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## A BILL FOR AN ACT

RELATING TO DAMS AND RESERVOIRS.

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

1           SECTION 1. Article XI of the Constitution of the State of  
2 Hawaii declares that all natural resources are held in trust by  
3 the State for the benefit of the people, and that the State  
4 shall promote the development and utilization of those natural  
5 resources in a manner consistent with their conservation and in  
6 furtherance of the self-sufficiency of the State.

7           Section 3 of article XI mandates the conservation and  
8 protection of agricultural lands, promotion of diversified  
9 agriculture, and increased agricultural self-sufficiency. The  
10 productivity of agricultural lands, however, depends upon the  
11 availability of irrigation or sufficient rainfall or moisture  
12 for the production of crops. Irrigated lands can be well  
13 adapted to a wide range of diversified crops.

14           Key to agricultural production in Hawaii and agricultural  
15 self-sufficiency is the maintenance and enhancement of the dams  
16 and reservoirs that were constructed by former sugarcane and  
17 pineapple plantation companies. With the closing of



1 plantations, the maintenance and operation of these irrigation  
2 systems become even more important for the survival and  
3 expansion of agriculture in Hawaii.

4       The purpose of this Act is to establish standards for the  
5 permitting, inspection, and maintenance of dams, reservoirs, and  
6 their appurtenant structures in a manner that avoids emergencies  
7 that create a hazard to life and property. This Act enacts many  
8 of the recommendations of the Model Law for State Supervision of  
9 Safety of Dams and Reservoirs, and the criteria for legislation  
10 required by the national Dam Safety Program Act. Further, this  
11 Act, establishes a dam rehabilitation loan program proposed by  
12 the Model Law, primarily funded by revenue bonds authorized by  
13 the legislature, for the repair and maintenance of dams and  
14 reservoirs.

15       SECTION 2. Chapter 179D, Hawaii Revised Statutes, is  
16 amended by adding a new part to be appropriately designated and  
17 to read as follows:

18               "PART . DAM REHABILITATION LOAN PROGRAM

19               §179D-A Dam rehabilitation loan revolving fund; program  
20 establishment and funding. (a) There is established in the



1 state treasury the dam rehabilitation loan revolving fund, into  
2 which shall be deposited:

- 3 (1) Appropriations by the legislature;
- 4 (2) Funds from federal sources;
- 5 (3) Funds from revenue bonds authorized by acts of the  
6 legislature or bond anticipation notes issued pursuant  
7 to section 39-70; and
- 8 (4) Moneys received as repayment of loans and interest  
9 payments.

10 (b) The dam rehabilitation loan program may obtain funds  
11 through partnerships with any private or public, bonding or  
12 loaning agency or organization.

13 (c) State funding to the dam rehabilitation loan program  
14 shall not be reduced because of federal funds provided for a  
15 rehabilitation loan program.

16 (d) Moneys collected for the dam rehabilitation loan  
17 program and deposited into the dam rehabilitation loan revolving  
18 fund shall remain in the fund and shall not lapse to the credit  
19 of the general fund.

20 **§179D-B Allowable loans.** (a) The board may grant loans  
21 from the dam rehabilitation loan revolving fund to dam owners:



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- 1           (1) To defray the costs of repairing dams or removal of a  
2           dam that the board determines to be dangerous to the  
3           safety of persons and property but that are not in an  
4           emergency condition; and
- 5           (2) To reimburse the board for emergency actions taken by  
6           the department under section 179D-24.
- 7           (b) Loans shall be granted on the terms and conditions as  
8 may be imposed by the board. The following provisions shall  
9 apply:
- 10          (1) The board may take any administrative or legal action  
11          necessary for the administration of the dam  
12          rehabilitation loan program;
- 13          (2) If the balance of the dam safety special fund exceeds  
14          \$1,000,000, no single loan shall be made for more than  
15          twenty per cent of the moneys available in the fund.  
16          No loan shall be made to any dam owner that, at the  
17          time of the loan application, has more than twenty per  
18          cent of the outstanding loans of the fund;
- 19          (3) The loans granted by the board shall be for a term of  
20          not more than twenty years; and the loans shall bear



1 interest at rates established by the board by rule;  
2 and

3 (4) Each loan shall be evidenced by a contract between the  
4 dam owner and the board, acting on behalf of the  
5 State. The contract shall provide for the loan of a  
6 stated amount to defray partial or total costs of  
7 repairing the dam. The contract shall provide for  
8 equal annual payments of principal and interest for  
9 the term of the loan.

