

CHAPTER 48
ECONOMIC DEVELOPMENT BONDS

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Note

Chapter heading amended by L 1974, c 254, §1(1).

" **§48-1 Definitions.** As used in this chapter:

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

"Economic development bond" means any general or revenue bond issued by any political subdivision of the State for the purpose of financing the purchase or lease of land; the purchase or construction, including reconstruction, improvement, expansion, extension, and enlargement, of buildings and appurtenances; and the purchase and installation of machinery, equipment, or fixtures, when the purchases or leases are made primarily for sale or continuing lease to a private individual, partnership, or corporation for use in connection with the development of an agricultural, industrial, commercial, or hotel enterprise.

"Governing body" means the body, council, or board charged with exercising the legislative authority of a political subdivision of the State.

"Political subdivision" means a county or other political subdivision created by the legislature pursuant to article VIII, section 1, of the constitution of the State. [L 1964, c 58, pt of §2; Supp, §140A-2; am L 1957, c 227, §2; HRS §48-1; am L 1974, c 254, §1(2); am L 1987, c 336, §7; am L 1990, c 293, §8]

Cross References

Purchase by state director of finance, see §36-23.

" **§48-2 Department authority.** The department of business, economic development, and tourism may employ personnel necessary to carry out this chapter. The department may issue rules and regulations in accordance with chapter 91 and may require information necessary for the administration of this chapter.

All departments, divisions, boards, bureaus, commissions, or other agencies of the State shall provide such assistance and information as the department may require to enable it to carry out its duties under this chapter. [L 1964, c 58, pt of §2; Supp, §140A-3; HRS §48-2; am L 1987, c 336, §7; am L 1990, c 293, §8]

Cross References

Department of business, economic development, and tourism, see §26-18.

" **§48-3 Certificate of convenience and necessity.** No political subdivision may issue economic development bonds without first having been issued a certificate of convenience and necessity therefor. The certificate shall be issued by the department of business, economic development, and tourism upon a petition of the governing body of the political subdivision proposing to issue economic development bonds upon the department finding:

- (1) That the political subdivision has a contract, approved by its governing body, with an individual, partnership, or corporation to lease the property to be acquired with the proceeds of the economic development bonds for occupancy and use in connection with the conduct of an agricultural, industrial, commercial, or hotel enterprise for a period of years, and for the lessee to pay an annual rental adequate to meet interest and principal payments falling due during the term of the lease;
- (2) That the lessee of the property is a responsible party;
- (3) That the contract for lease of the property provides for:
 - (A) The reasonable maintenance, less normal wear and tear, of the property by the lessee;
 - (B) Insurance to be carried on the property and the use and disposition of insurance moneys; and
 - (C) The rights of the political subdivision and the lessee respecting the disposition of the property financed by the proposed economic development bonds upon retirement of the bonds or termination of the contract by expiration or failure to comply with any of the provisions thereof;
- (4) In addition to the above, the contract may provide for the rights of the bondholders, the care and disposition of rental receipts, and such other safeguards as are deemed to be necessary by the department;
- (5) That opportunities for employment are inadequate in the area from which the proposed development plan would reasonably draw its labor force and that there exists in that area a condition of substantial and persistent unemployment or under employment;
- (6) That the proposed project will provide employment having a reasonable relationship to the volume of the bonds issued as compared to investment per employee of comparable facilities elsewhere in the private sector;

- (7) That financing by banks, other financial institutions, or other parties, of the property required by the lessee is not readily available to lessee on ordinary commercial terms in adequate amounts either on the local or the national market;
- (8) That no portion of the proposed economic development bond issues will be purchased by the lessee or any affiliate or subsidiary of the lessee at the time of the initial marketing;
- (9) That the facility offered the lessee is intended to accommodate expansion of an enterprise located elsewhere or a new enterprise and not primarily the relocation of an existing facility;
- (10) That adequate provision is being made to meet any increased demand upon community public facilities that might result from the proposed project; and
- (11) That the issuance of the proposed bonds and the operation of the enterprise of the lessee will not disrupt the fiscal stability of the issuing political subdivision in the event it should become necessary for it to assume responsibility for payment of the interest and principal of the proposed economic development bonds. [L 1964, c 58, pt of §2; Supp, §140A-4; HRS §48-3; am L 1974, c 254, §1(3); am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§48-4 Procedure.** Within thirty days after a political subdivision files a petition, completed in accordance with the rules and regulations authorized by section 48-2, the department of business, economic development, and tourism shall upon due notice hold a hearing upon the petition. The department shall reasonably expedite the hearing and shall advise the petitioning political subdivision of its decision within thirty days of the adjournment of a hearing. If the department approves the petition, a certificate of convenience and necessity shall be issued forthwith. Failure of the department to advise the petitioning political subdivision of its decision within thirty days of the conclusion of the hearing shall constitute approval of the petition, and the political subdivision shall be entitled to receive such certificate. Decisions of the department shall be reviewable as provided by chapter 91.

A certificate of convenience and necessity issued as provided by this chapter shall expire twelve months from the date of its issuance, provided that upon written application by the political subdivision to the department, the department in its discretion may extend the expiration date of the

certificate. [L 1964, c 58, pt of §2; Supp, §140A-5; HRS §48-4; am L 1987, c 336, §7; am L 1990, c 293, §8]

" **§48-5 Authorization for issuance of bonds.** A political subdivision which holds a certificate of convenience and necessity issued and in force pursuant to this chapter may issue local government general obligation or revenue bonds, subject to the limitations and procedures of this chapter, of the constitution of the State, of the applicable provisions of chapters 47 and 49, and of other applicable laws. [L 1964, c 58, pt of §2; Supp, §140A-6; HRS §48-5]

" **§48-6 Annual report.** The department of business, economic development, and tourism shall make an annual report to the governor and the legislature, including recommendations to further the purposes of this chapter. [L 1964, c 58, pt of §2; Supp, §140A-7; HRS §48-6; am L 1987, c 336, §7; am L 1990, c 293, §8]

Cross References

Due date of reports, see §93-12.

" **§48-7 Provisions of chapter controlling.** Insofar as this chapter is inconsistent with the provisions of any law or charter, this chapter shall be controlling. The powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law or charter. [L 1964, c 58, pt of §2; Supp, §140A-8; HRS §48-7]