

JAN 17 2020

A BILL FOR AN ACT

RELATING TO MANAGEMENT OF FINANCING AGREEMENTS.

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

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

3 1. By amending subsection (a), to be effective until
4 June 30, 2023, to read:

5 "(a) There is hereby established and authorized the
6 financing agreement program of the State. Any agency desiring
7 to acquire or improve projects through the financing agreement
8 program established and authorized by this chapter shall submit
9 a written request to the department providing any information
10 that the department shall require. Notwithstanding any other
11 law to the contrary, and except for the Hawaii health systems
12 corporation and its regional system boards, only with the
13 approval by the attorney general as to form and legality and
14 upon the written request of one or more agencies may the
15 department enter into a financing agreement in accordance with
16 this chapter, and only with the approval by the attorney general
17 as to form and legality, and by the director as to fiscal



1 responsibility, and upon the written request of an agency, the
2 agency may enter into a financing agreement in accordance with
3 this chapter, except that the department of education may enter
4 into a financing agreement in accordance with section 36-32 with
5 the concurrence of the director and with the approval of the
6 attorney general as to form and legality; and that the board of
7 regents of the University of Hawaii may enter into a financing
8 agreement in accordance with this chapter without the approval
9 of the director and of the attorney general as to form and
10 legality if the principal amount of the financing agreement does
11 not exceed \$3,000,000. A financing agreement may be entered
12 into by the department on behalf of one or more agencies, or by
13 an agency, at any time after the appropriation of available
14 moneys (before or after commencement or completion of any
15 improvements or acquisitions to be financed) and shall be upon
16 terms and conditions the department finds to be advantageous.
17 In each case of a written request by the judiciary to
18 participate in the financing agreement program, the department
19 shall implement the request; provided that the related financing
20 agreement shall be upon terms and conditions the department
21 finds to be advantageous. Any financing agreement entered into



1 by the department without the approval, or by an agency without
2 the approvals required by this section shall be void and of no
3 effect. A financing agreement entered into prior to an
4 appropriation of funds shall be void and of no effect. A single
5 financing agreement entered into by the department may finance a
6 single item or multiple items of property to be used by multiple
7 agencies or may finance a single item or multiple items of
8 property to be used by a single agency. If the financing
9 agreement is by the department, the department shall bill any
10 agency that benefits from property acquired with the proceeds of
11 a financing agreement for the agency's pro rata share of:
12 (1) The department's costs of administration of the
13 financing agreement program; and
14 (2) The financing costs, including the principal and
15 interest components of the financing agreement and
16 insurance premiums,
17 on a monthly or other periodic basis, and may deposit payments
18 received in connection with the billings with a trustee as
19 security for the financing agreement. Any agency receiving such
20 a bill shall be authorized and shall pay the amounts billed from
21 available moneys.



1 If a financing agreement is by an agency, the agency shall
2 deposit on a monthly or other periodic basis with the
3 department, payments from available moneys with respect to the
4 agency's financing costs, including the principal and interest
5 components of the financing agreement and insurance premiums,
6 which payments the department may deposit with a trustee as
7 security for the financing agreement. The department may bill
8 an agency for the department's costs of administering the
9 agency's payments and the agency receiving such a bill shall be
10 authorized to and shall pay the amounts billed from available
11 moneys."

12 2. By amending subsection (a), to be effective
13 July 1, 2023, to read:

14 "(a) There is hereby established and authorized the
15 financing agreement program of the State. Any agency desiring
16 to acquire or improve projects through the financing agreement
17 program established and authorized by this chapter shall submit
18 a written request to the department providing any information
19 that the department shall require. Notwithstanding any other
20 law to the contrary, and except for the Hawaii health systems
21 corporation and its regional system boards, only with the



1 approval by the attorney general as to form and legality and
2 upon the written request of one or more agencies may the
3 department enter into a financing agreement in accordance with
4 this chapter, and only with the approval by the attorney general
5 as to form and legality, and by the director as to fiscal
6 responsibility, and upon the written request of an agency, the
7 agency may enter into a financing agreement in accordance with
8 this chapter, except that the board of regents of the University
9 of Hawaii may enter into a financing agreement in accordance
10 with this chapter without the approval of the director and of
11 the attorney general as to form and legality if the principal
12 amount of the financing agreement does not exceed \$3,000,000. A
13 financing agreement may be entered into by the department on
14 behalf of one or more agencies, or by an agency, at any time
15 after the appropriation of available moneys (before or after
16 commencement or completion of any improvements or acquisitions
17 to be financed) and shall be upon terms and conditions the
18 department finds to be advantageous. In each case of a written
19 request by the judiciary to participate in the financing
20 agreement program, the department shall implement the request;
21 provided that the related financing agreement shall be upon



1 terms and conditions the department finds to be advantageous.
2 Any financing agreement entered into by the department without
3 the approval, or by an agency without the approvals required by
4 this section shall be void and of no effect. A financing
5 agreement entered into prior to an appropriation of funds shall
6 be void and of no effect. A single financing agreement entered
7 into by the department may finance a single item or multiple
8 items of property to be used by multiple agencies or may finance
9 a single item or multiple items of property to be used by a
10 single agency. If the financing agreement is by the department,
11 the department shall bill any agency that benefits from property
12 acquired with the proceeds of a financing agreement for the
13 agency's pro rata share of:

- 14 (1) The department's costs of administration of the
15 financing agreement program; and
- 16 (2) The financing costs, including the principal and
17 interest components of the financing agreement and
18 insurance premiums,
19 on a monthly or other periodic basis, and may deposit payments
20 received in connection with the billings with a trustee as
21 security for the financing agreement. Any agency receiving such



1 a bill shall be authorized and shall pay the amounts billed from
2 available moneys.

3 If a financing agreement is by an agency, the agency shall
4 deposit on a monthly or other periodic basis with the
5 department, payments from available moneys with respect to the
6 agency's financing costs, including the principal and interest
7 components of the financing agreement and insurance premiums,
8 which payments the department may deposit with a trustee as
9 security for the financing agreement. The department may bill
10 an agency for the department's costs of administering the
11 agency's payments and the agency receiving such a bill shall be
12 authorized to and shall pay the amounts billed from available
13 moneys."

14 SECTION 2. New statutory material is underscored.

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

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INTRODUCED BY:

[Handwritten signatures: R. D. ...]
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S.B. NO. **2492**

Rosalyn H. Baker



S.B. NO. 2492

Report Title:

Financing Agreement Program

Description:

Amends section 37D-2(a), HRS, to require appropriation of funds before departments may enter into financing agreements.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