10 **§179D-C Eligibility.** (a) Rehabilitation projects that  
11 are in compliance with applicable laws and rules and are  
12 permitted, accepted, and approved by the board shall be eligible  
13 for funding through the dam rehabilitation loan program.

14 (b) Any costs directly related to rehabilitating safety  
15 deficiencies of a dam shall be eligible for funding through the  
16 dam rehabilitation loan program.

17 (c) Fees for analysis, feasibility work, alternative  
18 evaluation, and engineering design shall only be eligible for  
19 funding retroactively, after construction has been initiated or  
20 at the point that analysis has shown a dam to be in compliance.



1 (d) Up to one hundred per cent of rehabilitation costs for  
2 a dam may be loaned.

3 (e) Dam owners may use multiple programs or sources to  
4 fund the rehabilitation costs for a dam, up to one hundred per  
5 cent of rehabilitation costs.

6 **§179D-D Security interests.** (a) The board may take a  
7 security interest, if necessary, in any property owned by the  
8 dam owner in exchange for the loan. If the board chooses to  
9 take a security interest, the board shall take the necessary  
10 actions to perfect the security interest.

11 (b) The attorney general or the board's legal counsel,  
12 with the consent of the board, may commence any actions  
13 necessary to enforce the contract and achieve repayment of loans  
14 provided by the board.

15 **§179D-E Participation in loans by the department.** (a)  
16 The board may provide funds for a share, not to exceed ninety  
17 per cent, of the principal amount of a loan made to a qualified  
18 owner by a private lender who is otherwise unable to lend the  
19 applicant sufficient funds at reasonable rates.

20 (b) Interest charged on the private lender's share of the  
21 loan shall be not more than the sum of two per cent above the



1 lowest rate of interest charged by all state or national banks  
2 authorized to accept or hold deposits in the State on unsecured  
3 short-term loans made to borrowers who have the highest credit  
4 rating with those banks.

5 (c) When a participating loan has been approved by the  
6 board, its share may be paid to the participating private lender  
7 for disbursement to the borrower.

8 (d) Out of interest collected, the private lender may be  
9 paid a service fee to be determined by the board, which fee  
10 shall not exceed one per cent of the unpaid principal balance of  
11 the loan; provided that this fee shall not be added to any  
12 amount that the borrower is obligated to pay; and provided  
13 further that the private lender services the loan.

14 (e) The participating private lender may take over a  
15 larger percentage or the full principal balance of the loan at  
16 any time that it has determined, to the satisfaction of the  
17 board, that the borrower is able to pay any increased interest  
18 charges that result.

19 (f) The private lender may take a security interest in any  
20 property owned by the dam owner in exchange for the loan. All  
21 collateral documents shall be held by the private lender.



1 Division of interest in collateral received shall be in  
2 proportion to participation by the board and the private  
3 lender."

4 SECTION 3. Chapter 179D, Hawaii Revised Statutes, is  
5 amended by adding six new sections to part II to be  
6 appropriately designated and to read as follows:

7 "§179D-F Emergency action plan. (a) The owners of dams  
8 and reservoirs shall have the primary responsibility for  
9 determining when an emergency involving the dam or reservoir  
10 exists and implementing an emergency action plan for the dam or  
11 reservoir. The owners of high hazard potential and significant  
12 hazard potential dams shall develop, update, and periodically  
13 test an emergency action plan that can be implemented in the  
14 event of an emergency involving the owner's dam.

15 (b) The emergency action plan shall include:

16 (1) A notification list of persons who may be endangered  
17 if the dam should fail, emergency management  
18 organizations, and proper state or county agencies;

19 (2) Inundation maps or other acceptable description of the  
20 inundated areas, as determined by the department; and





1           (3) Responsibilities of the owner, emergency management  
2           organizations, and state or county agencies to  
3           safeguard life, health, and property.

