

A Bill for an Act Relating to High Technology Development Corporation.

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

SECTION 1. Chapter 206M, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

**“PART II. SPECIAL FACILITY REVENUE BONDS**

**§206M- Definitions.** As used in this part, unless the context clearly requires otherwise:

“Special facility” means one or more buildings, structures, or facilities and the land thereof located in an industrial park for the high technology industry, including, without limitation, facilities for technology research, development, support, processing, and manufacturing, which are the subject of a special facility lease.

“Special facility lease” includes a contract, lease, or other agreement, or any combination thereof, the subject matter of which is the same special facility.

“Special facility revenue bonds” means all bonds, notes, and other instruments of indebtedness of the State issued pursuant to this part and part III of chapter 39.

**§206M- Powers.** In addition to any other powers granted to the development corporation by law, the development corporation may:

- (1) With the approval of the governor, and without public bidding, enter into a special facility lease or an amendment or supplement thereto whereby the development corporation agrees to acquire, construct, improve, install, equip, and develop a special facility solely for the use by another party to a special facility lease;
- (2) With the approval of the governor, issue special facility revenue bonds in principal amounts that may be necessary to yield the amount of the cost of any acquisition, construction, improvement, installation, equipping, and development of any special facility, including, subject to paragraph (6) the costs of acquisition of the site thereof; provided that the total principal amount of the special facility revenue bonds which may be issued pursuant to the authorization of this section shall not exceed \$100,000,000;
- (3) With the approval of the governor, issue refunding special facility revenue bonds with which to provide for the payment of outstanding special facility revenue bonds (including any special facility revenue bonds theretofore issued for this refunding purpose) or any part thereof; provided any issuance of refunding special facility revenue bonds shall not reduce the principal amount of the bonds that may be issued as provided in paragraph (2);
- (4) Perform and carry out the terms and provisions of any special facility lease;
- (5) Notwithstanding section 103-7 or any other law to the contrary, acquire, construct, improve, install, equip or develop any special facility, or accept the assignment of any contract therefor entered into by the other party to the special facility lease;
- (6) Construct any special facility on land owned by the State; provided that no funds derived herein shall be expended for land acquisition; and

- (7) Agree with the other party to the special facility lease whereby any acquisition, construction, improvement, installation, equipping, or development of the special facility and the expenditure of moneys therefor shall be undertaken or supervised by another person. Neither the undertaking by the other person nor the acceptance by the development corporation of a contract theretofore entered into by the other person therefor, shall be subject to chapter 103D.

**§206M- Findings and determinations for special facility leases.** The development corporation shall not enter into any special facility lease unless the development corporation, at or prior to the entering into of the special facility lease, shall find and determine:

- (1) That the building, structure, or facility that is to be the subject of the special facility lease shall not be used to provide services, commodities, supplies or facilities that are then adequately being made available otherwise in the State;
- (2) That the use or occupancy of the building, structure, or facility under the special facility lease would not result in the reduction of the revenues derived from the industrial parks or other properties of the development corporation to an amount below the amount required to be derived therefrom by section 39-61; and
- (3) That the entering into of the special facility lease would not be in violation of or result in a breach of any covenant contained in any resolution or certificate authorizing any bonds of the State then outstanding.

**§206M- Special facility lease.** (a) In addition to the conditions and terms set forth in this part, any special facility lease entered into by the development corporation shall at least contain provisions obligating the other party to the special facility lease:

- (1) To pay to the development corporation during the initial term of the special facility lease, whether the special facility is capable of being used or occupied or is being used or occupied by the other party, a rental or rentals at the time or times and in the amount or amounts that will be sufficient to:
  - (A) Pay the principal and interest on all special facility revenue bonds issued for the special facility;
  - (B) Establish or maintain any reserves for these payments; and
  - (C) Pay all fees and expenses of the trustees, paying agents, transfer agents, and other fiscal agents for the special facility revenue bonds issued for the special facility;
- (2) To pay to the development corporation:
  - (A) A ground rental, equal to the fair market rental of the land, if the land on which the special facility is located was not acquired from the proceeds of the special facility revenue bonds; or
  - (B) A properly allocable share of the administrative costs of the development corporation in carrying out the special facility lease and administering the special facility revenue bonds issued for the special facility if the land was acquired from the proceeds of the special facility revenue bonds;
- (3) To either operate, maintain, and repair the special facility and pay the costs thereof or to pay to the development corporation all costs of operation, maintenance, and repair of the special facility;
- (4) To:

- (A) Insure, or cause to be insured, the special facility under builder's risk insurance (or similar insurance) in the amount of the cost of construction of the special facility to be financed from the proceeds of the special facility revenue bonds;
  - (B) Procure and maintain, or cause to be procured or maintained, to the extent commercially available, a comprehensive insurance policy providing protection and insuring the development corporation and its officers, agents, servants, and employees (and so long as special facility revenue bonds are outstanding, the trustee) against all direct or contingent loss or liability for damages for personal injury or death or damage to property, including loss of use thereof, occurring on or in any way related to the special facility or occasioned by reason of occupancy by and the operations of the other person upon, in and around the special facility;
  - (C) Provide all risk casualty insurance, including insurance against loss or damage by fire, lightning, flood, earthquake, typhoon, or hurricane, with standard extended coverage and standard vandalism and other malicious mischief endorsements; and
  - (D) Provide insurance for workers' compensation and employers' liability for personal injury or death or damage to property (the other party may self-insure for workers' compensation if permitted by law); provided that all policies with respect to loss or damage of property including fire or other casualty and extended coverage and builder's risk shall provide for payments of the losses to the development corporation, the other party or the trustee for the special facility revenue bonds as their respective interests may appear; and provided further that the insurance may be procured and maintained as part of or in conjunction with other policies carried by the other party; and provided further that the insurance shall name the development corporation, and so long as any special facility revenue bonds are outstanding, the trustee, as additional insured; and
- (5) Indemnify, save, and hold the development corporation, the trustee, and their respective agents, officers, members, and employees harmless from and against all claims and actions and all costs and expenses incidental to the investigation and defense thereof, by or on behalf of any person, firm, or corporation, based upon or arising out of the special facility or the other party's use and occupancy thereof, including, without limitation, from and against all claims and actions based upon and arising from any:
- (A) Condition of the special facility;
  - (B) Breach or default on the part of the other party in the performance of any of the party's obligations under the special facility lease;
  - (C) Fault or act of negligence of the other party or the party's agents, contractors, servants, employees, or licensees; or
  - (D) Accident to or injury or death of any person or loss of or damage to any property occurring in or about the special facility, including any claims or actions based upon or arising by reason of the negligence or any act of the other party.

Any moneys received by the development corporation pursuant to paragraphs (2) and (3) shall be paid into the high technology special fund and shall not be nor be deemed to be revenues of the special facility.

