A BILL FOR AN ACT

RELATING TO MANAGEMENT OF FINANCING AGREEMENTS.

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

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

1. By amending subsection (a) to read:

"(a) There is hereby established and authorized the financing agreement program of the State. Any agency desiring to acquire or improve projects through the financing agreement program established and authorized by this chapter shall submit a written request to the department providing any information that the department shall require. Notwithstanding any other law to the contrary, and except for the Hawaii health systems corporation and its regional system boards, only with the approval by the attorney general as to form and legality and upon the written request of one or more agencies may the department enter into a financing agreement in accordance with this chapter, and only with the approval by the attorney general as to form and legality, and by the director as to fiscal responsibility, and upon the written request of an agency, the
agency may enter into a financing agreement in accordance with this chapter, except that the department of education may enter into a financing agreement in accordance with section 36-32 with the concurrence of the director and with the approval of the attorney general as to form and legality; and that the board of regents of the University of Hawaii may enter into a financing agreement in accordance with this chapter without the approval of the director and of the attorney general as to form and legality if the principal amount of the financing agreement does not exceed $3,000,000. A financing agreement may be entered into by the department on behalf of one or more agencies, or by an agency, at any time after the appropriation of available moneys (before or after commencement or completion of any improvements or acquisitions to be financed) and shall be upon terms and conditions the department finds to be advantageous.

In each case of a written request by the judiciary to participate in the financing agreement program, the department shall implement the request; provided that the related financing agreement shall be upon terms and conditions the department finds to be advantageous. Any financing agreement entered into by the department without the approval, or by an agency without...
the approvals required by this section shall be void and of no effect. A financing agreement entered into prior to an appropriation of funds for a project that will incur a cumulative cost of more than $5,000,000 shall be void and of no effect. A single financing agreement entered into by the department may finance a single item or multiple items of property to be used by multiple agencies or may finance a single item or multiple items of property to be used by a single agency. If the financing agreement is by the department, the department shall bill any agency that benefits from property acquired with the proceeds of a financing agreement for the agency's pro rata share of:

(1) The department's costs of administration of the financing agreement program; and
(2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums, on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for the financing agreement. Any agency receiving such
a bill shall be authorized and shall pay the amounts billed from available moneys.

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

The $5,000,000 limit shall apply to the total amount of moneys used to finance each project including any expenses related to that project; provided that that projects shall not be artificially divided or parceled so as to evade the requirements of this section."

2. By amending subsection (a) to read:

"(a) There is hereby established and authorized the financing agreement program of the State. Any agency desiring
to acquire or improve projects through the financing agreement
program established and authorized by this chapter shall submit
a written request to the department providing any information
that the department shall require. Notwithstanding any other
law to the contrary, and except for the Hawaii health systems
corporation and its regional system boards, only with the
approval by the attorney general as to form and legality and
upon the written request of one or more agencies may the
department enter into a financing agreement in accordance with
this chapter, and only with the approval by the attorney general
as to form and legality, and by the director as to fiscal
responsibility, and upon the written request of an agency, the
agency may enter into a financing agreement in accordance with
this chapter, except that the board of regents of the University
of Hawaii may enter into a financing agreement in accordance
with this chapter without the approval of the director and of
the attorney general as to form and legality if the principal
amount of the financing agreement does not exceed $3,000,000. A
financing agreement may be entered into by the department on
behalf of one or more agencies, or by an agency, at any time
after the appropriation of available moneys (before or after
commencement or completion of any improvements or acquisitions
to be financed) and shall be upon terms and conditions the
department finds to be advantageous. In each case of a written
request by the judiciary to participate in the financing
agreement program, the department shall implement the request;
provided that the related financing agreement shall be upon
terms and conditions the department finds to be advantageous.
Any financing agreement entered into by the department without
the approval, or by an agency without the approvals required by
this section shall be void and of no effect. A financing
agreement entered into prior to an appropriation of funds for a
project that will incur a cumulative cost of more than
$5,000,000 shall be void and of no effect. A single financing
agreement entered into by the department may finance a single
item or multiple items of property to be used by multiple
agencies or may finance a single item or multiple items of
property to be used by a single agency. If the financing
agreement is by the department, the department shall bill any
agency that benefits from property acquired with the proceeds of
a financing agreement for the agency's pro rata share of:
(1) The department's costs of administration of the financing agreement program; and

(2) The financing costs, including the principal and interest components of the financing agreement and insurance premiums, on a monthly or other periodic basis, and may deposit payments received in connection with the billings with a trustee as security for the financing agreement. Any agency receiving such a bill shall be authorized and shall pay the amounts billed from available moneys.

If a financing agreement is by an agency, the agency shall deposit on a monthly or other periodic basis with the department, payments from available moneys with respect to the agency's financing costs, including the principal and interest components of the financing agreement and insurance premiums, which payments the department may deposit with a trustee as security for the financing agreement. The department may bill an agency for the department's costs of administering the agency's payments and the agency receiving such a bill shall be authorized to and shall pay the amounts billed from available moneys.
The $5,000,000 limit shall apply to the total amount of moneys used to finance each project including any expenses related to that project; provided that that projects shall not be artificially divided or parceled so as to evade the requirements of this section."

SECTION 2. New statutory material is underscored.

SECTION 3. This Act shall take effect upon its approval; provided that:

(1) The amendments made to section 37D-2(a), Hawaii Revised Statutes, in section 1(1) of this Act shall be repealed on June 30, 2023; and

(2) The amendments made to section 37D-2(a), Hawaii Revised Statutes, in section 1(2) of this Act shall take effect on July 1, 2023.
Report Title:
Financing Agreement; Cap

Description:
Requires appropriation of funds before departments may enter into financing agreements for a project with a cumulative cost exceeding five million dollars. Prohibits the parceling of projects to circumvent (SD1)

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