
A BILL FOR AN ACT

RELATING TO BONDS.

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

1 SECTION 1. Chapter 10, Hawaii Revised Statutes, is amended
2 by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§10- Federal tax-exempt status; preference; protection.

5 (a) Revenue bonds issued pursuant to this part, to the extent
6 practicable, shall be issued to comply with requirements imposed
7 by applicable federal law providing that the interest on revenue
8 bonds shall be excluded from gross income for federal income tax
9 purposes (except as certain minimum taxes or environmental taxes
10 may apply). The board is authorized to enter into agreements,
11 establish funds or accounts, and take any action required in
12 order to comply with applicable federal law. Nothing in this
13 part or this chapter shall be deemed to prohibit the issuance of
14 revenue bonds, the interest on which may be included in gross
15 income for federal income tax purposes.

16 (b) For the purpose of ensuring that interest on revenue
17 bonds issued pursuant to this part which is excluded from gross
18 income for federal income tax purposes (except as provided in



1 subsection (a)) on the date of issuance shall continue to be so
2 excluded, no state officer or employee, or user of an
3 undertaking or loan program shall authorize or allow any change,
4 amendment, or modification to an undertaking or loan program
5 financed or refinanced with the proceeds of revenue bonds which
6 change, amendment, or modification thereto would affect the
7 exclusion of interest on those revenue bonds from gross income
8 for federal income tax purposes unless the change, amendment, or
9 modification shall have received the prior approval of the
10 board. Failure to receive the approval of the board shall
11 render any change, amendment, or modification void."

12 SECTION 2. Section 10-4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 **"§10-4 Office of Hawaiian affairs; established; general**
15 **powers.** There shall be an office of Hawaiian affairs
16 constituted as a body corporate which shall be a separate entity
17 independent of the executive branch. The office, under the
18 direction of the board of trustees, shall have the following
19 general powers:

20 (1) To adopt, amend, and repeal bylaws governing the
21 conduct of its business and the performance of the



- 1 powers and duties granted to or imposed upon it by
2 law;
- 3 (2) To acquire in any lawful manner any property, real,
4 personal, or mixed, tangible or intangible, or any
5 interest therein; to hold, maintain, use, and operate
6 the same; and to sell, lease, or otherwise dispose of
7 the same at such time, in such manner and to the
8 extent necessary or appropriate to carry out its
9 purpose;
- 10 (3) To determine the character of and the necessity for
11 its obligations and expenditures, and the manner in
12 which they shall be incurred, allowed, and paid,
13 subject to provisions of law specifically applicable
14 to the office [~~of Hawaiian affairs~~];
- 15 (4) To enter into and perform such contracts, leases,
16 cooperative agreements, or other transactions with any
17 agency or instrumentality of the United States, or
18 with the State, or with any political subdivision
19 thereof, or with any person, firm, association, or
20 corporation, as may be necessary in the conduct of its
21 business and on such terms as it may deem appropriate;



- 1 (5) To execute, in accordance with its bylaws, all
2 instruments necessary or appropriate in the exercise
3 of any of its powers;
- 4 (6) To issue revenue bonds pursuant to this chapter to
5 finance the cost of an office project or to fund a
6 loan program, and to provide for the security thereof,
7 in the manner and pursuant to the procedure prescribed
8 in part II;
- 9 (7) To lend or otherwise apply the proceeds of the bonds
10 issued for an office project or a loan program either
11 directly or through a trustee or a qualified person
12 for use and application in the acquisition, purchase,
13 construction, [~~installation, or modification~~]
14 reconstruction, improvement, betterment, extension, or
15 maintenance of an office project[~~7~~] or the
16 establishment, funding, and administration of a loan
17 program, or agree with the qualified person whereby
18 any of these activities shall be undertaken or
19 supervised by that qualified person or by a person
20 designated by the qualified person;
- 21 (8) With or without terminating a project agreement[~~7~~] or
22 loan agreement, as applicable, to exercise any and all



