

---

---

# A BILL FOR AN ACT

RELATING TO MANAGEMENT OF FINANCING AGREEMENTS.

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

1           SECTION 1. Section 37D-2, Hawaii Revised Statutes, is  
2 amended as follows:  
3           1. By amending subsection (a) to read:  
4           "(a) There is hereby established and authorized the  
5 financing agreement program of the State. Any agency desiring  
6 to acquire or improve projects through the financing agreement  
7 program established and authorized by this chapter shall submit  
8 a written request to the department providing any information  
9 that the department shall require. Notwithstanding any other  
10 law to the contrary, and except for the Hawaii health systems  
11 corporation and its regional system boards, only with the  
12 approval by the attorney general as to form and legality and  
13 upon the written request of one or more agencies may the  
14 department enter into a financing agreement in accordance with  
15 this chapter, and only with the approval by the attorney general  
16 as to form and legality, and by the director as to fiscal  
17 responsibility, and upon the written request of an agency, the



1 agency may enter into a financing agreement in accordance with  
2 this chapter, except that the department of education may enter  
3 into a financing agreement in accordance with section 36-32 with  
4 the concurrence of the director and with the approval of the  
5 attorney general as to form and legality; and that the board of  
6 regents of the University of Hawaii may enter into a financing  
7 agreement in accordance with this chapter without the approval  
8 of the director and of the attorney general as to form and  
9 legality if the principal amount of the financing agreement does  
10 not exceed \$3,000,000. A financing agreement may be entered  
11 into by the department on behalf of one or more agencies, or by  
12 an agency, at any time after the appropriation of available  
13 moneys (before or after commencement or completion of any  
14 improvements or acquisitions to be financed) and shall be upon  
15 terms and conditions the department finds to be advantageous.  
16 In each case of a written request by the judiciary to  
17 participate in the financing agreement program, the department  
18 shall implement the request; provided that the related financing  
19 agreement shall be upon terms and conditions the department  
20 finds to be advantageous. Any financing agreement entered into  
21 by the department without the approval, or by an agency without



1 the approvals required by this section shall be void and of no  
2 effect. A financing agreement entered into prior to an  
3 appropriation of funds for a project that will incur a  
4 cumulative cost of more than \$5,000,000 shall be void and of no  
5 effect. A single financing agreement entered into by the  
6 department may finance a single item or multiple items of  
7 property to be used by multiple agencies or may finance a single  
8 item or multiple items of property to be used by a single  
9 agency. If the financing agreement is by the department, the  
10 department shall bill any agency that benefits from property  
11 acquired with the proceeds of a financing agreement for the  
12 agency's pro rata share of:

- 13 (1) The department's costs of administration of the  
14 financing agreement program; and
- 15 (2) The financing costs, including the principal and  
16 interest components of the financing agreement and  
17 insurance premiums,  
18 on a monthly or other periodic basis, and may deposit payments  
19 received in connection with the billings with a trustee as  
20 security for the financing agreement. Any agency receiving such



1 a bill shall be authorized and shall pay the amounts billed from  
2 available moneys.

3 If a financing agreement is by an agency, the agency shall  
4 deposit on a monthly or other periodic basis with the  
5 department, payments from available moneys with respect to the  
6 agency's financing costs, including the principal and interest  
7 components of the financing agreement and insurance premiums,  
8 which payments the department may deposit with a trustee as  
9 security for the financing agreement. The department may bill  
10 an agency for the department's costs of administering the  
11 agency's payments and the agency receiving such a bill shall be  
12 authorized to and shall pay the amounts billed from available  
13 moneys.

14 The \$5,000,000 limit shall apply to the total amount of  
15 moneys used to finance each project including any expenses  
16 related to that project; provided that that projects shall not  
17 be artificially divided or parceled so as to evade the  
18 requirements of this section."

