



GOV. MSG. NO. 780

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 29, 2009

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 29, 2009, the following bill was signed into law:

HB34 SD1 CD1

A BILL FOR AN ACT
RELATING TO STATE BONDS.
ACT 163 (09)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

A BILL FOR AN ACT

RELATING TO STATE BONDS.

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

1 SECTION 1. Declaration of findings with respect to the
2 general obligation bonds authorized by this Act. Pursuant to
3 the clause in article VII, section 13 of the State Constitution
4 which states: "Effective July 1, 1980, the legislature shall
5 include a declaration of findings in every general law
6 authorizing the issuance of general obligation bonds that the
7 total amount of principal and interest, estimated for such bonds
8 and for all bonds authorized and unissued and calculated for all
9 bonds issued and outstanding, will not cause the debt limit to
10 be exceeded at the time of issuance", the legislature finds and
11 declares as follows:

12 (1) Limitation on general obligation debt. The debt limit
13 of the state is set forth in article VII, section 13
14 of the State Constitution, which states in part:
15 "General obligation bonds may be issued by the State;
16 provided that such bonds at the time of issuance would
17 not cause the total amount of principal and interest
18 payable in the current or any future fiscal year,



1 whichever is higher, on such bonds and on all
2 outstanding general obligation bonds to exceed: a sum
3 equal to twenty percent of the average of the general
4 fund revenues of the State in the three fiscal years
5 immediately preceding such issuance until June 30,
6 1982; and thereafter, a sum equal to eighteen and one-
7 half percent of the average of the general fund
8 revenues of the State in the three fiscal years
9 immediately preceding such issuance." Article VII,
10 section 13 also provides that in determining the power
11 of the State to issue general obligation bonds,
12 certain bonds are excludable, including "reimbursable
13 general obligation bonds issued for a public
14 undertaking, improvement or system but only to the
15 extent that reimbursements to the general fund are in
16 fact made from the net revenue, or net user tax
17 receipts, or combination of both, as determined for
18 the immediately preceding fiscal year" and bonds
19 constituting instruments of indebtedness under which
20 the State incurs a contingent liability as a
21 guarantor, but only to the extent the principal amount
22 of such bonds does not exceed seven per cent of the



1 principal amount of outstanding general obligation
2 bonds not otherwise excluded under article VII,
3 section 13.

- 4 (2) Actual and estimated debt limits. The limit on
5 principal and interest of general obligation bonds
6 issued by the State, actual for fiscal year 2008-2009
7 and estimated for each fiscal year from 2009-2010 to
8 2012-2013, is as follows:

9	Fiscal	Net General	
10	<u>Year</u>	<u>Fund Revenues</u>	<u>Debt Limit</u>
11			
12	2005-2006	\$4,904,019,330	
13	2006-2007	5,122,620,268	
14	2007-2008	5,222,739,619	
15	2008-2009	4,938,449,000	\$ 940,378,385
16	2009-2010	4,955,871,000	942,501,548
17	2010-2011	5,183,014,000	932,218,677
18	2011-2012	5,448,451,000	929,768,930
19	2012-2013	(not applicable)	961,219,053
20			

21 For fiscal years 2008-2009, 2009-2010, 2010-2011,
22 2011-2012, and 2012-2013, respectively, the debt limit
23 is derived by multiplying the average of the net
24 general fund revenues for the three preceding fiscal
25 years by eighteen and one-half per cent. The net
26 general fund revenues for fiscal years 2005-2006,
27 2006-2007, and 2007-2008 are actual, as certified by
28 the director of finance in the Statement of the Debt



1 Limit of the State of Hawaii as of July 1, 2008, dated
2 November 21, 2008. The net general fund revenues for
3 fiscal years 2008-2009 to 2011-2012 are estimates,
4 based on general fund revenue estimates made as of
5 March 13, 2009, by the council on revenues, the body
6 assigned by article VII, section 7 of the State
7 Constitution to make such estimates, and based on
8 estimates made by the department of budget and finance
9 of those receipts which cannot be included as general
10 fund revenues for the purpose of calculating the debt
11 limit, all of which estimates the legislature finds to
12 be reasonable.

13 (3) Principal and interest on outstanding bonds applicable
14 to the debt limit.

15 (A) According to the department of budget and
16 finance, the total amount of principal and
17 interest on outstanding general obligation bonds,
18 after the exclusions permitted by article VII,
19 section 13 of the State Constitution, for
20 determining the power of the State to issue
21 general obligation bonds within the debt limit as



1 of May 1, 2009, is as follows for fiscal year
2 2009-2010 to fiscal year 2015-2016:

3	Fiscal	Principal
4	<u>Year</u>	<u>and Interest</u>
5		
6	2009-2010	\$547,514,586
7	2010-2011	535,125,820
8	2011-2012	514,381,984
9	2012-2013	519,067,954
10	2013-2014	473,857,632
11	2014-2015	453,412,417
12	2015-2016	372,288,179

13 The department of budget and finance further
14 reports that the amount of principal and interest
15 on outstanding bonds applicable to the debt limit
16 generally continues to decline each year from
17 fiscal year 2016-2017 to fiscal year 2028-2029
18 when the final installment of \$8,857,050 shall be
19 due and payable.

