

JAN 18 2008

S.B. NO. 2704

A BILL FOR AN ACT

RELATING TO HOSPITALS.

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

1 Part I

2 SECTION 1. The purpose of this Act is to establish a
3 hospital capital loan program. Under the program, the
4 department of health is authorized to make or guarantee loans to
5 hospitals for capital improvements, equipment, supplies,
6 materials, or working capital.

7 Part II

8 SECTION 2. The Hawaii Revised Statutes is amended by
9 adding a new chapter to be appropriately designated and to read
10 as follows:

11 "CHAPTER

12 HOSPITAL CAPITAL LOAN PROGRAM

13 § -A Definitions. As used in this chapter, unless the
14 context clearly requires otherwise:

15 "Department" means the department of health.

16 "Financial institution" means any organization authorized
17 to do business under state or federal laws relating to financial
18 institutions, including a bank, savings bank, savings and loan



1 company or association, financial services loan company, or
2 credit union.

3 "Hospital" means an institution licensed by the department
4 in this State having an organized medical staff that admits
5 patients for inpatient care, diagnosis, observation, and
6 treatment.

7 "Program" means the hospital capital loan program
8 established under this chapter.

9 § -B **Hospital capital loan program.** There is
10 established a hospital capital loan program to be administered
11 by the department of health in accordance with this chapter.

12 § -C **Direct loans, terms, and restrictions.** (a) Under
13 the program, the department shall make loans to hospitals for
14 the following:

- 15 (1) Financing of hospital plant construction, conversion,
16 and expansion;
- 17 (2) Acquisition of land for expansion of the hospital;
- 18 (3) Acquisition of equipment, machinery, supplies, or
19 materials for the hospital; and
- 20 (4) Supplying of working capital for the hospital.

21 A loan may be made in conjunction with loans made by other
22 government agencies or financial institutions. If a loan made



1 by the department is secured, the department may subordinate its
 2 interest to those of other government agencies or financial
 3 institutions when the subordination is necessary for the
 4 hospital to obtain loans from these agencies or institutions.

5 (b) A loan made under the program shall bear simple
 6 interest at the rate of three per cent below the prime rate or
 7 at a rate of five and one-half per cent a year, whichever is
 8 lower. For purposes of this section, the prime rate shall be
 9 the rate charged the best commercial customers on the first day
 10 of each month by the two largest banks in the State of Hawaii as
 11 identified by the department of commerce and consumer affairs.
 12 If there is a difference in rates charged by the institutions,
 13 the lower of the two shall be used.

14 (c) The following restrictions shall apply to a loan made
 15 under the program:

16 (1) The principal amount of the loan or loans to any one
 17 hospital that is outstanding at any one time shall not
 18 exceed \$;

19 (2) No loan shall be made for a term exceeding twenty
 20 years;

21 (3) The commencement date for the repayment of the first
 22 installment on the principal of a loan may be deferred



1 by the department, but in no event shall the initial
2 payment on the principal be deferred for more than
3 five years from the date of issuance of the loan; and

4 (4) The payment of interest on the principal of a loan may
5 be deferred by the department, but in no event shall
6 interest payments be deferred for more than two years
7 from the date of issuance of the loan.

8 (d) The department may contract with a financial
9 institution to service a loan made under the program.

10 § -D **Loan guarantee by the department.** (a) In lieu of
11 making direct loans pursuant to section -C, the department
12 may guarantee up to ninety per cent of the principal balance of
13 a loan made to a hospital by a financial institution that is
14 unable to otherwise lend the hospital sufficient funds at
15 reasonable rates.

16 (b) At any time, the outstanding principal of and interest
17 on loans guaranteed by the department shall not exceed

18 \$.

19 (c) The department shall not guarantee a loan if the
20 interest charged by the lender for the loan exceeds the interest
21 charged by the lender for a similar type of loan.



1 (d) Upon approval of a loan guarantee, the department
2 shall issue to the lender a guarantee for that percentage of the
3 loan balance on which the department guarantees payment of
4 principal and interest. The lender shall collect all payments
5 from the borrower and otherwise service the loan.

6 (e) In return for the department's guarantee, the lender
7 shall remit to the department at the time the loan is issued a
8 one-time fee of two per cent on the principal of the guaranteed
9 portion of the loan; except that the rate shall be one per cent
10 for the following:

- 11 (1) A loan of not more than \$75,000 with a maturity
12 exceeding twelve months; and
13 (2) A loan with a maturity of not more than twelve months.