1 rights provided by law for entry and re-entry upon or
2 to take possession of an office project or enforce a
3 loan agreement at any time or from time to time upon
4 breach or default by a qualified person under a
5 project agreement[7] or loan agreement, including any
6 action at law or in equity for the purpose of
7 effecting its rights of entry or re-entry or obtaining
8 possession of the project or enforcing the loan
9 agreement or for the payments of rentals, user taxes,
10 or charges, or any other sum due and payable by the
11 qualified person to the office pursuant to the project
12 agreement[7] or loan agreement; and
13 (9) To take such actions as may be necessary or
14 appropriate to carry out the powers conferred upon it
15 by law."

16 SECTION 3. Section 10-21, Hawaii Revised Statutes, is
17 amended as follows:

18 1. By adding a new definition to be appropriately inserted
19 and to read as follows:

20 "Loan program" means the activities and policies
21 undertaken by the office to provide assistance to any department
22 of the State or to any county or board, agency, or



1 instrumentality thereof, or to private individuals or
2 organizations, by making loans or causing loans to be made
3 available to them or by buying, refinancing, or guaranteeing
4 loans made to or other obligations incurred by them for the
5 betterment of native Hawaiians."

6 2. By amending the definitions of "'office project" or
7 "project"' and "'revenues of the office" or "office's revenue"
8 to read as follows:

9 "'Office project" or "project" means:

- 10 (1) The lawful acquisition of any property, real,
11 personal, or mixed, tangible or intangible, or any
12 interests therein, pursuant to section 10-4(2);
- 13 (2) Any capital improvement projects on lands held by the
14 office pursuant to section 10-4(2) or in the public
15 land trust, including but not limited to the
16 construction of buildings and other improvements;
17 infrastructure development, and other enterprises
18 which are acquired, constructed, reconstructed,
19 rehabilitated, improved, altered, or repaired by or on
20 behalf of the office;
- 21 (3) Pilot projects, demonstrations, or both, where those
22 projects or demonstrations fulfill criteria



1 established by the board, pursuant to section 10-5(7);

2 and

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

8 For purposes of this chapter, the term "office project" or
9 "project" may include projects of the foregoing types that are
10 undertaken by the office in cooperation with other governmental
11 entities or private individuals or organizations.

12 "Revenues of the office" or "office's revenue" means all
13 rates, rentals, fees and charges, and user taxes, received by
14 the office of Hawaiian affairs, and all money and revenue
15 derived from the operations of the office [~~of Hawaiian affairs~~],
16 other than:

- 17 (1) General appropriations; and
- 18 (2) Funds, the terms of which preclude their being used
19 for payment of the costs of acquisition, purchase,
20 construction, reconstruction, improvement, betterment,
21 extension, or [~~costs of~~] maintenance of an office



1 project or the costs of a loan program or the payment
2 of principal or interest of revenue bonds.

3 For purposes of the issuance of revenue bonds, the office [~~of~~
4 ~~Hawaiian affairs~~] or any office project or projects shall
5 constitute a public undertaking, improvement, or system."

6 SECTION 4. Section 10-22, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "**§10-22 Powers of the board.** In addition to the powers
9 which it now possesses, the board shall have power to:

- 10 (1) Prescribe and collect rents, fees, and charges for the
11 use of or services furnished by any office project or
12 the facilities thereof[+] or of any loan program;
- 13 (2) Issue revenue bonds under this chapter, in such
14 principal amounts as may be authorized by the
15 legislature from time to time, to finance in whole or
16 in part the cost of acquisition, purchase,
17 construction, reconstruction, improvement, betterment,
18 extension, or maintenance[~~7~~ ~~or both~~ ~~7~~] of any office
19 project[~~7~~] or the establishment, funding, or
20 administration of any loan program, including reserves
21 therefor;



