

JAN 26 2009

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**A BILL FOR AN ACT**

RELATING TO OBLIGATIONS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS TRUST FUND.

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

1           SECTION 1. Section 37-40, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§37-40 Exceptions; trust funds.** Except as to  
4 administrative expenditures, and except as otherwise provided by  
5 law, expenditures from trust funds may be made by any department  
6 or establishment without appropriation or allotment; provided  
7 that no expenditure shall be made from and no obligation shall  
8 be incurred against any trust fund in excess of the amount  
9 standing to the credit of the fund or for any purpose for which  
10 the fund may not lawfully be expended[-], except that  
11 obligations in excess of the amount standing to the credit of a  
12 department of Hawaiian home lands trust fund may be incurred,  
13 subject to such conditions that the director of finance believes  
14 to be reasonably necessary, when the director of finance  
15 determines that:

16           (1) Moneys to pay the obligation made in excess of the  
17           amount standing to the credit of the trust fund are

1           expected to be received by the trust fund within a  
2           reasonable time period; and

3           (2) With the approval of the governor, such action is in  
4           the best interests of the State and will not impede or  
5           hamper the financial obligations of the State.

6 Nothing in sections 37-31 to 37-41 shall require any trust fund  
7 established pursuant to law be reappropriated annually."

8           SECTION 2. Section 103D-309, Hawaii Revised Statutes, is  
9 amended by amending subsection (a) to read as follows:

10           "(a) Contracts awarded pursuant to section 103D-302, 103D-  
11 303, or 103D-306, shall neither be binding nor have any force  
12 and effect of law unless the comptroller, the director of  
13 finance of a county, or the respective chief financial officers  
14 of the department of education, the judiciary, or the  
15 legislative branches of the State or county, as the case may be,  
16 endorses thereon a certificate that there is an appropriation or  
17 balance of an appropriation over and above all outstanding  
18 contracts, sufficient to cover the amount required by the  
19 contract; provided that if the contract is a multi-term  
20 contract, the comptroller, director of finance, or chief  
21 financial officer shall only be required to certify that there  
22 is an appropriation or balance of an appropriation over and

1 above all outstanding contracts, that is sufficient to cover the  
2 amount required to be paid under the contract during the fiscal  
3 year or remaining portion of the fiscal year of each term of the  
4 multi-year contract; provided further that the administrator of  
5 the state procurement office shall attest in writing to any  
6 recommendation or solicitations. This section shall not apply  
7 to any contract under which the total amount to be paid to the  
8 contractor cannot be accurately estimated at the time the  
9 contract is to be awarded, or to any contract for which  
10 consideration is in kind or forbearance, or to any contract  
11 awarded pursuant to section 103D-306 that is a one-time payment  
12 through a purchase order[-], or to any contractual obligation  
13 approved by the governor under section 37-40."


14 SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken. New statutory material is underscored.

16 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

  
\_\_\_\_\_  
BY REQUEST

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**Report Title:**

Department of Hawaiian Home Lands; Obligation of Funds

**Description:**

Enables the Department of Hawaiian Home Lands to begin construction on affordable housing projects without having the full and final amount of the capital costs on hand at the beginning of the project.

JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO OBLIGATIONS OF THE DEPARTMENT OF HAWAIIAN HOME LANDS TRUST FUND.

PURPOSE: To enable the Department of Hawaiian Home Lands to begin projects without having the full and final amount of the capital costs on hand at the beginning of the project.

MEANS: Amend sections 37-40 and 103D-309(a), Hawaii Revised Statutes.

JUSTIFICATION: Currently, state-funded housing projects are required to have full capitalization funding on hand before proceeding. This requirement is unreasonable in projects where an income stream is derived by selling or leasing completed homes or improved lands. Changing the law to follow the private industry standard that allows a developer-contractor to be bonded and to proceed with only those funds needed to complete an identifiable phase of the project will allow state-financed affordable housing projects to be expedited.

Impact on the public: Will enable individuals on Hawaiian Home Lands waiting lists to purchase and occupy their homes more quickly.

Impact on the department and other agencies: Will allow the Department of Hawaiian Home Lands to fulfill their missions faster and more effectively.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED

AGENCIES:

Department of Hawaiian Home Lands, Budget  
and Finance.

EFFECTIVE DATE:

Upon approval.