shall be complied  
16 with in the issuance of refunding bonds. Refunding bonds shall  
17 be sold as provided in section 10-25, or the board may, in its  
18 discretion, provide for the exchange of refunding bonds for a  
19 like principal amount of outstanding bonds for the refunding of  
20 which the issuance of such refunding bonds has been authorized,  
21 whether or not the interest rate on the refunding bonds is  
22 higher than the interest rate on the bonds refunded thereby."



# H.B. NO. 217

1 SECTION 12. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect upon its approval.

4

INTRODUCED BY: \_\_\_\_\_



**By Request**

**JAN 17 2013**



# H.B. NO. 217

**Report Title:**

Office of Hawaiian Affairs Package; Bonds; Loan Program

**Description:**

Authorizes the office of Hawaiian affairs to issue revenue bonds to fund a loan program.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