4           (c) The department shall review and approve the emergency  
5 action plans developed by the owners.

6           §179D-G Permits required. (a) No person shall:

7           (1) Construct a new dam; or

8           (2) Reconstruct, enlarge, modify or alter, repair, remove,  
9           or abandon an existing dam;

10 without first obtaining a permit from the board. The  
11 application for a permit shall be filed upon forms provided by  
12 the board.

13           (b) The application for a permit to construct a new dam or  
14 enlarge an existing dam shall include:

15           (1) The plans and specifications for the dam, reservoir,  
16 and appurtenant works signed by the design engineer  
17 including:

18           (A) The type and size of the proposed dam and  
19 reservoir;

20           (B) The purpose of the proposed dam and reservoir;



1            (C) The reservoir storage capacity and surface area  
2            for normal pool and maximum storage elevation;  
3            and

4            (D) The area of the drainage basin, rainfall and  
5            streamflow records, flood-flow records, and  
6            estimates;

7            (2) The name and address of the owner;

8            (3) The location of the proposed dam;

9            (4) The hazard potential identification;

10           (5) A maintenance plan;

11           (6) An emergency action plan; and

12           (7) Evidence of financial responsibility.

13           (c) The application for a permit to reconstruct, enlarge,  
14 modify or alter, or repair an existing dam, shall include:

15           (1) The construction plans and specifications for the dam,  
16           reservoir, and appurtenant works signed by the design  
17           engineer, including any changes to:

18           (A) The type and size of the proposed dam and  
19           reservoir;

20           (B) The purpose of the proposed dam and reservoir;



1            (C) The reservoir storage capacity and surface area  
2            for normal pool and maximum storage elevation;  
3            and

4            (D) The area of the drainage basin, rainfall and  
5            streamflow records, flood-flow records, and  
6            estimates;

7            (2) The name and address of the owner of the dam;

8            (3) The location of the proposed dam;

9            (4) The current hazard potential classification of the dam  
10           and any change in classification that may change as a  
11           result of the proposed construction;

12           (5) Any changes in the maintenance plan as a result of the  
13           proposed construction;

14           (6) Any changes in the emergency action plan as a result  
15           of the proposed construction; and

16           (7) Evidence of financial responsibility.

17           (d) The application for a permit to remove or abandon an  
18           existing dam shall include plans and specifications prepared by  
19           an engineer for:

20           (1) Dewatering;

21           (2) Method of breaching;



- 1       (3) Means of controlling erosion at the site during and
- 2             after the breach;
- 3       (4) Means to control sediment transport from the
- 4             reservoir;
- 5       (5) Time schedule and sequence of construction; and
- 6       (6) Evaluating and remapping of downstream flood areas, if
- 7             necessary.
- 8       (e) Minor repairs or maintenance work included in a
- 9 maintenance plan approved by the board shall not require a
- 10 permit.

11       §179D-H Permits; approval. (a) Upon receipt of an

12 application for a permit, the board shall cause a notice thereof

13 to be published in a newspaper having general circulation within

14 the affected area. The notice shall be published at least once

15 per week for two consecutive weeks. The notice shall state that

16 written objections to the proposed permit may be filed with the

17 board by a specified date. The board shall establish by rules

18 the time limits within which objections must be filed.

19       (b) The board, after a hearing and the resolution of

20 objections, shall issue a permit for the construction of a new

21 dam or the reconstruction, enlargement, modification or



1 alteration, repair, removal, or abandonment of an existing dam.  
2 If the application for a permit is not consistent with the  
3 requirements of section 179D-G, the board shall deny the  
4 application and notify the owner of the reasons for the denial.

5 §179D-I Inspection of construction and repair. (a) The  
6 department's engineer or a consulting engineer selected by the  
7 department shall periodically inspect the construction of a new  
8 dam or the reconstruction, enlargement, modification or  
9 alteration, or repair of an existing dam and obtain  
10 certification in writing by the design engineer that the  
11 construction or repair is in conformity with the approved plans  
12 and specifications.