(b) The term and all renewals and extensions of the term of any special facility lease (including any amendments or supplements thereto) shall not extend beyond the lesser of the reasonable life of the special facility that is the subject of the special facility lease, as estimated by the development corporation at the time of the entering into thereof, or thirty years.

(c) Any special facility lease entered into by the development corporation shall be subject to chapter 171 and shall contain other terms and conditions that the development corporation deems advisable to effectuate the purposes of this part.

**§206M- Special facility revenue bonds.** All special facility revenue bonds authorized to be issued under this part shall be issued pursuant to part III of chapter 39, except as follows:

- (1) No revenue bonds shall be issued unless at the time of issuance, the development corporation has entered into a special facility lease with respect to the special facility for which the revenue bonds are to be issued;
- (2) The revenue bonds shall be issued in the name of the development corporation and not in the name of the State;
- (3) No further authorization of the legislature shall be required for the issuance of the special facility revenue bonds, but the approval of the governor shall be required for the issuance;
- (4) The revenue bonds shall be payable solely from and secured solely by the revenues derived by the development corporation from the special facility for which they are issued;
- (5) The final maturity date of the revenue bonds shall not be later than either the estimated life of the special facility for which the revenue bonds are issued or the expiration of the initial term of the special facility lease;
- (6) If deemed necessary or advisable by the development corporation, or to permit the obligations of the other party to the special facility lease to be registered under the U.S. Securities Act of 1933, the development corporation, with the approval of the director of finance, may appoint a national or state bank within or without the State to serve as trustee for the holders of the revenue bonds and may enter into a trust indenture or trust agreement with the trustee. The trustee may be authorized by the development corporation to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued and to apply the revenues to the payment of the principal and interest on the revenue bonds. In the event that any trustee shall be appointed, any trust indenture or trust agreement entered into by the development corporation with the trustee may contain the covenants and provisions authorized by part III of chapter 39 to be inserted in a resolution adopted or certificate issued, as though the words "resolution" or "certificate" as used in that part read "trust indenture or trust agreement".

The covenants and provisions shall not be required to be included in the resolution or certificate authorizing the issuance of the revenue bonds if included in the trust indenture or trust agreement. Any resolution or certificate, trust indenture, or trust agreement adopted, issued, or entered into by the development corporation pursuant to this part may also contain any provisions required for the qualification thereof under the U.S. Trust Indenture Act of 1939. The development corporation may pledge and assign to the trustee the special facility lease and the

rights of the development corporation including the revenues thereunder;

- (7) If the development corporation, with the approval of the director of finance, shall have appointed or shall appoint a trustee for the holders of the revenue bonds, then notwithstanding the provisions of section 39-68, the director of finance may elect not to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the revenue bonds, or may elect to limit the functions the director of finance shall perform as the fiscal agent. The development corporation, with the approval of the director of finance, may appoint the trustee to serve as the fiscal agent, and may authorize and empower the trustee to perform the functions with respect to payment, purchase, registration, transfer, exchange, and redemption, that the development corporation may deem necessary, advisable, or expedient, including, without limitation, the holding of the revenue bonds and coupons, if any, that have been paid and the supervising and conducting of the destruction thereof in accordance with sections 40-10 and 40-11. Nothing in this paragraph shall be a limitation upon or construed as a limitation upon the powers granted in paragraph (6) to the development corporation with the approval of the director of finance to appoint the trustee, or granted in sections 36-3, 39-13, and 39-68 to the director of finance to appoint the trustee or others, as fiscal agents, paying agents, and registrars for the revenue bonds or to authorize and empower the fiscal agents, paying agents, and registrars to perform the functions referred to in paragraph (6) and sections 36-3, 39-13, and 39-68, it being the intent of this paragraph to confirm that the director of finance may elect not to serve as fiscal agent for the revenue bonds or may elect to limit the functions the director of finance shall perform as the fiscal agent, that the director of finance may deem necessary, advisable, or expedient;
- (8) The development corporation may sell the revenue bonds either at public or private sale;
- (9) If no trustee is appointed to collect, hold, and administer the revenues derived from the special facility for which the revenue bonds are issued, the revenues shall be held in a separate account in the treasury of the State, separate and apart from the high technology special fund, to be applied solely to the carrying out of the resolution, certificate, trust indenture, or trust agreement authorizing or securing the revenue bonds;
- (10) If the resolution, certificate, trust indenture, or trust agreement provides that no revenue bonds issued thereunder shall be valid or obligatory for any purpose unless certified or authenticated by the trustee for the holders of the revenue bonds, the signatures of the officers of the State upon the bonds required by section 39-56 may be facsimiles of their signatures;
- (11) Proceeds of the revenue bonds may be used and applied by the development corporation to reimburse the other party to the special facility lease for all preliminary costs and expenses, including architectural and legal costs; and
- (12) If the special facility lease requires the other party to operate, maintain, and repair the special facility that is the subject of the lease, at the other party's expense, the requirement shall constitute compliance by the development corporation with section 39-61(a)(2), and none of the revenues derived by the development corporation from the special

facility shall be required to be applied to the purposes of section 39-62(2). Sections 39-62(4), 39-62(5), and 39-62(6) shall not apply to the revenues derived from a special facility lease.”

SECTION 2. Chapter 206M, Hawaii Revised Statutes, is amended by adding a new section to part I to be appropriately designed and to read as follows:

“§206M- **Federal tax-exempt status.** Special purpose revenue bonds issued pursuant to this chapter, to the extent practicable, shall be issued to comply with requirements imposed by applicable federal law providing that the interest on the special purpose revenue bonds shall be excluded from gross income for federal income tax purposes (except as certain minimum taxes, environmental taxes, or other federal taxes or tax consequences may apply). The development corporation may enter into agreements, establish funds or accounts, and take any action required to comply with applicable federal law. Nothing in this chapter shall be deemed to prohibit the issuance of special purpose revenue bonds, the interest on which may be included in gross income for federal income tax purposes.”

SECTION 3. Chapter 206M, Hawaii Revised Statutes, is amending by amending the title in part II to read as follows:

“[[PART II.]] **PART III. HAWAII SOFTWARE SERVICE CENTER**”

SECTION 4. Section 206M-1, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “bonds” to read:

““Bonds” [means special purpose revenue bonds issued under this chapter and shall include] or “special purpose revenue bonds” mean bonds, notes, and other instruments of indebtedness[, and refunding bonds.] of the State issued pursuant to this part.”

2. By amending the definition of “high technology” to read:

““High technology” means [emerging] industries [which] that are technology-intensive, including but not limited to electronics [and], biotechnology[.], software, computers, telecommunications, and other computer-related technologies.”

