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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~~] that shall be a separate  
6 entity independent of the executive branch. The office, under  
7 the 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~~] a 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  
15 appropriate;
- 16 (5) To execute, in accordance with its bylaws, all  
17 instruments necessary or appropriate in the exercise  
18 of any of its powers;
- 19 (6) To issue revenue bonds pursuant to this chapter to  
20 finance the cost of an office project or to fund a  
21 loan program, and to provide for the security thereof,



1 in the manner and pursuant to the procedure prescribed  
2 in part II;

3 (7) To lend or otherwise apply the proceeds of the bonds  
4 issued for an office project or a loan program either  
5 directly or through a trustee or a qualified person  
6 for use and application in the acquisition, purchase,  
7 construction, [installation, or modification]  
8 reconstruction, improvement, betterment, extension, or  
9 maintenance of an office project[7] or the  
10 establishment, funding, and administration of a loan  
11 program, or agree with the qualified person whereby  
12 any of these activities shall be undertaken or  
13 supervised by that qualified person or by a person  
14 designated by the qualified person;

15 (8) With or without terminating a project agreement[7] or  
16 loan agreement, as applicable, to exercise any and all  
17 rights provided by law for entry and re-entry upon or  
18 to take possession of an office project or enforce a  
19 loan agreement at any time or from time to time upon  
20 breach or default by a qualified person under a  
21 project agreement[7] or loan agreement, including any  
22 action at law or in equity for the purpose of



1           effecting its rights of entry or re-entry or obtaining  
 2           possession of the project or enforcing the loan  
 3           agreement or for the payments of rentals, user taxes,  
 4           or charges, or any other sum due and payable by the  
 5           qualified person to the office pursuant to the project  
 6           agreement[+] or loan agreement; and

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

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

12          "**§10-21 Definitions.** Whenever used in this part:

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

21          "Office project" or "project" means:



- 1 (1) The lawful acquisition of any property, real,  
2 personal, or mixed, tangible or intangible, or any  
3 interests therein, pursuant to section 10-4(2);
- 4 (2) Any capital improvement projects on lands held by the  
5 office pursuant to section 10-4(2) or in the public  
6 land trust, including but not limited to the  
7 construction of buildings and other improvements;  
8 infrastructure development, and other enterprises  
9 which are acquired, constructed, reconstructed,  
10 rehabilitated, improved, altered, or repaired by or on  
11 behalf of the office;
- 12 (3) Pilot projects, demonstrations, or both, where those  
13 projects or demonstrations fulfill criteria  
14 established by the board, pursuant to section 10-5(7);  
15 and
- 16 (4) Any other projects determined by rules adopted by the  
17 board pursuant to chapter 91 or otherwise authorized  
18 by the board in accordance with applicable law to be  
19 for the betterment of native Hawaiians and are  
20 consistent with the purposes of this chapter.
- 21 For purposes of this chapter, the terms "office project" or  
22 "project" may include any project that qualifies under



1 paragraphs (1) through (4) that is undertaken by the office in  
2 cooperation with other governmental entities or nongovernmental  
3 individuals or organizations.

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

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

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

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



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

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

6 "**§10-22 Powers of the board.** In addition to the powers  
7 ~~[which]~~ that it now possesses, the board ~~[shall have power to:]~~  
8 may:

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



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

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

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

20 "[~~+~~]**\$10-23[~~+~~]** **Authorization of office projects and loan**  
21 **programs, issuance of revenue bonds.** Authorization of  
22 **acquisition, purchase, construction, reconstruction,**





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

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

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

20 The board may enter into contracts or agreements with the  
21 entity or entities providing a support facility; provided that  
22 any contract or agreement shall provide, in essence, that any



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

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

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

18 **"§10-27 Covenants in resolution authorizing revenue bonds.**

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

- 21 (1) The purpose or purposes to which the proceeds of the  
22 sale of revenue bonds may be applied; the use and



1 disposition of [~~such~~] the proceeds; the investment  
2 thereof pending [~~such~~] the use and disposition[~~+~~] of  
3 the proceeds and the use and disposition of the income  
4 from [~~such~~] the investment;

5 (2) The use and disposition of the revenue of the office  
6 project or projects or the loan program or programs  
7 for [~~the construction or maintenance of~~] which the  
8 revenue bonds are issued are to be included; the use  
9 and disposition of the revenue of all office  
10 projects[~~+~~] and loan programs, and of the revenues of  
11 the office, including the creation and maintenance of  
12 reserves; the investment of [~~such~~] revenues and of the  
13 moneys in [~~such reserves;~~] reserve; and the use and  
14 disposition of the income from [~~such~~] investments[~~+~~]  
15 of the revenues;

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

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

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



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

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

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



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

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

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





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

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

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



1 aggregate, the revenues of the office project or loan program  
2 and the revenues of the office shall produce revenue at least  
3 sufficient to:

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

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

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

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

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



1 of the costs of acquisition, purchase, construction, [øf]  
2 reconstruction, improvement, betterment, extension, or  
3 maintenance [~~7, or both,~~] of any or all office projects [~~-~~] or the  
4 costs of a loan program.

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

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

11 "~~{}~~§10-34~~{}~~ **Funding and refunding bonds; authorization**  
12 **and purpose.** The board may, without further authorization from  
13 the legislature, provide for the issuance of revenue bonds  
14 (herein referred to as refunding bonds) for the purpose of  
15 refunding, redeeming, or retiring at or at any time before  
16 maturity or at any time before the first date upon which the  
17 outstanding bonds to be refunded may be called for redemption,  
18 any bonds issued under this part, including any bonds [~~which~~]  
19 that the holders may consent to be paid or refunded even though  
20 the bonds are not matured or are not callable or redeemable, and  
21 for the purpose of funding indebtedness not evidenced by revenue  
22 bonds but [~~which~~] that was incurred for purposes for which



1 revenue bonds may be issued pursuant to this part. The rate or  
2 rates of interest borne by the refunding bonds shall not be  
3 affected or limited by the rate or rates of interest borne by  
4 the bonds to be refunded or the indebtedness to be funded. All  
5 provisions of this part applicable to the issuance of revenue  
6 bonds shall be complied with in the issuance of refunding bonds.  
7 Refunding bonds shall be sold as provided in section 10-25, or  
8 the board may, in its discretion, provide for the exchange of  
9 refunding bonds for a like principal amount of outstanding bonds  
10 for the refunding of which the issuance of [~~such~~] the refunding  
11 bonds has been authorized, whether or not the interest rate on  
12 the refunding bonds is higher than the interest rate on the  
13 bonds refunded thereby."

14 SECTION 12. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

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



**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. (HB217 HD1)

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