13 (b) If the department finds that modifications or changes  
14 are necessary to ensure the safety of the dam, the department  
15 shall order the owner to revise the plans and specifications.  
16 If the department finds that the work is not being done  
17 according to the approved plans and specifications, it shall  
18 deliver written notice of noncompliance to the owner:

19 (1) Stating the parts of the approved plans and  
20 specifications with which the owner has not complied;  
21 and



1        (2) Ordering that no further work be done until compliance  
2        with the plans and specifications have been carried  
3        out and approved by the department.

4        §179D-J Inspection of dams. (a) Periodic inspections of  
5        dams shall be conducted by a consulting engineer approved by the  
6        department, and hired and paid for by the owner, who shall:

7        (1) Review all documents and records relating to the dam  
8        and its appurtenances, including the emergency action  
9        plan;

10       (2) Perform the necessary assessments of the condition of  
11       the dam, including the need for hydrologic, hydraulic,  
12       stability, and structural calculations to provide an  
13       accurate assessment of the condition of the dam;

14       (3) Determine if additional development has occurred  
15       within the downstream reach of the dam that may change  
16       the hazard classification of the dam or require  
17       amendment of the emergency action plan;

18       (4) Visually inspect the embankment, spillway, outlet,  
19       conduits, appurtenant structures, and reservoir  
20       conditions at the time of the inspection; and



1        (5) Prepare a report of findings, recommendations, and  
2        proposed actions to be filed with the department and  
3        provided to the dam owners. The report shall be  
4        submitted on a standard inspection report provided by  
5        the department.

6        (b) Inspections of dams shall be carried out at the  
7        following intervals:

8        (1) For dams classified as high hazard potential,  
9        annually;

10       (2) For dams classified as significant hazard potential,  
11       every two years; and

12       (3) For dams classified as low hazard potential, every  
13       five years.

14       (c) The department shall perform inspections during the  
15       construction or repair of a dam to verify that the construction  
16       or repair is proceeding according to the approved plans and  
17       specifications. The department shall require that the design  
18       engineer certify in writing that the construction or repair of  
19       the dam had been performed according to the approved plans and  
20       specifications as of the date of inspection.



1        §179D-J Owner responsibilities. (a) The owner shall be  
2 responsible for the inspection required by section 179D-J and  
3 shall:

- 4        (1) Provide for on-going surveillance of the dam;
- 5        (2) Train personnel in the basics of visual dam inspection  
6        techniques;
- 7        (3) Measure and record data based on requirements  
8        established by the board;
- 9        (4) Promptly notify the department of any unusual  
10       observations;
- 11       (5) Inspect the dam after any unusual event, including but  
12       not limited to a significant storm or runoff or  
13       earthquake, to determine if structural or operational  
14       problems exist;
- 15       (6) Maintain records for the dam required by the board,  
16       including but not limited to construction plans and  
17       documents, engineering studies, inspection reports,  
18       monitoring records, and the emergency action plan; and
- 19       (7) Submit an annual statement indicating that the dam is  
20       being maintained according to the approved maintenance





1           plan and that the emergency action plan has been  
2           updated as necessary.

3           (b) The owner shall report information required by  
4           subsection (a) to the department on forms developed by the  
5           board."

6           SECTION 4. Section 179D-3, Hawaii Revised Statutes, is  
7           amended to read as follows:

8           "§179D-3 Definitions. The following terms, whenever used  
9           and referred to in this chapter, shall have the following  
10          meanings, unless a different meaning clearly appears in the  
11          context:

12          "Abandonment" means to render a dam non-impounding by  
13          dewatering and filling the reservoir created by that dam with  
14          solid materials and by diverting the natural drainway around the  
15          site.

16          "Adverse consequences" means negative impacts that may  
17          occur upstream, downstream, or at locations remote from the dam.  
18          The primary concerns are loss of human life, economic loss,  
19          including property damage, disruption of public utilities, and  
20          environmental impact.



1        "Alterations" or "repairs" means only alterations or  
2 repairs to existing dams and appurtenant works that affect the  
3 safety of the dam or reservoir, as determined by the board.