1 (3) Pledge to the punctual payment of such revenue bonds
2 and interest thereon, the revenue of the office
3 project or projects or loan program or programs for
4 [~~the construction or maintenance of~~] which the bonds
5 have been issued, or the revenues of the office, or
6 both, in an amount sufficient to pay such bonds and
7 interest as the same become due and to create and
8 maintain reasonable reserves therefor; and

9 (4) Advance such moneys of the office, not otherwise
10 required, as are necessary to pay the expenses
11 incurred in making the preparations for the initial
12 issuance of revenue bonds under this part, and to take
13 any other action necessary or proper for carrying into
14 execution and administering this part, including
15 providing for the full use of office projects or the
16 establishment, funding, and administration of any loan
17 program in every way conducive to the furtherance of
18 any or all purposes of the office."

19 SECTION 5. Section 10-23, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "[+]§10-23[+] **Authorization of office projects and loan**
22 **programs, issuance of revenue bonds.** Authorization of



1 acquisition, purchase, construction, reconstruction,
2 improvement, betterment, extension, or maintenance [~~or both,~~]
3 of an office project or projects or the establishment, funding,
4 and administration of any loan program, and authorization for
5 issuance of revenue bonds under this part shall be by resolution
6 or resolutions of the board. The resolution may be adopted at
7 the same meeting at which it is introduced by a majority of all
8 the members of the board then in office and shall take effect
9 immediately upon adoption."

10 SECTION 6. Section 10-25.5, Hawaii Revised Statutes, is
11 amended to read as follows:

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

21 The board may enter into contracts or agreements with the
22 entity or entities providing a support facility; provided that



1 any contract or agreement shall provide, in essence, that any
2 amount due and owing by the board under the contract or
3 agreement on an annual basis shall be payable from the revenue
4 of the office project or loan program for which revenue bonds
5 are issued or the revenue of the office; provided further that
6 any obligation issued or arising pursuant to the terms of the
7 contract or agreement in the form of revenue bonds, notes, or
8 other evidences of indebtedness shall only arise at such time as
9 either:

10 (1) Moneys or securities have been irrevocably set aside
11 for the full payment of a like principal amount of
12 revenue bonds issued pursuant to this chapter; or

13 (2) A like principal amount of the issue or series of
14 revenue bonds to which the support facility relates
15 are held in escrow by the entity or entities providing
16 the support facility."

17 SECTION 7. Section 10-27, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§10-27 Covenants in resolution authorizing revenue bonds.**

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



- 1 (1) The purpose or purposes to which the proceeds of the
2 sale of revenue bonds may be applied; the use and
3 disposition of such proceeds; the investment thereof
4 pending such use and disposition; and the use and
5 disposition of the income from such investment;
- 6 (2) The use and disposition of the revenue of the office
7 project or projects or the loan program or programs
8 for [~~the construction or maintenance of~~] which the
9 revenue bonds are issued are to be included; the use
10 and disposition of the revenue of all office
11 projects[~~r~~] and loan programs, and of the revenues of
12 the office, including the creation and maintenance of
13 reserves; the investment of such revenues and of the
14 moneys in such reserves; and the use and disposition
15 of the income from such investments;
- 16 (3) The minimum amount of revenues to be produced by the
17 office projects, the loan programs, or the office,
18 over and above the amount required to be produced by
19 the first sentence and paragraphs (1) to (3) of
20 section 10-31;
- 21 (4) The use and disposition of the proceeds of the sale of
22 any office project, or part thereof;



- 1 (5) The acquisition, purchase, construction,
2 reconstruction, improvement, betterment, extension,
3 and maintenance of any office project other than the
4 office project or projects for the construction or
5 maintenance of which revenue bonds are issued;
- 6 (6) The issuance of other or additional revenue bonds
7 payable either from the revenue of the office project
8 or projects or the loan program or programs for [~~the~~
9 ~~construction or maintenance of~~] which the revenue
10 bonds are issued or from the revenue of the office or
11 payable from the revenue of other office projects[+]
12 or loan programs;
- 13 (7) The maintenance of the office project[+] and
14 administration of the loan program, including the
15 creation by the board of such supervisory positions,
16 which shall not be subject to chapter 76, as are
17 necessary to facilitate the issuance of revenue bonds
18 by ensuring the adequacy of revenues;
- 19 (8) The insurance to be carried on office projects or for
20 loan programs and the use and disposition of insurance
21 moneys;
- 22 (9) Books of account and inspection and audit thereof;