19 2. By amending subsection (a) to read:

20 "(a) There is hereby established and authorized the  
21 financing agreement program of the State. Any agency desiring



1 to acquire or improve projects through the financing agreement  
2 program established and authorized by this chapter shall submit  
3 a written request to the department providing any information  
4 that the department shall require. Notwithstanding any other  
5 law to the contrary, and except for the Hawaii health systems  
6 corporation and its regional system boards, only with the  
7 approval by the attorney general as to form and legality and  
8 upon the written request of one or more agencies may the  
9 department enter into a financing agreement in accordance with  
10 this chapter, and only with the approval by the attorney general  
11 as to form and legality, and by the director as to fiscal  
12 responsibility, and upon the written request of an agency, the  
13 agency may enter into a financing agreement in accordance with  
14 this chapter, except that the board of regents of the University  
15 of Hawaii may enter into a financing agreement in accordance  
16 with this chapter without the approval of the director and of  
17 the attorney general as to form and legality if the principal  
18 amount of the financing agreement does not exceed \$3,000,000. A  
19 financing agreement may be entered into by the department on  
20 behalf of one or more agencies, or by an agency, at any time  
21 after the appropriation of available moneys (before or after



1 commencement or completion of any improvements or acquisitions  
2 to be financed) and shall be upon terms and conditions the  
3 department finds to be advantageous. In each case of a written  
4 request by the judiciary to participate in the financing  
5 agreement program, the department shall implement the request;  
6 provided that the related financing agreement shall be upon  
7 terms and conditions the department finds to be advantageous.  
8 Any financing agreement entered into by the department without  
9 the approval, or by an agency without the approvals required by  
10 this section shall be void and of no effect. A financing  
11 agreement entered into prior to an appropriation of funds for a  
12 project that will incur a cumulative cost of more than  
13 \$5,000,000 shall be void and of no effect. A single financing  
14 agreement entered into by the department may finance a single  
15 item or multiple items of property to be used by multiple  
16 agencies or may finance a single item or multiple items of  
17 property to be used by a single agency. If the financing  
18 agreement is by the department, the department shall bill any  
19 agency that benefits from property acquired with the proceeds of  
20 a financing agreement for the agency's pro rata share of:



1           (1) The department's costs of administration of the  
2           financing agreement program; and  
3           (2) The financing costs, including the principal and  
4           interest components of the financing agreement and  
5           insurance premiums,  
6 on a monthly or other periodic basis, and may deposit payments  
7 received in connection with the billings with a trustee as  
8 security for the financing agreement. Any agency receiving such  
9 a bill shall be authorized and shall pay the amounts billed from  
10 available moneys.

11           If a financing agreement is by an agency, the agency shall  
12 deposit on a monthly or other periodic basis with the  
13 department, payments from available moneys with respect to the  
14 agency's financing costs, including the principal and interest  
15 components of the financing agreement and insurance premiums,  
16 which payments the department may deposit with a trustee as  
17 security for the financing agreement. The department may bill  
18 an agency for the department's costs of administering the  
19 agency's payments and the agency receiving such a bill shall be  
20 authorized to and shall pay the amounts billed from available  
21 moneys.



1       The \$5,000,000 limit shall apply to the total amount of  
2 moneys used to finance each project including any expenses  
3 related to that project; provided that that projects shall not  
4 be artificially divided or parceled so as to evade the  
5 requirements of this section."

6       SECTION 2. New statutory material is underscored.

7       SECTION 3. This Act shall take effect upon its approval;  
8 provided that:

9       (1) The amendments made to section 37D-2(a), Hawaii  
10 Revised Statutes, in section 1(1) of this Act shall be  
11 repealed on June 30, 2023; and

12       (2) The amendments made to section 37D-2(a), Hawaii  
13 Revised Statutes, in section 1(2) of this Act shall  
14 take effect on July 1, 2023.





**Report Title:**

Financing Agreement; Cap

**Description:**

Requires appropriation of funds before departments may enter into financing agreements for a project with a cumulative cost exceeding five million dollars. Prohibits the parceling of projects to circumvent (SD1)

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