20 (B) The department of budget and finance further
21 reports that the outstanding principal amount of
22 bonds constituting instruments of indebtedness
23 under which the State may incur a contingent
24 liability as a guarantor is \$193,500,000
25 (including \$2,500,000 enacted in Act 233, Session
26 Laws of Hawaii 2008, Relating to Important



1 Agricultural Lands), all or part of which is
2 excludable in determining the power of the State
3 to issue general obligation bonds, pursuant to
4 article VII, section 13 of the State
5 Constitution.

6 (4) Amount of authorized and unissued general obligation
7 bonds and guaranties and proposed bonds and
8 guaranties.

9 (A) As calculated from the state comptroller's bond
10 fund report as of February 28, 2009, adjusted
11 for:

12 (i) Appropriations to be funded by general
13 obligation bonds or reimbursable general
14 obligation bonds as provided in House Bill
15 No. 200, H.D. 1, S.D. 1, C.D. 1 (the General
16 Appropriations Act of 2009);

17 (ii) Lapses as provided in House Bill No. 200,
18 H.D. 1, S.D. 1, C.D. 1 (the General
19 Appropriations Act of 2009);

20 (iii) Appropriations to be funded by general
21 obligation bonds or reimbursable general
22 obligation bonds as provided in House Bill



1 No. 300, H.D. 1, S.D. 2, C.D. 1 (the
2 Judiciary Appropriations Act of 2009); and
3 (iv) Lapses as provided in House Bill No. 300,
4 H.D. 1, S.D. 2, C.D. 1 (the Judiciary
5 Appropriations Act of 2009);

6 the total amount of authorized but unissued
7 general obligation bonds is \$1,846,918,113. The
8 total amount of general obligation bonds
9 authorized in this Act is \$873,784,000. The
10 total amount of general obligation bonds
11 previously authorized and unissued, as adjusted,
12 and the general obligation bonds authorized in
13 this Act is \$2,720,702,113.

14 (B) As reported by the department of budget and
15 finance, the outstanding principal amount of
16 bonds constituting instruments of indebtedness
17 under which the State may incur a contingent
18 liability as a guarantor is \$193,500,000
19 (including \$2,500,000 enacted in Act 233, Session
20 Laws of Hawaii 2008, Relating to Important
21 Agricultural Lands), all or part of which is
22 excludable in determining the power of the State



1 to issue general obligation bonds, pursuant to
2 article VII, section 13 of the State
3 Constitution. The total amount of guaranty
4 authorized by Act 233, Session Laws of Hawaii
5 2008 (Relating to Important Agricultural Lands)
6 is \$2,500,000, and is herein validated. The
7 total amount of guaranties previously authorized
8 and validated by this Act is \$193,500,000.

- 9 (5) Proposed general obligation bond issuance. As
10 reported therein for the fiscal years 2008-2009, 2009-
11 2010, 2010-2011, 2011-2012, and 2012-2013, the State
12 proposed to issue \$424,000,000 in general obligation
13 bonds during the remainder of second half of fiscal
14 year 2008-2009, \$210,000,000 in general obligation
15 bonds during the first half of fiscal year 2009-2010,
16 \$210,000,000 in general obligation bonds during the
17 second half of fiscal year 2009-2010, \$275,000,000 in
18 general obligation bonds during the first half of
19 fiscal year 2010-2011, \$275,000,000 in general
20 obligation bonds during the second half of fiscal year
21 2010-2011, \$330,000,000 in general obligation bonds
22 during the first half of fiscal year 2011-2012,



1 \$340,000,000 in general obligation bonds during the
2 second half of fiscal year 2011-2012, \$330,000,000 in
3 general obligation bonds during the first half of
4 fiscal year 2012-2013, and \$340,000,000 in general
5 obligation bonds during the second half of fiscal year
6 2012-2013. It has been the practice of the State to
7 issue twenty-year serial bonds with principal
8 repayments beginning the fifth year, the bonds payable
9 in substantially equal annual installments of
10 principal and interest payment with interest payments
11 commencing six months from the date of issuance and
12 being paid semi-annually thereafter. It is assumed
13 that this practice will continue to be applied to the
14 bonds that are proposed to be issued.