- 1 (10) A procedure by which the terms and conditions of the
2 bond resolution or indenture may be subsequently
3 amended or modified with the consent of the board, the
4 vote or written assent of the holders of bonds or any
5 proportion of the holders, or any trustee thereof; and
- 6 (11) The terms and conditions upon which the holders of
7 revenue bonds [~~evidencing the obligation to repay~~
8 ~~loans~~], or any proportion of the holders, or any
9 trustee thereof, shall be entitled to the appointment
10 of a receiver by any court of competent jurisdiction,
11 which court shall have jurisdiction in such
12 proceedings, and which receiver may enter and take
13 possession of the office project or projects, maintain
14 them, prescribe rents, fees, and charges[7] therefrom,
15 enforce or foreclose loans, and collect, receive, and
16 apply all revenue thereafter arising therefrom in the
17 same manner as the board itself might do, but the
18 receiver shall have no power, nor be granted any
19 power, to utilize, or permit the utilization of, any
20 office project or to enforce any loan agreement other
21 than in a manner consistent with and in furtherance of
22 the purposes of the office.



1 This part and any such resolution or resolutions shall be a
2 contract with the holders of bonds issued under this part, and
3 the duties of the board and any such resolution or resolutions
4 shall be enforceable by any bondholder by mandamus or other
5 appropriate suit, action, or proceeding in any court of
6 competent jurisdiction."

7 SECTION 8. Section 10-28, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§10-28 Validity of bonds.** Revenue bonds issued under
10 this part shall bear the manual signatures of the chairperson of
11 the board and the administrator, and shall be sealed with the
12 seal of the board or in lieu thereof shall bear a lithographed
13 or engraved facsimile of [~~such~~] the seal. If the board
14 designates a registrar other than itself for the revenue bonds,
15 the resolution authorizing the revenue bonds may provide that
16 none of the revenue bonds shall be valid or obligatory for any
17 purpose unless authenticated by the registrar. If the
18 resolution so provides, then all signatures of the board upon
19 the revenue bonds may be facsimiles of the signatures, and the
20 revenue bonds shall be valid and obligatory only if
21 authenticated by the manual signature of an authorized officer
22 or signatory of the registrar. Revenue bonds bearing the



1 signature of officers in office at the date of the signing
2 thereof shall be valid and binding obligations, notwithstanding
3 that before the delivery thereof and payment therefor any or all
4 of the persons whose signatures appear thereon shall have ceased
5 to be officers. The validity of the bonds shall not be
6 dependent on nor affected by the validity or regularity of any
7 proceedings relating to the acquisition, purchase, construction,
8 reconstruction, improvement, betterment, extension, or
9 maintenance of the office project or projects or the
10 establishment, funding, or administration of the loan program or
11 programs for which the bonds were issued. The resolution
12 authorizing the issuance of revenue bonds may provide that the
13 bonds shall contain a recital that they are issued pursuant to
14 this part, which recital shall be conclusive evidence of their
15 validity and of the regularity of their issuance."

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

18 "[~~§~~10-29~~§~~] **Bonds.** The resolution or resolutions
19 authorizing the issuance of revenue bonds may pledge to the
20 payment thereof all or any part of the revenue of an office
21 project or projects, of a loan program or programs, or of the
22 office, and the pledge shall constitute a lien on the revenue of



1 such project or projects or of such loan program or programs of
2 the office to the extent and in the manner in the resolution or
3 resolutions provided prior and paramount to any claim or other
4 obligation of any nature against the revenue so pledged
5 subsequently arising or subsequently incurred. The board may
6 provide in the resolution or resolutions that all revenue bonds
7 of the same issue shall be equally and ratably secured without
8 priority by reason of number, date, or maturity of the bonds,
9 date of sale, execution, or delivery thereof. Any pledge of
10 revenues contained in any resolution or resolutions adopted
11 under this part shall be valid and binding from and after the
12 adoption of the resolution or resolutions without physical
13 delivery of the revenues therein pledged or the necessity of any
14 further action by the State or the board, or any officer or
15 agent of either the State or board."

