
A BILL FOR AN ACT

RELATING TO CLEAN ENERGY.

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

PART I

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SECTION 1. The legislature finds that the initial capital investment required by property owners to install renewable energy systems and energy efficiency improvements on residential and commercial properties is a significant barrier to reaching the State's clean energy target of generating all of Hawaii's electricity through renewable energy sources by the end of 2045.

The legislature further finds that during the 2010 regular session, House Bill No. 2634, H.D. 2, S.D. 2, proposed a type of property assessed clean energy program, titled the Hawaii clean energy bond loan program. This program proposed allowing commercial and residential property owners to take loans to fund energy efficiency improvements with repayments on the loans made through an increased property tax assessment on the property. The measure raised concerns by the Federal Housing Finance Agency which questioned whether the loan lien would have priority over a mortgage lien. While House Resolution No. 47,



1 H.D. 1, Regular Session of 2010, and a subsequent report by the
2 department of business, economic development, and tourism
3 addressed some of the concerns with the bill, no property
4 assessed clean energy program has been enacted in Hawaii.

5 On August 24, 2015, President Barack Obama announced new
6 actions to bring renewable energy and energy efficiency to
7 households across the country. Through subsequent actions by
8 the Federal Housing Administration and the United States
9 Department of Housing and Urban Development, the federal
10 government set forth guidelines to address the Federal Housing
11 Finance Agency's lien priority concerns regarding property
12 assessed clean energy programs.

13 Accordingly, the legislature finds that now is the
14 appropriate time for Hawaii to join the twenty-nine other states
15 that have enacted property assessed clean energy legislation.

16 The purpose of this Act is to establish an additional form
17 of financing for commercial and residential property owners to
18 implement energy efficiency improvements and install renewable
19 energy systems.



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PART II

SECTION 2. Chapter 196, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . HAWAII PROPERTY ASSESSED CLEAN ENERGY PROGRAM

§196-A Definitions. As used in this part:

"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 part, 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 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 property assessed clean
 11 energy 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 or storage component, intended for
 19 use within the residential or commercial property on
 20 which it is located; and

21 (2) Shall include the following systems:



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

5 §196-B Hawaii property assessed clean energy program.

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

9 §196-C Hawaii property assessed clean energy revolving

10 fund. (a) There is established the Hawaii property assessed
11 clean energy revolving 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



- 1 (6) Any moneys received from grants.
- 2 (b) Moneys in the Hawaii property assessed clean energy
- 3 revolving fund shall be used for the following purposes:
- 4 (1) To make loans to residential and commercial property
- 5 owners for energy efficiency improvements and
- 6 renewable energy systems;
- 7 (2) To repay any debt service on the revenue bonds, the
- 8 proceeds of which are deposited into the revolving
- 9 fund; and
- 10 (3) For administrative expenses relating to the operation
- 11 of the fund and the loan program.

12 §196-D Powers. The director may:

- 13 (1) Enter into contracts relating to the operation of the
- 14 loan program including administering the loan program;
- 15 and
- 16 (2) Perform all functions necessary to effectuate the
- 17 purposes of this part.

18 §196-E Rules. The department shall adopt rules pursuant
19 to chapter 91 to carry out the purposes of this part, including
20 the following:



- 1 (1) Prescribing the qualifications for eligibility of
- 2 applicants for loans;
- 3 (2) Establishing preferences and priorities in determining
- 4 eligibility for loans;
- 5 (3) Establishing the conditions, consistent with the
- 6 purposes of this part, for the granting of or for the
- 7 continuance of a grant of a loan;
- 8 (4) Providing for inspection at reasonable hours of the
- 9 structures, equipment, books, and records of the
- 10 entity that has applied for or has been granted a
- 11 loan, and requiring the submission of reports as may
- 12 be requested by the department;
- 13 (5) Establishing rates and charges for the operation of
- 14 the loan program; and
- 15 (6) Establishing requirements for single-family properties
- 16 subject to this part to comply with property assessed
- 17 clean energy loan guidelines established by the
- 18 Federal Housing Administration.

