



GOV. MSG. NO. 915

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 8, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth 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 8, 2007, the following bill was signed into law:

HB1787 HD1 SD2

A BILL FOR AN ACT RELATING TO ENERGY
RESOURCES.
(ACT 157)

Sincerely,

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

LINDA LINGLE

Approved by the Governor

on JUN 8 2007

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

ACT 157

H.B. NO.

1787
H.D. 1
S.D. 2

A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1 SECTION 1. Section 196-11, Hawaii Revised Statutes, is
2 amended by adding two new definitions to be appropriately
3 inserted and to read as follows:

4 ""Commissioning" means a quality-oriented process, which
5 takes place during design and construction, for achieving,
6 verifying, and documenting that the performance of facilities,
7 systems, and assemblies meets defined objectives and criteria
8 with regards to energy conservation design strategies and the
9 energy performance of buildings.

10 "Retro-commissioning" means a quality-oriented process,
11 which takes place after systems have been placed in operation,
12 for achieving, verifying, and documenting that the performance
13 of facilities, systems, and assemblies perform as closely as
14 possible to defined performance criteria, with regards to energy
15 conservation design strategies and the energy performance of
16 buildings."



1 SECTION 2. Section 196-11, Hawaii Revised Statutes, is
2 amended by amending the definition of "energy-savings
3 performance contract" to read as follows:

4 ~~"["Energy savings]~~ "Energy performance contract" ~~[means an~~
5 ~~agreement for the provision of energy services and equipment,~~
6 ~~including building energy conservation enhancing retrofits and~~
7 ~~alternate energy technologies, in which a private sector person~~
8 ~~or company agrees to finance, design, construct, install,~~
9 ~~maintain, operate, or manage energy systems or equipment to~~
10 ~~improve the energy efficiency of, or produce energy in~~
11 ~~connection with, a facility in exchange for a portion of the~~
12 ~~cost savings, lease payments, or specified revenues including~~
13 ~~utility rebates and any other available incentives, and the~~
14 ~~level of payments is made contingent upon the verified energy~~
15 ~~savings, energy production, avoided maintenance, avoided energy~~
16 ~~equipment replacement, or any combination of the foregoing~~
17 ~~bases.]~~ shall have the same meaning as in section 36-41(d), and
18 shall additionally include commissioning and retro-
19 commissioning."

20 SECTION 3. Section 196-21, Hawaii Revised Statutes, is
21 amended by amending subsection (c) to read as follows:



1 "(c) Notwithstanding any law to the contrary relating to
2 the award of public contracts, any agency desiring to enter into
3 an [~~energy-savings~~] energy performance contract shall do so in
4 accordance with the following provisions:

5 (1) The agency shall issue a public request for proposals,
6 advertised in the same manner as provided in chapter
7 103D, concerning the provision of energy-efficiency
8 services or the design, installation, operation, and
9 maintenance of energy equipment. The request for
10 proposals shall contain terms and conditions relating
11 to submission of proposals, evaluation, and selection
12 of proposals, financial terms, legal responsibilities,
13 and other matters as may be required by law and as the
14 agency determines appropriate;

15 (2) Upon receiving responses to the request for proposals,
16 the agency shall select the most qualified proposal or
17 proposals and may base its determination on the basis
18 of the experience and qualifications of the proposers,
19 the technical approach, the financial arrangements,
20 the overall benefits to the agency, or other factors
21 determined by the agency to be relevant and
22 appropriate;

1 (3) The agency thereafter may negotiate and enter into an
2 [~~energy savings~~] energy performance contract with the
3 person or company whose proposal is selected as the
4 most qualified based on the criteria established by
5 the agency;

6 (4) The term of any [~~energy savings~~] energy performance
7 contract entered into pursuant to this section shall
8 not exceed [~~fifteen~~] twenty years;

9 (5) Any [~~energy savings~~] energy performance contract may
10 provide that the agency ultimately shall receive title
11 to the energy system being financed under the
12 contract; and

13 (6) Any [~~energy savings~~] energy performance contract shall
14 provide that total payments shall not exceed total
15 savings."

16 SECTION 4. Section 196-22, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§196-22 State energy projects.** State energy projects may
19 be implemented under this chapter with the approval of the
20 comptroller and the director of finance [~~. Notwithstanding~~
21 ~~section 36-41 or 196-21, the comptroller or the senior agency~~
22 ~~official of the department of accounting and general services,~~



1 ~~along with the director of finance, may exempt a state energy~~
 2 ~~project from the advertising and competitive bidding~~
 3 ~~requirements of section 36-41 or 196-21 and chapter 103, if the~~
 4 ~~comptroller deems exemption appropriate for energy projects with~~
 5 ~~proprietary technology or necessary to meet the goals of the~~
 6 ~~legislature.] or their designees. In addition, this section~~
 7 shall be construed to provide the greatest possible flexibility
 8 to agencies in structuring agreements so that economic benefits
 9 and existing energy incentives may be used and maximized, and
 10 financing and other costs to agencies may be minimized. The
 11 specific terms of [~~energy savings~~] energy performance
 12 contracting under section 36-41 may be altered if deemed
 13 advantageous to the agency and approved by the director of
 14 finance and the [~~senior agency official.~~] comptroller."

15 SECTION 5. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

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

APPROVED this 8 day of JUN , 2007



GOVERNOR OF THE STATE OF HAWAII