4        "Application approval" means authorization in writing  
5 issued by the board to an owner who has applied to the board for  
6 permission to construct, reconstruct, enlarge, repair, alter,  
7 remove, maintain, [~~or~~] operate, or abandon a dam or reservoir  
8 and that specifies the [~~condition~~] conditions or limitations  
9 under which work is to be performed by the owner or under which  
10 approval is granted.

11        "Appurtenant works" or "appurtenance" means any structure,  
12 [~~such as~~] including but not limited to spillways in the dam or  
13 separate therefrom, the reservoir and its rim, low level outlet  
14 works, and water conduits, [~~such as~~] including but not limited  
15 to tunnels, pipelines, or penstocks, through the dam or its  
16 abutment.

17        "Board" means the board of land and natural resources.

18        "Breach" means partial removal of a dam, creating a channel  
19 through the dam to the original stream bottom elevation.

20        "Certificate of approval to impound" means authorization in  
21 writing issued by the board to an owner of an existing dam or



1 reservoir, or an owner who has completed construction,  
2 reconstruction, enlargement, repair, or alteration of a dam or  
3 reservoir, that specifies the conditions or limitations under  
4 which the dam or reservoir is to be maintained and operated.

5 "Dam" means any artificial barrier, including appurtenant  
6 works that impounds or diverts water and that:

7 (1) Is twenty-five feet or more in height from the natural  
8 bed of the stream or watercourse measured at the  
9 downstream toe of the barrier, or from the lowest  
10 elevation of the outside limit of the barrier if it is  
11 not across a stream channel or watercourse to a  
12 maximum water storage elevation;

13 (2) Has an impounding capacity at maximum water storage  
14 elevation of fifty acre-feet or more. This chapter  
15 shall not apply to any artificial barrier that is less  
16 than six feet in height regardless of storage capacity  
17 or that has a storage capacity at maximum water  
18 storage elevation less than fifteen acre-feet  
19 regardless of height; or

20 (3) Meets additional criteria or is specifically exempt as  
21 determined pursuant to rules adopted by the board.



1 "Department" means the department of land and natural  
2 resources.

3 "Emergency" includes but is not limited to breaches and all  
4 conditions leading to or causing a breach, overtopping, or any  
5 other condition in a dam or reservoir and its appurtenant works  
6 that may be construed as unsafe or threatening to life and  
7 property.

8 "Emergency action plan" means a plan that:

9 (1) Identifies the area that would likely be inundated by  
10 the failure of a dam;

11 (2) Identifies the actions that should be taken in the  
12 event of a failure or threatening condition at the  
13 dam; and

14 (3) Is implemented in conjunction with the proper state or  
15 county agencies.

16 "Engineer" means a licensed professional engineer who:

17 (1) Has a background in civil engineering;

18 (2) Is competent in areas related to dam investigation,  
19 design, construction, and operation for the type of  
20 dam being investigated, designed, constructed,



1           reconstructed, enlarged, repaired, altered, breached,  
2           removed, or abandoned; and

3           (3) Understands adverse dam incidents, failures, and the  
4           potential causes and consequences of failures.

5           "Enlargement" means any change in or addition to an  
6 existing dam or reservoir that raises or may raise the water  
7 storage elevation of the water impounded by the dam [~~or~~  
8 ~~reservoir~~].

9           "Hazard potential" means the possible adverse incremental  
10 consequences that result from the release of water or stored  
11 contents due to the failure of the dam or reservoir or the  
12 misoperation of the dam, reservoir, or appurtenances. The  
13 hazard potential classification of a dam or reservoir shall not  
14 reflect in any way on the current condition of the dam or  
15 reservoir and its appurtenant works, including the dam's or  
16 reservoir's safety, structural integrity, or flood routing  
17 capacity.

18           "High hazard potential" means a dam's or reservoir's  
19 downstream hazard classification assigned to a dam in which the  
20 dam's failure or misoperation will [~~result in probable~~] likely  
21 cause loss of human life.



1 "Low hazard" means a dam's or reservoir's downstream hazard  
2 classification assigned to a dam in which the dam's failure or  
3 misoperation will result in no probable loss of human life and  
4 low economic loss or environmental loss, or both. Economic  
5 losses are principally limited to the owner's property.