16 SECTION 10. Section 10-30, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§10-30 Payment and security of revenue bonds; revenue**
19 **bonds not a debt of the State.** Revenue bonds issued under this
20 part shall be payable from and secured solely by the revenues of
21 the office project or projects, the revenues of the loan program
22 or programs, or revenues of the office pledged to the payment



1 thereof, or both, and those revenues shall be applied to the
2 payment in accordance with the provisions of this part and the
3 resolution or resolutions authorizing the issuance of the
4 revenue bonds. No holder or holders of any revenue bonds issued
5 under this part shall have the right to compel any exercise of
6 the taxing power of the State or the making of any appropriation
7 to pay the revenue bonds, or interest thereon. Each revenue
8 bond shall recite in substance that the revenue bond, including
9 interest thereon, is payable solely from and secured by the
10 revenue pledged to the payment thereof, and that the bond does
11 not constitute a general or moral obligation or indebtedness of
12 the State within the meaning of any law."

13 SECTION 11. Section 10-31, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§10-31 **Office of Hawaiian affairs projects and loan**
16 **programs to be self-supporting.** The board shall impose and
17 collect rates, rents, fees, and charges for the use or enjoyment
18 and services of the facilities of each office project^[7] or for
19 each loan program, as applicable, and shall revise such rates,
20 rents, fees, and charges, whenever necessary, or direct all or
21 any portion of the revenues of the office, so that in the
22 aggregate, the revenues of the office project or the loan



1 program, and the revenues of the office shall produce revenue at
2 least sufficient to:

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

6 (2) Pay when due all bonds and interest thereon, for the
7 payment of which the revenue is or has been pledged,
8 charged, or otherwise encumbered, including reserves
9 therefor;

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

14 (4) Carry out all covenants and provisions of the
15 resolution or resolutions authorizing the issuance of
16 revenue bonds.

17 Neither this section nor any other section of this part
18 shall preclude the making of appropriations to the board, the
19 acceptance of gifts by the board, or the use of revenues of the
20 office or other funds derived from the sale of stocks, bonds, or
21 other assets in the possession of the board to pay all or part
22 of the costs of construction, of maintenance, or both, of any or



1 all office projects[-] or the administration of any loan
2 program.

3 All moneys received pursuant to this section shall be
4 administered as trust funds, as provided by this chapter, and in
5 separate accounts designated for each office project[-] or loan
6 program."

7 SECTION 12. Section 10-32, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[+]§10-32[+] **Office of Hawaiian affairs project and bonds**
10 **exempt from taxation.** The property and revenue of any office
11 project or loan program shall be exempt from all state, county,
12 and municipal taxation and assessments. Revenue bonds issued
13 under this part, and all income therefrom shall be exempt from
14 all state, county, and municipal taxation except inheritance,
15 transfer, and estate taxes."

16 SECTION 13. Section 10-34, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "[+]§10-34[+] **Funding and refunding bonds; authorization**
19 **and purpose.** The board [may], without further authorization
20 from the legislature, may provide for the issuance of revenue
21 bonds (herein referred to as refunding bonds) for the purpose of
22 refunding, redeeming, or retiring at or at any time before



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

20 SECTION 14. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 15. This Act shall take effect upon its approval.



Report Title:

Office of Hawaiian Affairs; Bonds; Loan Program

Description:

Authorizes the Office of Hawaiian Affairs to issue revenue bonds to fund loan programs. (SB403 HD1)

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