14 In lieu of payment by the lender, the borrower may pay the
15 applicable fee as a cost for the loan.

16 (f) When any installment of principal and interest on a
17 guaranteed loan to a hospital has been due for sixty days and
18 has not been paid by the hospital, the department shall pay to
19 the lender the percentage of the overdue payment guaranteed.
20 Upon making the payment, the department shall be deemed to have
21 acquired a division of interest in the collateral pledged by the
22 hospital in proportion to the amount of the payment.



1 If payment is subsequently collected from the hospital, the
2 lender shall reimburse the department for the amount paid by the
3 department. Upon receipt of the reimbursement, the department
4 shall relinquish the interest previously acquired in the
5 collateral.

6 (g) If the lender deems that foreclosure proceedings are
7 necessary to collect moneys due from the hospital, the lender
8 shall notify the department. Within thirty days of the
9 notification, the department may elect to request an assignment
10 of the loan upon payment in full to the lender of the
11 outstanding principal and interest. Foreclosure proceedings
12 shall be held in abeyance until the lender makes a decision on
13 the request for assignment.

14 § **-E Hospital capital loan revolving fund.** (a) There
15 is established the hospital capital loan revolving fund within
16 the treasury of the State.

17 (b) The following shall be deposited into the revolving
18 fund:

19 (1) Payments by hospitals of the principal and interest on
20 loans made under the program;

21 (2) Appropriations to the revolving fund by the
22 legislature;



1 (3) Fees paid by lenders pursuant to section -D(e) for
2 the guarantee of a loan;

3 (4) Proceeds from the liquidation of collateral acquired
4 by the department arising from the default of a loan;

5 (5) Reimbursements from lenders pursuant to section
6 -D(f) of principal and interest previously paid by
7 the department on delinquent guaranteed loans; and

8 (6) Interest earned on moneys in the fund.

9 (c) The moneys in the revolving fund shall be expended
10 only for the following:

11 (1) Making of new loans under the program;

12 (2) Payment of principal of and interest on loans
13 guaranteed under section -D that are delinquent or
14 have defaulted;

15 (3) Payment of principal and interest to lenders pursuant
16 to section -D(g) for the assignment of guaranteed
17 loans; and

18 (4) Payment of administrative costs of the program,
19 including any fee to a financial institution for
20 servicing a loan.

21 (d) The department shall continuously maintain in the
22 revolving fund a cash reserve equaling at least per cent of

1 the outstanding principal of and interest on loans made and
2 guaranteed under the program.

3 § **-F Rules.** To implement this chapter, the department
4 shall adopt rules in accordance with chapter 91 regarding the
5 following:

- 6 (1) Qualifications for eligibility of applicants for
7 loans;
- 8 (2) Preferences and priorities in determining eligibility
9 for loans;
- 10 (3) Conditions consistent with the purposes of this
11 chapter for the making or guaranteeing of loans;
- 12 (4) Amount and type of security for loans made or
13 guaranteed;
- 14 (5) Inspection at reasonable hours of the plant, books,
15 and records of a hospital applying for or having
16 received a direct loan or loan guarantee; and
- 17 (6) Any other terms or conditions deemed necessary to
18 effectuate the purpose of this chapter.

19 § **-G Annual report.** The department shall submit to the
20 legislature at least twenty days before the convening of each
21 regular session a report on the hospital capital loan program.



1 The report shall cover the activity under the program during the
2 previous fiscal year ending on June 30."

3 Part III

4 SECTION 3. Upon verifying that all eligibility and other
5 terms and conditions are in accordance with the requirements of
6 chapter , Hawaii Revised Statutes, the department of health
7 shall issue the first loan under the hospital capital loan
8 program established under part II of this Act to the Hawaii
9 Medical Center, LLC for working capital. The principal amount
10 of the loan shall not exceed \$.

11 SECTION 4. There is appropriated out of the general
12 revenues of the State of Hawaii the sum of \$ or so much
13 thereof as may be necessary for fiscal year 2008-2009 for
14 deposit into the hospital capital loan revolving fund.

15 The sum appropriated shall be expended by the department of
16 budget and finance for the purposes of this Act.

17 SECTION 5. There is appropriated out of the hospital
18 capital loan revolving fund the sum of \$ or so much
19 thereof as may be necessary for fiscal year 2008-2009 for:

20 (1) The loan to the Hawaii Medical Center, LLC specified
21 under section 3 of this part; and



1 (2) Any other loans made pursuant to the hospital capital
2 loan program.

3 The sum appropriated shall be expended by the department of
4 health for the purposes of this Act.

5 Part IV

6 SECTION 6. This Act shall take effect on July 1, 2008.

7

INTRODUCED BY: Will Engco
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Report Title:

Hospital Capital Loan Program

Description:

Establishes a hospital capital loan program under department of health. Requires loan to Hawaii Medical Center, LLC.