6 "Operator" means any person who controls, manages,  
7 maintains, or supervises the condition and functions of a dam or  
8 reservoir.

9 "Owner" means any person who has a right, title, or  
10 interest in or to the dam or reservoir or to the property upon  
11 which the dam, reservoir, or appurtenant works is located or  
12 proposed to be located.

13 "Person" means any natural person, partnership, firm,  
14 association, organization, corporation, county, county  
15 authority, trust, receiver or trustee, limited liability  
16 company, limited liability partnership, or company, or any state  
17 department, agency, or political subdivision, or any other  
18 commercial or legal entity. Whenever used in a section  
19 prescribing and imposing a penalty or sanction, the term  
20 "person" includes the members of an association or organization,



1 and the officers of a corporation, company, county, or county  
2 authority.

3 "Physical clear access" means a roadway or path that allows  
4 timely access for inspection to a dam, reservoir, and its  
5 appurtenant works. If by a roadway, the roadway shall be  
6 maintained in an accessible condition by a four-wheel drive  
7 vehicle even during inclement weather conditions.

8 "Probable" means more likely than not to occur; reasonably  
9 expected; realistic.

10 "Reconstruction" means the removal and replacement of an  
11 existing dam, or a portion thereof.

12 "Removal" means complete or partial elimination of the dam  
13 or reservoir embankment or structure to restore the approximate  
14 original topographic contours of the valley.

15 "Reservoir" means any basin that contains or will contain  
16 water impounded by a dam, including appurtenant works.

17 "Significant hazard potential" means a dam's or reservoir's  
18 downstream hazard classification assigned to a dam in which the  
19 dam's failure or misoperation will result in no probable loss of  
20 human life but can cause major economic loss, environmental  
21 damage, disruption of lifeline facilities, or impact other



1 concerns. Significant hazard potential classification dams or  
2 reservoirs are often located in predominantly rural or  
3 agricultural areas but could be located in areas with population  
4 and significant infrastructure.

5 "Water storage elevation" means the maximum elevation of  
6 water surface that can be obtained by the dam or reservoir."

7 SECTION 5. Section 179D-8, Hawaii Revised Statutes, is  
8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) Except as otherwise provided by law, the board may  
10 set, charge, and collect administrative penalties and recover  
11 administrative fees and costs, including attorney's fees and  
12 costs, or bring legal action to recover administrative  
13 penalties, fees, and costs, including attorney's fees and costs,  
14 or payment for damages or for the cost to correct damages  
15 resulting from a violation of this chapter or any rule, order,  
16 or condition adopted, issued, or required under this chapter.  
17 The administrative penalty shall not exceed [~~\$25,000 per day of~~  
18 a] \$10,000 per violation, and each day during which the  
19 violation continues shall constitute an additional, separate,  
20 and distinct violation. The board shall effectuate rules,





1 procedures, and fee schedules to carry out the purposes of this  
2 section.

3 (b) Any person who negligently or after written notice to  
4 comply, violates this chapter or any rule, order, or condition  
5 adopted, issued, or required under this chapter, or knowingly  
6 obstructs, hinders, or prevents the department's agents or  
7 employees from performing duties under this chapter, shall be  
8 guilty of a class C felony, and upon conviction thereof, shall  
9 be punished as follows:

10 (1) For a first conviction, by a mandatory fine of not  
11 less than \$2,500 but not more than [~~\$25,000 per day of~~  
12 ~~violation,~~] \$10,000 upon conviction, imprisonment, or  
13 both; and

14 (2) For a second or subsequent conviction, by a mandatory  
15 fine of not less than \$5,000 but not more than  
16 [~~\$50,000 per day of violation,~~] \$10,000 upon  
17 conviction, imprisonment, or both."

18 SECTION 6. Section 179D-21, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "[~~§~~179D-21~~§~~] **Certificate of approval to impound.** (a)

21 No owner of a dam or reservoir shall impound water without a



1 valid certificate of approval to impound water at the dam or  
2 reservoir.