3. By amending the definition of “industrial park” to read:

““Industrial park” means a tract of real property determined by the board as being suitable for use as building sites for projects by [a group of enterprises engaged in] one or more industrial, processing, or manufacturing enterprises [for] engaged in high technology, including research, training, technical analyses, software development, and pilot plant or prototype product development, and may include the installation of improvements to [such] the tract incidental to the use of real property as an industrial park, such as water, sewer, sewage and waste disposal, and drainage facilities, sufficient to adequately service projects in the industrial park, and provision of incidental transportation facilities, power distribution facilities, and communication facilities. Industrial parks shall not include any buildings or structures of any kind except for buildings or structures incidental to improvements to the industrial park.”

4. By amending the definition of “project” to read:

““Project” means [any combination of land and buildings and other improvements thereon for use in industrial, processing, or manufacturing enterprises for high technology which are located in an industrial park and acquired, constructed, reconstructed, rehabilitated, improved, altered, or repaired by or on behalf of the development corporation.] the acquisition, construction, improvement, instal-

lation, equipping, and development of any combination of land, buildings, and other improvements thereon, including, without limitation, parking facilities for use of, or to assist a high technology industrial, manufacturing, or processing enterprise located within or without an industrial park, including, without limiting the generality of the foregoing, machinery, equipment, furnishings, and apparatus that shall be deemed necessary, suitable, or useful to the enterprise.’

5. By amending the definition of “project agreement” to read:

“‘Project agreement’ means [any lease, sublease, loan agreement, conditional sale agreement, or other similar financing contract or agreement, or any combination thereof entered into under this chapter by the development corporation, including the financing from the proceeds of bonds of a project or an industrial park.] any agreement entered into under this chapter by the development corporation with a qualified person to finance, construct, operate, or maintain a project or an industrial park from the proceeds of special purpose revenue bonds, or to lend the proceeds of special purpose revenue bonds to assist a high technology industrial, manufacturing, or processing enterprise, including, without limitation, any lease, sublease, loan agreement, conditional sale agreement, or other similar financing contract or agreement, or any combination thereof.’”

6. By amending the definition of “qualified person” to read:

“‘Qualified person’ means any individual, firm, partnership, corporation, association, cooperative, or other legal entity, governmental body or public agency, or any combination [or association] of the foregoing, possessing the competence, expertise, experience, and resources, including financial, personnel, and tangible resources, required for the purposes of a project and [such] other qualifications as may be deemed desirable by the development corporation in administering this chapter and which enters into a project agreement with the development corporation.’”

SECTION 5. Section 206M-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) There is established the high technology development corporation, which shall be a public body corporate and politic and an instrumentality and agency of the State. The development corporation shall be placed within the department of business, economic development, and tourism for administrative purposes, pursuant to section 26-35. The purpose of the development corporation shall be to facilitate the growth and development of the commercial high technology industry in Hawaii. Its duties shall include, but not be limited to:

- (1) Developing [developing] industrial parks as high technology innovation centers and [the] developing or assisting with the development of projects within or outside of industrial parks; [providing]
- (2) Providing financial and other support and services to Hawaii-based high technology companies; [collecting]
- (3) Collecting and analyzing information on the state of commercial high technology activity in Hawaii; [promoting]
- (4) Promoting and marketing Hawaii as a site for commercial high technology activity; and [providing]
- (5) Providing advice on policy and planning for technology-based economic development.’”

SECTION 6. Section 206M-2, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) The board shall appoint a management advisory committee for each industrial park and related project or projects governed by the board. Each committee shall have five members, who shall serve without compensation but may be

reimbursed for expenses incurred in the performance of their duties. The members shall be drawn from fields of activity related to each [project or park.] industrial park and related project or projects.”

SECTION 7. Section 206M-3, Hawaii Revised Statutes, is amended to read as follows:

“**§206M-3 Powers, generally.** The development corporation shall have all the powers necessary to carry out its purposes, including the following powers:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at its pleasure;
- (3) To make and execute, enter into, amend, supplement, and carry out contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter, including, [subject to] with the approval of the governor, a project agreement, or an amendment or supplement to an existing project agreement, with a qualified person, and [any other] to enter into and carry out any agreement whereby the obligations of a qualified person under a project agreement shall be unconditionally guaranteed or insured by, or the performance thereof assigned to, or guaranteed or insured by, a person or persons other than the qualified person; and to [grant options or renew any project agreement entered into by it in connection with any project or industrial park, on terms and conditions as it deems advisable;] extend or renew any project agreement or any other agreement related thereto; provided that any such renewal or extension shall be subject to the approval of the governor unless made in accordance with provisions for the extension or renewal contained in a project agreement or related agreement theretofore approved by the governor;
- (4) To make and alter bylaws for its organization and internal management;
- (5) To adopt rules under chapter 91 necessary to effectuate this chapter in connection with industrial parks, projects, multi-project programs, and the operations, properties, and facilities of the development corporation;
- (6) Through its chief executive officer, to appoint officers, agents, and employees, prescribe their duties and qualifications, and fix their salaries, without regard to chapters 76 and 77;
- (7) To prepare or cause to be prepared development plans for industrial parks;
- (8) To acquire, own, lease, hold, clear, improve, and rehabilitate real, personal, or mixed property and to assign, exchange, transfer, convey, lease, sublease, or encumber any project, including by way of easements;
- (9) To [construct, reconstruct, rehabilitate, improve, alter, or repair,] acquire, construct, improve, install, equip, or develop or provide for the [construction, reconstruction, rehabilitation, improvement, alteration, or repair] acquisition, construction, improvement, installation, equipping, or development of any project and to designate a qualified person as its agent for such purpose, and to own, hold, assign, transfer, convey, exchange, lease, sublease, or encumber any project;
- (10) To arrange or initiate appropriate action for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys, easements, or other places, the furnishing of improvements, the acquisition



- of property or property rights, or the furnishing of property or services in connection with an industrial park[;] or project;
- (11) To prepare or cause to be prepared plans, specifications, designs, and estimates of cost for the acquisition, construction, reconstruction, [rehabilitation,] improvement, [alteration, or repair] installation, equipping, development, or maintenance of any project or industrial park, and from time to time to modify [such] the plans, specifications, designs, or estimates;
  - (12) To engage the services of consultants on a contractual basis for rendering professional and technical assistance and advice;
  - (13) To procure insurance against any loss in connection with its property and other assets and operations in [such] amounts and from [such] insurers as it deems desirable;
  - (14) To accept and expend gifts or grants in any form from any public agency or from any other source;
  - (15) To issue special purpose revenue bonds and refunding special purpose revenue bonds pursuant to and in accordance with this chapter in [such] principal amounts as may be authorized from time to time by law to finance or refinance the cost of a project, singly or as part of a multi-project program, or an industrial park as authorized by law and to provide for the security thereof as permitted by this chapter;
  - (16) To lend or otherwise apply the proceeds of the bonds issued for a project or an industrial park either directly or through a trustee [or] to a qualified person for use and application by the qualified person in the acquisition, construction, improvement, installation, [or modification] equipping, or development of a project or industrial park, or agree with the qualified person whereby any of these activities shall be undertaken or supervised by that qualified person or by a person designated by the qualified person;
  - (17) As security for the payment of the principal of, premium, if any, and interest of the special purpose revenue bonds issued for a project to:
    - (A) Pledge, assign, hypothecate, or otherwise encumber all or any part of the revenues and receipts derived or to be derived by the development corporation under the project agreement for the project for which the bonds are issued;
    - (B) Pledge and assign the interest and rights of the development corporation under the project agreement or other agreement with respect to the project or the special purpose revenue bonds;
    - (C) Pledge and assign any bond, debenture, note, or other evidence of indebtedness received by the development corporation with respect to the project; or
    - (D) Any combination of the foregoing;
  - [(17)] (18) With or without terminating a project agreement, to exercise any and all rights provided by law for entry and re-entry upon or take possession of a project at any time or from time to time upon breach or default by a qualified person under a project agreement, including any action at law or in equity for the purpose of effecting its rights of entry or re-entry or obtaining possession of the project or for the payments of rentals, user taxes, or charges, or any other sum due and payable by the qualified person to the development corporation pursuant to the project agreement;
  - [(18)] (19) To enter into arrangements with qualified county development entities whereby the board would provide financial support to qualified projects proposed;

