

ACT 62

S.B. NO. 370

A Bill for an Act Relating to Private Activity Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to allocate Hawaii's annual ceiling for tax-exempt private activity bonds among the governmental units in the State authorized to issue such bonds, and to reflect the consolidation of all prior ceilings for tax-exempt private activity type bonds into that one ceiling in the Internal Revenue Code of 1986 (the "Code"), by the Tax Reform Act of 1986, Public Law No. 99-514.

The Code places a \$250,000,000 ceiling on the principal amount of tax-exempt private activity bonds which may be issued within Hawaii for the calendar years 1986 and 1987, and a \$150,000,000 ceiling for each calendar year thereafter. Under the Code the definition of private activity bonds is expanded to include qualified mortgage bonds (such as the "Hula Mae" bonds), which under prior law were subject to a separate ceiling applicable only to such bonds, and qualified residential rental projects, which under prior law were not subject to any state ceiling. Although the Code includes a formula for the allocation of the ceiling among the governmental units authorized to issue such bonds, the Code also allows a state to establish a different formula for allocating the state ceiling among its governmental units by state law.

This Act establishes a formula that differs from the federal allocation formula to provide more flexibility and to better serve the needs of the counties and other issuers of private activity bonds within the State.

SECTION 2. Chapter 39B, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§39B- Application of allocation. The extent to which all or any part of an allocation made to a county or an issuer pursuant to section 39B-2 is applied to a project subject to the annual state ceiling shall be evidenced by a certificate of the issuer or the director of finance of a county, as applicable."

SECTION 3. Section 39B-1, Hawaii Revised Statutes, is amended to read as follows:

"[[[§39B-1]]] Definitions. Whenever used in this part, unless a different meaning clearly appears from the context:

"Annual state ceiling" means the principal amount of private activity bonds which may be issued in each calendar year by all issuers and counties in the State under [DEFRA.] the Internal Revenue Code of 1986, as the same may be amended.

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369.] [“DEFRA” means the Federal Deficit Reduction Act of 1984, P.L. 98-

“Department” means the department of budget and finance.

“Governing body” means the councils of the counties, or any other body exercising the legislative powers of a county.

“Issuer” means any state department, board, commission, officer, or authority, or private not-for-profit corporation authorized under the laws of the State to issue private activity bonds.

“Private activity bond” shall have the same meaning as the term is defined in [DEFRA, section 621. (Section 103(n) of the federal Internal Revenue Code of 1954, as amended.)] the Internal Revenue Code of 1986, as the same may be amended.”

SECTION 4. Section 39B-2, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§39B-2]]~~ **Allocation of annual state ceiling.** (a) The annual state ceiling shall be allocated for each calendar year[, for so long as DEFRA is in effect,] in the following proportions:

- (1) An amount equal to fifty per cent of the annual state ceiling to the State;
- (2) An amount equal to [38.72] 37.55 per cent of the annual state ceiling to the city and county of Honolulu;
- (3) An amount equal to [5.13] 5.03 per cent of the annual state ceiling to the county of Hawaii;
- (4) An amount equal to [2.15] 2.41 per cent of the annual state ceiling to the county of Kauai; and
- (5) An amount equal to [4.00] 5.01 per cent of the annual state ceiling to the county of Maui.

(b) The department, with the approval of the governor, may assign all or any part of the allocation of the State to any issuer or any county for a specific calendar year or years. At the request of the department, any issuer or county to which any part of the State’s allocation has been assigned shall return all or part of the assignment, in which case the department may provide for its reassignment.

(c) The department may request return of all or any part of the allocations of one or more counties made pursuant to subsection (a), and may assign and reassign the allocation to any other county or issuer for a specified calendar year or years.

(d) A county, by resolution of its governing body, or any issuer, by written certificate of such issuer, may request additional [bond] allocations of the annual state ceiling from, or assign all or any part of its [bond] portion of the allocation of the annual state ceiling to, the State for a specified calendar year or years.”

SECTION 5. Section 356-292, Hawaii Revised Statutes, is repealed.

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

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 8. This Act shall take effect upon its approval.

(Approved May 29, 1987.)

Note

1. Edited pursuant to HRS §23G-16.5.