19 §196-F Loans. (a) The department may make loans to

20 qualifying commercial and residential property owners for energy

21 efficiency improvements and renewable energy systems in a



1 participating county. A participating county is a county that
2 has agreed to take part in the loan program by taking the legal
3 action as is necessary under its real property tax system to
4 levy upon a property benefited by the loan a special assessment
5 of an amount necessary to repay each loan financed under the
6 loan program. The participating county shall remit the moneys
7 to the Hawaii property assessed clean energy revolving fund and
8 shall receive reasonable compensation for its services.

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

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

14 (d) The department shall record a lien on the property
15 benefited by the loan. The lien shall attach to the property on
16 which the installation or improvements pursuant to this part
17 were made.

18 (e) Notwithstanding any law to the contrary, if the
19 director determines that the department is unable to issue a
20 sufficient number of loans to offset the reasonable cost to the
21 department of operating the loan program, the director may delay



1 or suspend the loan program in one or more participating
2 counties or may delay or suspend any feature of the loan
3 program.

4 §196-G Liens. The lien recorded pursuant to
5 section 196-F(d) shall relate to and take effect from the date
6 of completion of all contracted improvements, installations, and
7 operations undertaken by the property owner in accordance with
8 this part."

9 PART III

10 SECTION 3. Purpose. This part shall govern, with respect
11 to the Hawaii property assessed clean energy program, the
12 practice and procedure before the State, program administrator,
13 department of business, economic development, and tourism, and
14 the department of budget and finance and shall be construed to
15 promote increased activity in residential and commercial
16 renewable energy projects, stimulate the State's clean energy
17 sector, reach energy efficiency and clean energy goals, increase
18 energy security, encourage economic diversification, provide
19 increased career opportunities for Hawaii residents, and attract
20 funding and investment into the State. The Hawaii property
21 assessed clean energy program shall begin on July 1, 2016, and



1 no loans shall be issued after December 31, 2040. The purpose
2 of this part is to clarify the role of the program administrator
3 and the program application processes for counties and
4 applicants.

5 SECTION 4. Definitions. In addition to the definitions
6 contained in the new part in chapter 196, Hawaii Revised
7 Statutes, established by this Act, the following definitions
8 shall apply to this part:

9 "Commercial properties" and "residential properties" mean
10 those properties as defined by the county code for the
11 particular county in which the property is located and do not
12 fall under the category of facilities.

13 SECTION 5. Program administrator. The powers and duties
14 of the program administrator or "administrator" are as contained
15 in this part. The administrator shall be selected through a
16 competitive bidding process pursuant to chapter 103D, Hawaii
17 Revised Statutes. The administrator shall have the authority to
18 hire private subcontractors for the purposes of energy
19 inspections and audits. The administrator shall:

- 20 (1) Establish criteria and procedures for the
21 qualification of technologies and systems, perform



- 1 energy inspections and audits, including identifying
2 the energy efficiency improvements and renewable
3 energy systems that qualify for the loan program
4 financing, and develop appropriate procedures for the
5 qualification of these improvements and systems;
- 6 (2) Calculate a property's current energy consumption and
7 energy costs when an application is submitted by the
8 property owner, and estimate the potential cost
9 benefits that could be realized through energy
10 efficiency improvements or installation of renewable
11 energy systems on the subject property;
- 12 (3) Provide education and training on energy efficiency
13 improvements to applicants, including education and
14 training on the selection and use of improvements to
15 maximize energy efficiency;
- 16 (4) Prescribe loan repayment periods and provide projected
17 property tax assessment estimates when the applicant
18 opts to take advantage of the financing made available
19 under this Act, including establishing deadlines for
20 loan repayments and providing applicant property
21 owners the projected property tax assessment estimates