- [(19)] (20) To create an environment in which to support high technology economic development, including but not limited to: [supporting]
- (A) Supporting all aspects of technology-based economic development; [developing]
- (B) Developing instructive programs, identifying issues and impediments to the growth of high technology industry in Hawaii; and [providing]
- (C) Providing policy analysis and information important to the development of high technology industries in Hawaii;
- [(20)] (21)<sup>1</sup> To develop programs that support start-up and existing high technology companies in Hawaii and to attract new companies to relocate to or establish operations in Hawaii by assessing the needs of these companies and providing the physical and technical infrastructure to support their operations;
- [(21)] (22) To coordinate its efforts with other public and private agencies involved in stimulating technology-based economic development in Hawaii, including but not limited to: [the]
- (A) The department of business, economic development, and tourism; [the]
- (B) The Pacific international center for high technology research; and [the]
- (C) The office of technology transfer and economic development of the University of Hawaii;
- [(22)] (23) To promote and market Hawaii as a site for commercial high technology activity;
- [(23)] (24) To provide advice on policy and planning for technology-based economic development; and
- [(24)] (25) To do any and all things necessary or [proper] convenient to carry out [the] its purposes [of] and exercise the powers given and granted in this chapter.”

SECTION 8. Section 206M-4, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§206M-4**~~]]~~ **Compliance with state and local law.** The issuance of special purpose revenue bonds with respect to any project or industrial park under this chapter shall not relieve any qualified person or other user of [such] the project or industrial park from the laws, ordinances, and rules of the State or any political subdivision thereof, or any department or board thereof with respect to the construction, operation, and maintenance of any project or industrial park, or zoning laws or regulations, obtaining of building permits, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature pertaining to the project or industrial park, and [such] the laws shall be applicable to [such] the qualified person or [such] the other user to the same extent they would be if the costs of the project or industrial park were directly financed by the qualified person.”

SECTION 9. Section 206M-5, Hawaii Revised Statutes, is amended to read as follows:

“**§206M-5 Development rules.** Whenever the proceeds of special purpose revenue bonds are used to finance the cost of [a project,] an industrial park, the board shall adopt rules under chapter 91 to be followed during the course of the development of any industrial park, which are to be known as development rules in

connection with health, safety, building, planning, zoning, and land use. The rules, upon final adoption of a development plan for an industrial park, shall supersede all other inconsistent ordinances and rules relating to the use, zoning, planning, and development of land and construction thereon within the industrial park. Rules adopted under this section shall follow existing law, rules, ordinances, and regulations as closely as is consistent with standards meeting minimum requirements of good design, pleasant amenities, health, safety, and coordinated development. The corporation shall establish policies and procedures for monitoring and ensuring that the operation of the industrial park complies with these development rules and may establish fines and penalties or take any other means available under the law to eliminate any noncomplying action.”

SECTION 10. Section 206M-6, Hawaii Revised Statutes, is amended to read as follows:

“**[[§206M-6]] Use of public lands.** The governor may set aside available public lands to the development corporation for the purposes specified in this chapter; provided that [such] the setting aside would not impair any covenant between the State or any department or board thereof and holders of [revenue] any bonds issued by the State or such department or board thereof. The development corporation also may lease available state lands from the department of land and natural resources.”

SECTION 11. Section 206M-7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The development corporation shall not enter into any project agreement with respect to any project or industrial park unless the legislature shall have first authorized the issuance of special purpose revenue bonds to finance [such project or industrial park] a project or projects, an industrial park or industrial parks, or a multi-project program pursuant to section 206M-9, and the development corporation has thereafter found and determined either that:

- (1) The qualified person is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through [such] the project, or otherwise; or
- (2) The obligations of the qualified person under the project agreement will be unconditionally guaranteed by a person who is a responsible party, whether by reason of economic assets or experience in the type of enterprise to be undertaken through [such] the project or otherwise.”

SECTION 12. Section 206M-8, Hawaii Revised Statutes, is amended to read as follows:

“**[[§206M-8]] Project agreement.** (a) No special purpose revenue bonds shall be issued unless at the time of issuance the development corporation shall have entered into a project agreement with respect to the project or industrial park for the financing of which [such] the special purpose revenue bonds are to be issued. Any project agreement entered into by the development corporation with a qualified person shall contain provisions unconditionally obligating [such] the qualified person [to]:

- (1) To pay the development corporation during the period or term of the project agreement, exclusive of any renewal or extension thereof and whether or not the project or industrial park to which [such] the project agreement relates is used or occupied by the qualified person, at [such]

the time or times and in [such] the amount or amounts that will be at least sufficient:

- [(1)] (A) To pay the principal of, and premium, if any, and interest on all special purpose revenue bonds issued to finance the cost of the project, or an allocable portion of the special purpose revenue bonds issued to finance the industrial park, as the case may be, as and when the special purpose revenue bonds become due, including upon any required redemption thereof;
  - [(2)] (B) To establish or maintain [such] the reserves, if any, as may be required by the instrument authorizing or securing the special purpose revenue bonds, or an allocable portion of [such] the reserves, if less than all of the proceeds of the special purpose revenue bonds are utilized for [such] the qualified person;
  - [(3)] (C) To pay the fees and expenses of the paying agents and trustees for the special purpose revenue bonds, or an allocable portion of [such] the fees and expenses, if less than all of the proceeds of the special purpose revenue bonds are utilized for [such] the qualified person; and
  - [(4)] (D) To pay the expenses incurred by the development corporation in administering the special purpose revenue bonds or in carrying out the project agreement, or an allocable portion of [such] the expenses, if less than all of the proceeds of [such] the special purpose revenue bonds are utilized for [such] the qualified person[.]; and
- (2) To operate, maintain, and repair the project as long as the project is used as provided in the project agreement and to pay all costs of the operation, maintenance, and repair.