- 15 (6) Sufficiency of proposed general obligation bond
16 issuance to meet the requirements of authorized and
17 unissued bonds, as adjusted, and bonds authorized by
18 this Act. From the schedule reported in paragraph
19 (5), the total amount of general obligation bonds that
20 the State proposes to issue during the fiscal years
21 2008-2009 to 2011-2012 is \$2,064,000,000. An
22 additional \$670,000,000 is proposed to be issued in



1 fiscal year 2012-2013. The total amount of
2 \$2,064,000,000 which is proposed to be issued through
3 fiscal year 2011-2012 is sufficient to meet the
4 requirements of the authorized and unissued bonds, as
5 adjusted, the total amount of which is \$2,720,702,113
6 reported in paragraph (4), except for \$656,702,113.
7 It is assumed that the appropriations to which an
8 additional \$656,702,113 in bond issuance needs to be
9 applied will have been encumbered as of June 30, 2012.
10 The \$670,000,000 which is proposed to be issued in
11 fiscal year 2012-2013 will be sufficient to meet the
12 requirements of the June 30, 2012, encumbrances in the
13 amount of \$656,702,113. The amount of assumed
14 encumbrances as of June 30, 2012, is reasonable and
15 conservative, based upon an inspection of June 30
16 encumbrances of the general obligation bond fund as
17 reported by the state comptroller. Thus, taking into
18 account the amount of authorized and unissued bonds,
19 as adjusted, and the bonds authorized by this Act
20 versus the amount of bonds proposed to be issued by
21 June 30, 2012, and the amount of June 30, 2012
22 encumbrances versus the amount of bonds proposed to be



1 issued in fiscal year 2012-2013, the legislature finds
2 that in the aggregate, the amount of bonds proposed to
3 be issued is sufficient to meet the requirements of
4 all authorized and unissued bonds and the bonds
5 authorized by this Act.

6 (7) Bonds excludable in determining the power of the State
7 to issue bonds. As noted in paragraph (1), certain
8 bonds are excludable in determining the power of the
9 State to issue general obligation bonds.

10 (A) General obligation reimbursable bonds can be
11 excluded under certain conditions. It is not
12 possible to make a conclusive determination as to
13 the amount of reimbursable bonds which are
14 excludable from the amount of each proposed bond
15 issued because:

16 (i) It is not known exactly when projects for
17 which reimbursable bonds have been
18 authorized in prior acts and in this Act
19 will be implemented and will require the
20 application of proceeds from a particular
21 bond issue; and



1 (ii) Not all reimbursable general obligation
2 bonds may qualify for exclusion.
3 However, the legislature notes that with respect
4 to the principal and interest on outstanding
5 general obligation bonds, according to the
6 department of budget and finance, the average
7 proportion of principal and interest which is
8 excludable each year from the calculation against
9 the debt limit is 2.00 per cent for the ten years
10 from fiscal year 2008-2009 to fiscal year 2017-
11 2018. For the purpose of this declaration, the
12 assumption is made that one per cent of each bond
13 issue shall be excludable from the debt limit, an
14 assumption which the legislature finds to be
15 reasonable and conservative.

16 (B) Bonds constituting instruments of indebtedness
17 under which the State incurs a contingent
18 liability as a guarantor may be excluded but only
19 to the extent the principal amount of such
20 guaranties does not exceed seven per cent of the
21 principal amount of outstanding general
22 obligation bonds not otherwise excluded under



1 subparagraph (A) of this paragraph (7); provided
2 that the State shall establish and maintain a
3 reserve in an amount in reasonable proportion to
4 the outstanding loans guaranteed by the State as
5 provided by law. According to the department of
6 budget and finance and the assumptions presented
7 herein, the total principal amount of outstanding
8 general obligation bonds and general obligation
9 bonds proposed to be issued, which are not
10 otherwise excluded under article VII, section 13
11 of the State Constitution for the fiscal years
12 2008-2009, 2009-2010, 2010-2011, 2011-2012, and
13 2012-2013 are as follows:

	Total amount of General Obligation Bonds not otherwise excluded by Article VII, Section 13 of the State Constitution
<u>Fiscal year</u>	<u>of the State Constitution</u>
20 2008-2009	\$4,993,599,012
21 2009-2010	5,159,324,540
22 2010-2011	5,370,455,000
23 2011-2012	5,678,190,000
24 2012-2013	5,608,595,000

25 Based on the foregoing and based on the
26 assumption that the full amount of a guaranty is
27 immediately due and payable when such guaranty changes



1 from a contingent liability to an actual liability,
2 the aggregate principal amount of the portion of the
3 outstanding guaranties and the guaranties proposed to
4 be incurred, which does not exceed seven per cent of
5 the average amount set forth in the last column of the
6 above table and for which reserve funds have been or
7 shall have been established as heretofore provided,
8 may be excluded in determining the power of the State
9 to issue general obligation bonds. As it is not
10 possible to predict with a reasonable degree of
11 certainty when a guaranty will change from a
12 contingent liability to an actual liability, it is
13 assumed in conformity with fiscal conservatism and
14 prudence, that all guaranties not otherwise excluded
15 pursuant to article VII, section 13 of the State
16 Constitution shall become due and payable in the same
17 fiscal year in which the greatest amount of principal
18 and interest on general obligation bonds, after
19 exclusions, occurs. Thus, based on such assumptions
20 and on the determination in paragraph (8), all of the
21 outstanding guaranties can be excluded.



