

ACT 31

H.B. NO. 250

A Bill for an Act Relating to the Management of Financing Agreements for the University of Hawaii.

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

SECTION 1. Section 37D-2, Hawaii Revised Statutes, is amended to read as follows:

“**§37D-2 Financing agreements.** Only with the approval of the director, and the approval by the attorney general [of] as to form and legality, may the agency enter into a financing agreement in accordance with this chapter[.], except that the

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board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement does not exceed \$3,000,000. A financing agreement may be entered into at the time (before or after commencement or completion of any improvement to be financed) and shall be upon terms the agency finds to be advantageous. Any financing agreement entered into by the agency without the approvals required by this section shall be void and of no effect. Financing agreements shall be subject to the following limitations:

- (1) Amounts payable by the agency under a financing agreement shall be limited to available funds. In no circumstance shall the agency be obligated to pay amounts due under a financing agreement from any source other than available funds. If, by reason of insufficient available funds or other reason, amounts due under a financing agreement are not paid when due, the lender may exercise any property right that the agency has granted to it in the financing agreement, against the property that was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to be made by the agency under the financing agreement;
- (2) No property rights may be granted in property unless the property is being acquired, is to be substantially improved, is to be refinanced with the proceeds of a financing agreement, or is land on which the property is located;
- (3) [The] Except as otherwise provided in this section with respect to the University of Hawaii, the agency shall not enter into financing agreements under any provision of law other than this chapter if the principal amount of the financing agreement, together with the principal amount of any financing agreement previously issued by the agency for the same project, exceeds \$100,000; and
- (4) [The] Except as otherwise provided in this section with respect to the University of Hawaii, the sale, assignment, or other disposition of any financing agreements, including certificates of participation, shall require the approval of the director.’’

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval.

(Approved April 23, 1999.)