(b) The development corporation in determining the cost of any project, may also include the following:

- (1) Financing charges, fees, and expenses of any trustee and paying agents or special purpose revenue bonds issued to pay the cost of the project;
- (2) Interest on the bonds and the expenses of the State in connection with the bonds and the project to be financed from the proceeds of the bonds accruing or incurred prior to and during the estimated period of construction and for not exceeding twelve months thereafter;
- (3) Amounts necessary to establish or increase reserves for the special purpose revenue bonds;
- (4) The cost of plans, specifications, studies, surveys, and estimates of costs and of revenues;
- (5) Other expenses incidental to determining the feasibility or practicability of the project;
- (6) Administration expenses;
- (7) Legal, accounting, consulting, and other special service fees;
- (8) Interest cost incurred by the project party with respect to the project prior to the issuance of the special purpose revenue bonds; and
- (9) Other costs, commissions, and expenses incidental to the acquisition, construction, improvement, installation, equipping, or development of the project, the financing, placing of same in operation, and the issuance of the special purpose revenue bonds, whether incurred prior to or after the issuance of the bonds.

[(b)] (c) Any project agreement entered into by the development corporation may contain [such] provisions as the development corporation deems necessary or desirable to obtain or permit the participation of the state and federal government in the project or industrial park or in the financing of the cost thereof.

[(c)] (d) A project agreement also shall provide that the development corporation shall have all rights and remedies generally available at law or in equity

to re-enter and take possession of a project upon the breach or default by a qualified person of any term, condition, or provision of a project agreement.

(e) Each qualified person with a project agreement with the development corporation shall allow the development corporation full access to the qualified person's financial records. Upon the request of the development corporation for the examination of any financial records, the qualified person shall allow the development corporation to examine the requested records within a reasonably prompt time from the date of the request. If the development corporation requests copies of the records, the qualified person shall provide the copies.

(f) To provide the public with full knowledge of the use of the proceeds and benefits derived from special purpose revenue bonds issued under this chapter, the development corporation shall require each qualified person with a project agreement with the development corporation to make available to the public all relevant financial records that pertain to the use of or savings resulting from the use of special purpose revenue bonds.

(g) Each qualified person with a project agreement with the development corporation shall estimate the benefits derived from the use of the proceeds of special purpose revenue bonds. The benefits estimated shall be based on the creation of new jobs and potential effect on tax receipts. The format of and method for determining the estimates shall be established by the development corporation and shall be uniform for each qualified person.

(h) To promote public understanding of the role played by special purpose revenue bonds in providing benefits to the general public, the development corporation shall take appropriate steps to ensure public access to and scrutiny of the estimates determined under subsection (g).

(i) The development corporation shall adopt rules under chapter 91 for the purposes of this section.

(j) Moneys received by the development corporation pursuant to subsection [(a)(4)] (a)(1)(D) shall not be, nor be deemed to be, revenues or receipts derived under the project agreement which may be pledged as security for special purpose revenue bonds and shall be paid [to the development corporation free and clear of any lien.] into the high technology special fund.

A qualified person may comply with the unconditional obligation to make payments required by subsection (a), if [such] the obligations are unconditionally guaranteed or insured by, or the performance thereof assigned to, or guaranteed or insured by, a person or persons other than the qualified person [which] who is satisfactory to the development corporation.”

SECTION 13. Section 206M-9, Hawaii Revised Statutes, is amended to read as follows:

**“[ ]§206M-9[ ] Bonds; Issuance of special purpose revenue bonds; bond anticipation notes[.]; refunding bonds.** (a) In addition to the other powers that it may have, the development corporation may issue special purpose revenue bonds to finance, in whole or in part, the costs of projects of, for, or to loan the proceeds of the bonds to assist qualified persons. All revenue bonds issued under this chapter are special purpose revenue bonds and part III of chapter 39 shall not apply thereto. All special purpose revenue bonds shall be issued in the name of the development corporation and not in the name of the State.

The legislature finds and determines that the exercise of the powers vested in the development corporation by this chapter constitutes assistance to a high technology industrial, manufacturing, or processing enterprise and that the issuance of special purpose revenue bonds to finance facilities of, for, or to loan the proceeds of the bonds to assist qualified persons, is in the public interest.

[(a) (b) The development corporation, with the approval of the governor, may issue special purpose revenue bonds for each single project or industrial park or multi-project program [which] that has been authorized by the legislature by an affirmative vote of two-thirds of the members to which each house is entitled; provided that the legislature shall find that the issuance of [such] the special purpose revenue bonds is in the public interest. [Bonds] Special purpose revenue bonds shall be issued in [such] principal amounts as may be authorized from time to time by law and at [such] the time or times as the development corporation deems necessary and advisable to finance the cost of a project [or], industrial park, or multi-project program as authorized by law. With respect to the financing of a multi-project program with the proceeds of special purpose revenue bonds, the legislature may authorize the issuance from time to time in one or more series by the development corporation, in each case with the approval of the governor, of special purpose revenue bonds in the aggregate principal amount and during the period as the legislature shall provide. The principal of, premium, if any, and interest on [such] the special purpose revenue bonds shall be payable:

- (1) Exclusively from the revenues and receipts derived or to be derived by the development corporation under project agreements or from [such] the revenues and receipts together with any grant from the government in aid of the project or industrial park financed from the proceeds of [such] the bonds;
- (2) Exclusively from the revenues and receipts derived or to be derived by the development corporation from a particular project agreement, whether or not the project or industrial park to which it relates is financed in whole or in part with the proceeds of the special purpose revenue bonds; or
- (3) From revenues and receipts derived or to be derived by the development corporation generally.

Neither the board members nor any person executing the special purpose revenue bonds shall be liable personally on the bonds by reason of the issuance thereof.

All special purpose revenue bonds of the same issue (or, in the case of an authorized issue for a multi-project program, series), subject to the prior and superior rights of outstanding bonds, claims, obligations, or mechanic's and materialman's liens, shall have a prior and paramount lien on the revenues derived from the project agreement with respect to the project for which the bonds have been issued, over and ahead of all special purpose revenue bonds of the issue (or series) payable from the revenues which may be subsequently issued and over and ahead of any claims or obligations of any nature against the revenues subsequently arising or subsequently incurred; provided that the development corporation may reserve the right and privilege to subsequently issue additional series of special purpose revenue bonds, from time to time, payable from the revenues derived from the project agreement on a parity with the issue or series of special purpose revenue bonds theretofore issued, and the subsequently issued series of special purpose revenue bonds may be secured, without priority by reason of date of sale, date of execution, or date of delivery, by a lien on the revenues in accordance with law, including this chapter.