1 (8) Determination whether the debt limit will be exceeded
2 at the time of issuance. From the foregoing and on
3 the assumption that all of the bonds identified in
4 paragraph (5) will be issued at an interest rate not
5 to exceed 6.0 per cent, it can be determined from the
6 following schedule that the bonds which are proposed
7 to be issued, which include all authorized and
8 unissued bonds previously authorized, as adjusted,
9 general obligation bonds, and instruments of
10 indebtedness under which the State incurs a contingent
11 liability as a guarantor authorized in this Act, will
12 not cause the debt limit to be exceeded at the time of
13 such issuance:



	Time of Issuance and Amount to be Counted Against Debt Limit	Debt Limit at Time of Issuance	Greatest Amount and Year of Highest Principal and Interest on Bonds and Guaranties
6	2 nd half FY 2008-2009		
7	\$419,760,000	940,378,385	574,797,859 (2010-2011)
8	1 st half FY 2009-2010		
9	\$207,900,000	942,501,548	581,034,859 (2010-2011)
10	2 nd half FY 2009-2010		
11	\$207,900,000	942,501,548	592,511,421 (2012-2013)
12	1 st half FY 2010-2011		
13	\$272,250,000	932,218,677	608,846,421 (2012-2013)
14	2 nd half FY 2010-2011		
15	\$272,250,000	932,218,677	625,181,421 (2012-2013)
16	1 st half FY 2011-2012		
17	\$326,700,000	929,768,930	634,982,421 (2012-2013)
18	2 nd half FY 2011-2012		
19	\$336,600,000	929,768,930	645,080,421 (2012-2013)
20	1 st half FY 2012-2013		
21	\$326,700,000	961,219,053	652,822,192 (2014-2015)
22	2 nd half FY 2012-2013		
23	\$336,600,000	961,219,053	673,018,192 (2014-2015)

(9) Overall and concluding finding. From the facts, estimates, and assumptions stated in this declaration of findings, the conclusion is reached that the total amount of principal and interest estimated for the general obligation bonds authorized in this Act, and for all bonds authorized and unissued, and calculated for all bonds issued and outstanding, and all guaranties, will not cause the debt limit to be exceeded at the time of issuance.



1 SECTION 2. The legislature finds the bases for the
2 declaration of findings set forth in this Act reasonable. The
3 assumptions set forth in this Act with respect to the principal
4 amount of general obligation bonds which will be issued, the
5 amount of principal and interest on reimbursable general
6 obligation bonds which are assumed to be excludable, and the
7 assumed maturity structure shall not be deemed to be binding, it
8 being the understanding of the legislature that such matters
9 must remain subject to substantial flexibility.

10 SECTION 3. Authorization for issuance of general
11 obligation bonds. General obligation bonds may be issued as
12 provided by law in an amount that may be necessary to finance
13 projects authorized in House Bill No. 200, H.D. 1, S.D. 1, C.D.
14 1 (the General Appropriations Act of 2009) and House Bill No.
15 300, H.D. 1, S.D. 2, C.D. 1 (the Judiciary Appropriations Act of
16 2009), passed by this regular session of 2009, and designated to
17 be financed from the general obligation bond fund and from the
18 general obligation bond fund with debt service cost to be paid
19 from special funds; provided that the sum total of general
20 obligation bonds so issued shall not exceed \$873,784,000.

21 Any law to the contrary notwithstanding, general obligation
22 bonds may be issued from time to time in accordance with section



1 39-16, Hawaii Revised Statutes, in such principal amount as may
2 be required to refund any general obligation bonds of the State
3 of Hawaii heretofore or hereafter issued pursuant to law.

4 SECTION 4. The provisions of this Act are declared to be
5 severable and if any portion thereof is held to be invalid for
6 any reason, the validity of the remainder of this Act shall not
7 be affected.

8 SECTION 5. In printing this Act, the revisor of statutes
9 shall substitute in section 1 and section 3 the corresponding
10 act numbers for bills identified therein.

11 SECTION 6. This Act shall take effect upon its approval.

APPROVED this 29 day of JUN , 2009



GOVERNOR OF THE STATE OF HAWAII