1 that will be due and collected along with the ad
 2 valorem property tax bill; provided that the length of
 3 time allowed for the property owner to repay the
 4 assessment shall not exceed the life expectancy of the
 5 systems or improvements; provided further that where
 6 multiple systems or improvements have been installed,
 7 the length of time shall not exceed the average
 8 lifetime of all projects, weighted by cost;

9 (5) Assist the counties with administrative duties related
 10 to the execution of this part, including:

11 (A) Initiation and authorship of any and all written
 12 agreements between participating property owners
 13 and the counties or funding institutions;

14 (B) Public outreach and program promotion within the
 15 counties, including community informational
 16 briefings and making available information
 17 related to the program; and

18 (C) Any revision to existing county documents and
 19 systems needed to efficiently collect property
 20 tax assessment payments from property owners;



- 1 (6) Distribute state bond proceeds appropriated for this
2 program to participating property owners, private
3 contractors, or funding institutions, including
4 responsibility for ensuring loan repayment to the
5 State from revenues generated by participating county
6 property tax assessments under this part; and
- 7 (7) Collect, compile, and report all data and information
8 relating to the loan program to the State, department,
9 and the department of budget and finance; provided
10 that the criteria, qualifications and procedures, and
11 lifetimes of projects described in paragraphs (1) and
12 (3) shall be determined with approval from the
13 department.

14 SECTION 6. Program application requirements for counties.

- 15 (a) Local ordinance requirement. For a county to access
16 funding generated by the sale of bonds issued by the State, the
17 county shall voluntarily agree to participate in the State's
18 loan program by ordaining an ordinance or other legally binding
19 action. Subsequently, county officials shall submit a report to
20 the department for approval.
- 21 (b) County report. County reports shall include:



- 1 (1) A draft contract agreement between participating
- 2 property owners and the county government;
- 3 (2) A list of eligible distributed renewable energy
- 4 systems;
- 5 (3) A list of eligible energy-efficiency improvements;
- 6 (4) A designated county official who is authorized to
- 7 enter into contractual assessments on behalf of the
- 8 county;
- 9 (5) A maximum aggregate dollar amount for any contractual
- 10 assessments;
- 11 (6) A method for prioritizing applications or requests if
- 12 applications exceed the authorization amount;
- 13 (7) A plan for dispersing the capital amount required to
- 14 pay for work performed pursuant to contractual
- 15 assessments; and
- 16 (8) An accounting of any costs incidental to the
- 17 financing, administration, and collection of the
- 18 contractual assessment for the county.
- 19 (c) Real property assessments and payments to the State.
- 20 The applicable portion of property assessment payments from the
- 21 affected properties within the participating county or counties,



1 upon agreement between the State and the county or counties,
2 shall be applied to service the State debt on the bonds issued
3 pursuant to this Act.

4 SECTION 7. Program application process for property
5 owners. (a) Properties with existing public liens, including
6 liens resulting from delinquent green infrastructure loans made
7 pursuant to part IV of chapter 196, Hawaii Revised Statutes,
8 shall not be eligible for the loan program. The department may
9 grant exemptions to this restriction on a case-by-case basis
10 upon request from the applicant. Properties that are valued at
11 less than the total amount owed to the mortgage lender are not
12 eligible for the loan program. All subsequent liens placed on
13 the subject property after loan funds have been dispersed
14 pursuant to this Act shall be subordinate. The loan applicant
15 shall possess title for the subject property as well as
16 documentation to prove timely mortgage payments if applicable.

17 (b) Loan application prerequisites. The department, in
18 consultation with the administrator, shall establish eligibility
19 criteria for site inspections and individuals or entities
20 wishing to conduct site inspections. An onsite energy
21 inspection to determine total monthly energy consumption and



1 estimated potential energy savings is required for projects
2 valued at more than five per cent of the total value of the
3 subject property in order to participate in the program. Onsite
4 energy inspections or audits may be performed by private
5 contractors subcontracted by the administrator or by persons
6 employed by the administrator; provided that they meet the
7 criteria established by the department. The department shall
8 retain the authority to conduct onsite energy inspections for
9 any and all applications if deemed necessary by the director.