[(b) Bonds] (c) Special purpose revenue bonds issued pursuant to this chapter may be in one or more issues and in one or more series within an issue and shall be further authorized pursuant to resolution of the board. The special purpose revenue bonds shall be dated, shall bear interest at [such] the rate or rates, shall mature at [such] the time or times not exceeding forty years from their date or dates, shall have [such] the rank or priority, and may be made redeemable before maturity at the option of the development corporation, at [such] the price or prices and under [such] the terms and conditions, all as may be determined by the development corporation.

The development corporation shall determine the form of the special purpose revenue bonds, including interest coupons, if any, to be attached thereto, and the manner of execution of the special purpose revenue bonds, and shall fix the denomination or denominations of the special purpose revenue bonds and, subject to the approval of the [state] director of finance, the place or places of payment of principal and interest, which may be at any bank or trust company approved by the [state] director of finance within or without the State.

The special purpose revenue bonds may be issued in coupon or in registered form, or both, as the development corporation may determine, and provisions may be made for the registration of coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of special purpose revenue bonds registered as to both principal and interest. Subject to the approval of the [state] director of finance, the development corporation may sell special purpose revenue bonds in such manner, either at public or private sale, and for such price as it may determine.

[(c)] (d) Prior to the preparation of definitive special purpose revenue bonds, the development corporation may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when [such] the bonds have been executed and are available for delivery.

[(d)] (e) Should any special purpose revenue bond issued under this chapter or any coupon appertaining thereto become mutilated, lost, stolen, or destroyed, the development corporation may cause a new bond or coupon of like date, number, and tenor to be executed and delivered in exchange and substitution for, and upon the cancellation of [such] the mutilated bond or coupon, or in lieu of and in substitution for [such] the lost, stolen, or destroyed bond or coupon. [Such] The new bond or coupon shall not be executed or delivered until the holder of the mutilated, lost, stolen, or destroyed bond or coupon:

- (1) [has] Has paid the reasonable expenses and charges in connection therewith[.];
- (2) [in] In the case of a lost, stolen, or destroyed bond or coupon, has filed with the development corporation or its fiduciary evidence satisfactory to the development corporation or its fiduciary that [such] the bond or coupon was lost, stolen, or destroyed and that the holder was the owner thereof[.]; and
- (3) [has] Has furnished indemnity satisfactory to the development corporation.

[(e)] (f) The development corporation in its discretion may provide that CUSIP identification numbers shall be printed on [such] the special purpose revenue bonds. If [such] the numbers are imprinted on [such] the bonds:

- (1) [no] No such number shall constitute a part of the contract evidenced by the particular bond upon which it is imprinted[.]; and
- (2) [no] No liability shall attach to the development corporation or any officer or agent thereof, including any fiscal agent, paying agent, or registrar for [such] the bonds by reason of [such] the numbers or any use made thereof, including any use thereof made by the development corporation, any such officer, or any such agent, or by reason of any inaccuracy, error, or omission with respect thereto or in such use. The development corporation in its discretion may require that all costs of obtaining and imprinting [such] the numbers shall be paid by the purchaser of [such] the bonds. For the purposes of this subsection, the term “CUSIP identification numbers” means the numbering system adopted by the Committee for Uniform Security Identification Procedures formed by the Securities Industry Association.

[(f)] (g) Whenever the development corporation has authorized the issuance of special purpose revenue bonds under this chapter, special purpose revenue bond anticipation notes of the development corporation may be issued in anticipation of the issuance of [such] the bonds and of the receipt of the proceeds of sale thereof, for the purposes for which [such] the bonds have been authorized. All special purpose revenue bond anticipation notes shall be authorized by the development corporation, and the maximum principal amount of [such] the notes shall not exceed the authorized principal amount of [such] the bonds. The notes shall be payable solely from and secured solely by the proceeds of sale of the special purpose revenue bonds in anticipation of which the notes are issued and the moneys, rates, charges, and other revenues from which would be payable and by which would be secured [such] the bonds; provided that to the extent that the principal of the notes shall be paid from moneys other than the proceeds of sale of [such] the bonds, the maximum amount of bonds that has been authorized in anticipation of which the notes are issued shall be reduced by the amount of notes paid in [such] this manner. The authorization, issuance, and the details of [such] the notes shall be governed by this chapter with respect to special purpose revenue bonds insofar as the same may be applicable; provided that each note, together with all renewals and extensions thereof, or refundings thereof by other notes issued under this subsection, shall mature within five years from the date of the original note.

[(g) In order to] (h) To secure the payment of any of the special purpose revenue bonds issued pursuant to this chapter, and interest thereon, or in connection with [such] the bonds, the development corporation shall have the power as to [such] the bonds:

- (1) To pledge all or any part of the revenues and receipts derived or to be derived by the development corporation as provided in this chapter to the punctual payment of special purpose revenue bonds issued with respect to the project or industrial park financed from the proceeds thereof, and interest thereon, and to covenant against thereafter pledging any such revenues and receipts to any other bonds or any other obligations of the development corporation for any other purpose, except as otherwise stated in the proceedings providing for the issuance of special purpose revenue bonds permitting the issuance of additional special purpose revenue bonds to be equally and ratably secured by a lien upon such [moneys, rates, charges, and other] revenues[,] and receipts;
- (2) To pledge and assign the interest and right of the development corporation under any project agreement and other agreements related to a project or industrial park, and the rights, duties, and obligations of the development corporation thereunder, including the right to receive revenues and receipts thereunder[.];
- (3) To pledge or assign all or any part of the proceeds derived by the development corporation from proceeds of insurance or condemnation awards[.];
- (4) To covenant as to the use and disposition of the proceeds from the sale of [such] the special purpose revenue bonds[.];
- (5) To covenant to set aside or pay over reserves and sinking funds for [such] the special purpose revenue bonds and as to the disposition thereof[.];
- (6) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default", the terms and conditions upon which any or all of [such] the bonds shall become or may be declared due before maturity, and as to the terms and conditions upon which [such] the declaration and its consequences may be waived[.];