3 (b) An owner shall submit an application to the board for  
4 a certificate of approval to impound water upon completion of  
5 the construction of a new dam or reconstruction, enlargement,  
6 modification, or alteration of an existing dam. The application  
7 shall include:

- 8 (1) A request for the final construction inspection;
- 9 (2) The design engineer's certification of compliance with  
10 the approved plans and specifications;
- 11 (3) The as-built plans; and
- 12 (4) A filling and monitoring schedule prepared by the  
13 design engineer.

14 (c) Upon review of the application material and a finding  
15 by the board, after final inspection, that the dam and reservoir  
16 area is safe to impound water, a certificate of approval to  
17 impound and authorization to fill shall be issued by the board.

18 (d) The department may revoke or amend a certificate of  
19 approval to impound when it determines that the dam or reservoir  
20 constitutes a danger to life and property, and shall recommend



1 actions that must be taken by the owner to alleviate the hazard  
2 associated with the dam."

3 SECTION 7. Section 179D-24, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) If, in the opinion of the department, the owner is  
6 not taking the necessary actions and the conditions of any dam  
7 or reservoir are so dangerous to the health and safety of life  
8 or property as to not permit time for issuance and enforcement  
9 of an order relative to construction, modification, maintenance,  
10 or repair of the dam or reservoir, or the dam or reservoir is  
11 threatened by any large flood or other natural disaster, the  
12 department may immediately employ remedial measures necessary to  
13 protect life and property.

14 (b) The department shall [~~provide coordination and~~  
15 ~~assistance to~~] coordinate and assist the proper state or county  
16 agency or agencies to maintain control of any dam or reservoir  
17 that, pursuant to subsection (a), has been determined to be  
18 dangerous to life or property until the dam or reservoir is  
19 deemed safe, or until any emergency conditions that precipitated  
20 taking control of the dam or reservoir, pursuant to subsection  
21 (a), have been abated. [~~The department may determine the proper~~



1 ~~time at which to relinquish control of the dam or reservoir.]~~

2 The department may use any of the resources at its disposal to:

3 (1) Take full charge and control of any dam or reservoir;

4 (2) Lower the water level by releasing water from the  
5 reservoir;

6 (3) Completely drain the reservoir;

7 (4) Perform any necessary remedial or protective work at  
8 the site; or

9 (5) Take any other steps as may be necessary to safeguard  
10 life and property.

11 The department shall be in charge and full control of the dam  
12 and reservoir until they are rendered safe or until the  
13 emergency conditions have ceased and the owner is able to take  
14 control of operations. The department's assumption of control  
15 over the dam shall not constitute a taking and the department  
16 shall not be liable for any diminution in value that may be  
17 caused by the department's work."

18 SECTION 8. Pursuant to part III, chapter 39, Hawaii  
19 Revised Statutes, the department of budget and finance is  
20 authorized to issue revenue bonds in the total amount not to  
21 exceed \$ , in one or more series, which shall be deposited



1 into the dam rehabilitation loan revolving fund for the  
2 establishment and administration of the dam rehabilitation loan  
3 program pursuant to section 2 of this Act.

4 SECTION 9. If any provision of this Act, or the  
5 application thereof to any person or circumstance, is held  
6 invalid, the invalidity does not affect other provisions or  
7 applications of the Act that can be given effect without the  
8 invalid provision or application, and to this end the provisions  
9 of this Act are severable.

10 SECTION 10. In codifying the new sections added by  
11 sections 2 and 3 of this Act, the revisor of statutes shall  
12 substitute appropriate section numbers for the letters used in  
13 designating the new sections in this Act.

14 SECTION 11. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 12. This Act shall take effect on July 1, 2019.

17

INTRODUCED BY: 

JAN 24 2019



# H.B. NO. 1538

**Report Title:**

Dams; Reservoirs; Permits; Inspections; Dam Rehabilitation Loan Revolving Fund; Dam Rehabilitation Loan Program; Revenue Bonds

**Description:**

Establishes standards for the permitting, inspection, and maintenance of dams, reservoirs, and their appurtenant structures. Establishes the dam rehabilitation loan revolving fund and loan program. Authorizes the issuance of revenue bonds to fund the dam rehabilitation 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.*