10 (c) Loan application review process. The administrator,
11 or in the case of projects valued at \$100,000 or more, the
12 department, shall accept the loan application so long as it is
13 complete and complies with the loan application prerequisites
14 and application process of this part. If the loan application
15 is accepted, the loan application reviewer shall notify the
16 applicant of acceptance in writing within thirty days. If the
17 loan application does not meet the requirements of this part,
18 the loan application reviewer, not more than thirty days from
19 the submission of the loan application, shall provide the
20 applicant with a written report of the reasons why the loan
21 application is incomplete. The loan application shall be



1 approved or denied not more than ninety days from the date of
2 acceptance, and the loan applicant shall be informed of the
3 action in writing not more than thirty days from the day the
4 action is taken on the loan application.

5 (d) Loan disbursement. Once a loan is approved, the loan
6 applicant shall have thirty days upon receipt of the acceptance
7 to either agree or reject the terms of the loan. If the loan
8 applicant agrees to the terms of the loan, then the financial
9 institution handling the applicable loan program funds shall
10 disburse the appropriate amount to the businesses hired to
11 perform the contractually agreed upon services.

12 (e) Loan repayment. Loans shall be repaid through
13 revenues generated by a special assessment on real property tax
14 bills. The liability to repay the loan shall be attached to the
15 property as an assessment on real property. The participating
16 county in which the assessed property is located shall be
17 responsible for repayment to the State, but shall not be held
18 liable if a default occurs on the loan. Loans for amounts over
19 \$5,000 may be repaid over a period of ten to twenty years, at
20 the program administrator's discretion. The length of time
21 allowed for the property owner to repay the assessment shall not



1 exceed the life expectancy of the system or improvement. Where
 2 multiple systems or improvements have been installed, the length
 3 of time for the property owner to repay the loan shall not
 4 exceed the average lifetime of all projects, weighted by cost.
 5 Projects valued at \$100,000 or more shall require approval by
 6 the department. A loan pursuant to this Act shall not exceed
 7 \$250,000.

8 (f) Loan re-application. If a loan application is denied,
 9 the applicant may re-apply for the denied loan only if the
 10 problems that were grounds for denial under the preceding loan
 11 application have been remedied.

12 PART IV

13 SECTION 8. The director of finance is authorized to issue
 14 revenue bonds in the sum of \$ or so much thereof as may
 15 be necessary and the same sum or so much thereof as may be
 16 necessary is appropriated for fiscal year 2016-2017 for deposit
 17 into the Hawaii property assessed clean energy program revolving
 18 fund.

19 SECTION 9. There is appropriated out of the Hawaii
 20 property assessed clean energy program revolving fund the sum of



1 § or so much thereof as may be necessary for fiscal year
2 2016-2017 for the purposes of this Act.

3 The sum appropriated shall be expended by the department of
4 business, economic development, and tourism for the purposes of
5 this Act.

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

10 SECTION 11. If any provision of this Act, or the
11 application thereof to any person or circumstance is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act, which can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 12. In codifying the new sections added by section
17 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 13. This Act shall take effect on January 1, 2075;
21 provided that part III shall be repealed upon the adoption of



1 administrative rules in accordance with chapter 91, Hawaii
2 Revised Statutes, by the department of business, economic
3 development, and tourism to effectuate part II of this Act.



Report Title:

Bond Loan; Property Assessed Clean Energy Program; PACE;
Renewable Energy; Revenue Bond Authorization; Special Fund
Appropriation

Description:

Establishes a property assessed clean energy program to promote
renewable energy systems and energy efficiency improvements.
Increases a property's tax assessment to make loan payments.
Authorizes the issuance of revenue bonds and appropriates bond
revenues to finance the program. (HB1524 HD1)

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not legislation or evidence of legislative intent.*