- (7) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by [it] the development corporation of any covenant, condition, or obligation[.];
- (8) Subject to the approval of the [state] director of finance, to designate a national or state bank or trust company within or without the State, incorporated in the United States, to serve as trustee for the holders of the special purpose revenue bonds and to enter into a trust indenture, trust agreement, or indenture of mortgage with [such] the trustee. The trustee may be authorized by the development corporation to receive and receipt for, hold, and administer the proceeds of [such] the special purpose revenue bonds and to apply the proceeds to the purposes for which [such] the special purpose revenue bonds are issued, or to receive and receipt for, hold, and administer the revenues and receipts derived or to be derived by the development corporation under a project agreement or other agreement related to a project or industrial park, and to apply such revenues and receipts to the payment of the principal of and interest on [such] the special purpose revenue bonds, or both, and any excess revenues and receipts to the payment of expenses incurred by the development corporation in administering [such] the special purpose revenue bonds or in carrying out [such] the project agreement or other agreement. If the trustee shall be appointed, any trust indenture, trust agreement, or indenture of mortgage entered into by the development corporation with the trustee may contain whatever covenants and provisions as may be necessary, convenient, or desirable in order to secure [such] the special purpose revenue bonds. The development corporation may pledge and assign to the trustee the interest of the development corporation under a project agreement and other agreements related thereto and the rights, duties, and obligations of the development corporation thereunder, including the right to receive revenues and receipts thereunder. The development corporation may appoint the trustee to serve as fiscal agent for the payment of the principal and interest, and for the purchase, registration, transfer, exchange, and redemption of the special purpose revenue bonds, and may authorize and empower the trustee to perform [such] the functions with respect to [such] the payment, purchase, registration, transfer, exchange, and redemption, as the development corporation may deem necessary, advisable, or expedient, including, without limitation, the holding of the special purpose revenue bonds and coupons [which] that have been paid and the supervision of the destruction thereof in accordance with law[.];
- (9) To execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of its covenants and duties[.];
- (10) To invest or provide for the investment of the proceeds of special purpose revenue bonds and revenues and receipts derived by the development corporation in [such] the securities and in such manner as it deems proper[.]; and
- (11) To make such covenants and do any and all acts and things as may be necessary, convenient, or desirable in order to secure [such] the special purpose revenue bonds, notwithstanding that [such] the covenants, acts, or things may not be enumerated in this chapter.

No holder or holders of special purpose revenue bonds issued under this chapter shall ever have the right to compel any exercise of the taxing power of the State or any political subdivision of the State to pay [such] the special purpose

revenue bonds or the interest thereon and no moneys other than the revenues pledged to [such] the special purpose revenue bonds shall be applied to the payment thereof.

[(h) Bonds] (i) Special purpose revenue bonds bearing the signature or facsimile signature of officers in office on the date of the signing thereof shall be valid and sufficient for all purposes, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to be officers of the development corporation. The special purpose revenue bonds shall contain a recital that they are issued pursuant to this chapter which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

[(i)] (j) Subject to authorization by an act enacted by the legislature by an affirmative vote of two-thirds of the members to which each house is entitled, the development corporation may issue special purpose revenue bonds for the purpose of refunding special purpose revenue bonds then outstanding and issued under this chapter whether or not [such] the outstanding special purpose revenue bonds have matured or are then subject to redemption. The development corporation may issue special purpose revenue bonds for the combined purposes of:

- (1) [financing] Financing or refinancing the cost of a project or industrial park, or the improvement or expansion thereof[,]; and
- (2) [refunding] Refunding special purpose revenue bonds [which] that shall theretofore have been issued under this chapter and then shall be outstanding, whether or not [such] the outstanding bonds have matured or then are subject to redemption.

Nothing in this subsection shall require or be deemed to require the development corporation to elect to redeem or prepay special purpose revenue bonds being refunded, or to redeem or prepay special purpose revenue bonds being refunded [which] that were issued, in the form customarily known as term bonds in accordance with any sinking fund installment schedule specified in any proceeding authorizing the issuance thereof, or, if the development corporation elects to redeem or prepay any such bonds, to redeem or prepay as of any particular date or dates. The issuance of [such] the special purpose revenue bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties, and obligations of the development corporation with respect to the bonds, shall be governed by the foregoing provisions of this chapter insofar as the same may be applicable.

(k) If special purpose revenue bonds issued pursuant to this chapter are issued bearing interest at a rate or rates which vary from time to time and with a right of holders to tender the bonds for purchase, the development corporation may contract for such support facility or facilities and remarketing arrangements as are required to market the special purpose revenue bonds to the greatest advantage of the development corporation upon such terms and conditions as the development corporation deems necessary and proper.

The development corporation may enter into contracts or agreements with the entity or entities providing a support facility; provided that any contract or agreement shall provide, in essence, that any amount due and owing by the development corporation under the contract or agreement on an annual basis shall be payable solely from the revenue and receipts of the project agreement and any obligation issued or arising pursuant to the terms of the contract or agreement in the form of special purpose revenue bonds, notes, or other evidences of indebtedness shall only arise at such time as either:

- (1) Moneys or securities have been irrevocably set aside for the full payment of a like principal amount of special purpose revenue bonds issued pursuant to this chapter; or

- (2) A like principal amount of the issue or series of special purpose revenue bonds to which the support facility relates are held in escrow by the entity or entities providing the support facility.”

SECTION 14. Section 206M-10, Hawaii Revised Statutes, is amended to read as follows:

**“§206M-10 Authorization for loans; loan terms and conditions; loan procedure.** (a) Notwithstanding any law to the contrary, the [state] director of finance is authorized, with the approval of the governor, to make loans up to the aggregate sum of \$1,000,000, or so much thereof as may be necessary, to the development corporation. The loans shall be made from the state general fund moneys which are in excess of the amounts necessary for immediate state requirements, and shall be used for the purpose of paying administrative and other costs associated with the development of industrial parks and other projects and activities that encourage the growth of the high technology industry in Hawaii.

(b) The development corporation, to the extent moneys become available from bond proceeds or otherwise, shall repay the general fund the principal amount of any loan made by the [state] director of finance. No interest shall be required for any such loan.

(c) Loans authorized by this section shall be drawn upon by the development corporation from time to time upon at least five days notice to the [state] director of finance and upon the filing with the [state] director of finance of a certificate of the chairperson of the board setting forth the amount being borrowed, the names of the persons, firms, or corporations to which moneys will be paid from the proceeds of such borrowing and the amount to be paid to each. In addition, the chairperson of the board shall file with the [state] director of finance a copy of the resolution or resolutions of the board approving contracts for services which will be paid from the proceeds of the borrowing.”

SECTION 15. Section 206M-11, Hawaii Revised Statutes, is amended to read as follows:

**“[[§206M-11] Bonds] Special purpose revenue bonds not a general or moral obligation of State.** No holder or holders of special purpose revenue bonds issued under this chapter shall ever have the right to compel any exercise of the taxing power of the State to pay [such] the bonds or the interest thereon and no moneys other than the revenues pledged to [such] the bonds shall be applied to the payment thereof. Each special purpose revenue bond issued under this chapter shall recite in substance that [such] the bond, including interest thereon, is not a general or moral obligation of the State and is payable solely from the revenues pledged to the payment thereof, and that [such] the bond is not secured, directly or indirectly, by the full faith and credit or the general credit of the State or by revenues or taxes of the State other than the revenues specifically pledged thereto.”

SECTION 16. Section 206M-12, Hawaii Revised Statutes, is amended to read as follows:

**“[[§206M-12] Bonds] Special purpose revenue bonds exempt from taxation.** [Bonds] Special purpose revenue bonds and the income therefrom issued pursuant to this chapter shall be exempt from all state taxation, except inheritance, transfer, and estate taxes.”

SECTION 17. Section 206M-13, Hawaii Revised Statutes, is amended to read as follows:

“**[§206M-13] Bonds** **Special purpose revenue bonds as legal investments and lawful security.** [Bonds] The special purpose revenue bonds issued pursuant to this chapter shall be and are declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, credit unions, fiduciaries, trustees, guardians, and for all public funds of the State or other political corporations or subdivisions of the State. [Such] The special purpose revenue bonds shall be eligible to secure the deposit of any and all public funds of the State [or] and any and all public funds of counties or other political corporations or subdivisions of the State, and [such] the bonds shall be lawful and sufficient security for [such] the deposits to the extent of their value when accompanied by all unmatured coupons, if any, appertaining thereto.”

SECTION 18. Section 206M-14, Hawaii Revised Statutes, is amended to read as follows:

“**[§206M-14] Status of special purpose revenue bonds under the Uniform Commercial Code.** Notwithstanding any of the provisions of this chapter or any recital in any special purpose revenue bond issued under this chapter, all such special purpose revenue bonds shall be deemed to be investment securities under the Uniform Commercial Code, chapter 490, subject only to the provisions of the special purpose revenue bonds pertaining to registration.”

SECTION 19. Section 206M-15, Hawaii Revised Statutes, is amended to read as follows:

“**[§206M-15]<sup>2</sup> High technology research and development loans and grants.** (a) All moneys necessary to carry out the purposes of this section shall be allocated by the legislature through appropriations out of the state general fund. The development corporation shall include in its budgetary request for the upcoming fiscal period, the amounts necessary to effectuate the purposes of this section. All moneys, interest charges, and other fees collected by the development corporation under this section shall be deposited to the credit of the state general fund. In making any expenditure under this section, the development corporation shall analyze each funding request to determine whether the project to be undertaken will be economically viable and beneficial to the State.

(b) The development corporation may provide grants [of up to fifty] not exceeding the lesser of:

- (1) Fifty per cent of the federal [grant up to] small business innovation research phase I award or contract; or
- (2) \$25,000 to each business in Hawaii that receives a federal small business innovation research phase I award or contract from any participating federal agency,<sup>3</sup>

subject to the availability of funds.

(c) The development corporation shall adopt rules pursuant to chapter 91 that:

- (1) Specify the qualifications for eligibility of grant applicants;
- (2) Establish priorities in determining eligibility in the event that insufficient funds are available to fund otherwise qualified applicants; and
- (3) Give preference to all qualified businesses receiving their first award in one fiscal year over multiple award grantees.

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The development corporation may adopt any other rules pursuant to chapter 91 necessary for the purposes of this section.

(d) If funds appropriated for the purpose of making grants under this section are inadequate to satisfy all qualified requests, the development corporation shall apply for funds to be transferred from the Hawaii capital loan revolving fund to provide the grants in accordance with subsection (b). The amount of any single transfer of funds shall not exceed \$100,000, and the development corporation shall transfer the entire amount back to the Hawaii capital loan revolving fund within twelve months of receiving the funds. No more than one fund transfer shall be outstanding at any one time. The director of business, economic development, and tourism may transfer funds from the Hawaii capital loan revolving fund to the [high technology research and] development corporation upon request to carry out the purposes of this section. Transfers of funds shall be made without any charges or fees.”

SECTION 20. Section 206M-15.5, Hawaii Revised Statutes, is amended to read as follows:

“**[§206M-15.5] High technology special fund.** There is established in the state treasury a fund to be known as the high technology special fund, into which shall be deposited, except as otherwise provided by section 206M-17, all moneys and fees from tenants, qualified persons, or other users of the development corporation’s industrial parks, projects, other leased facilities, and other services and publications. All moneys in the fund are [hereby] appropriated for the purposes of and shall be expended by the development corporation for the operation, maintenance, and management of its industrial parks, projects, facilities, services, and publications[.], and to pay the expenses in administering the special purpose revenue bonds of the development corporation or in carrying out its project agreements.”

SECTION 21. Section 206M-16, Hawaii Revised Statutes, is amended to read as follows:

“**§206M-16 Exemption of development corporation from taxation and competitive bidding.** (a) All revenues and receipts derived by the development corporation from any project or industrial park or under a project agreement or other agreement pertaining thereto shall be exempt from all state and county taxation. Any right, title, and interest of the development corporation in any project or industrial park shall also be exempt from all state and county taxation. Except as otherwise provided by law, the interest of a qualified person or other user of a project or industrial park under a project agreement or other agreements related to a project or industrial park shall not be exempt from taxation to a greater extent than it would be if the costs of the project or industrial park were directly financed by the qualified person or user.

(b) The development corporation shall not be subject to any requirement of law for competitive bidding for project agreements, construction contracts, lease and sublease agreements, or other contracts unless a project agreement with respect to a project or industrial park [otherwise] shall so require.”

SECTION 22. Section 206M-17, Hawaii Revised Statutes, is amended to read as follows:

“**§206M-17 Revenue bond fund accounts.** The development corporation shall establish separate special funds in accordance with section 39-62 for the deposit of the proceeds of special purpose revenue bonds and special facility revenue

bonds authorized under this [chapter.] part and part II respectively. The development corporation shall have the right to appropriate, apply, or expend the revenues derived with respect to the project agreement for a project for the following purposes:

- (1) To pay when due all special purpose revenue bonds and special facility revenue bonds, premiums, if any, and interest thereon, for the payment of which the revenues are or have been pledged, charged, or otherwise encumbered, including reserves therefor; and
- (2) To the extent not paid by the qualified person to provide for all expenses of administration, operation, and maintenance of the project, including reserves therefor.

Unless and until adequate provision has been made for the foregoing purposes, the development corporation shall not transfer the revenues derived from the project agreement to the high technology special fund of the State.”

SECTION 23. Section 206M-34, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The development corporation shall have the authority to copyright software applications and programs developed for state use with public funds and to license their subsequent sale and distribution; provided that this authority shall be subject to the terms and conditions of a contract to license between the development corporation and the affected state departments or agencies that developed the software applications or programs [.] and provided further that the authority shall not apply to software applications and programs developed by or on behalf of private sector qualified persons for which the development corporation has issued special purpose revenue bonds under this chapter or otherwise provided financing. Any copyright arising from center activities shall belong to the State and any revenues generated by licenses and subsequent sale and distribution of copyrighted software shall be deposited into the general fund unless otherwise stipulated in a licensing agreement.”

SECTION 24. Statutory material to be repealed is bracketed. New statutory material is underscored.<sup>4</sup>

SECTION 25. This Act shall take effect upon its approval.

(Approved April 27, 2000.)

#### Notes

1. “(21)” should be underscored.
2. So in original.
3. Comma should be underscored.
4. Edited pursuant to HRS §23G-16.5.