
A BILL FOR AN ACT

RELATING TO CLEAN ENERGY.

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

1 PART I

2 SECTION 1. The legislature finds that the initial capital
3 investment required by property owners to install renewable
4 energy systems and energy efficiency improvements on residential
5 and commercial properties is a significant barrier to reaching
6 the State's clean energy target of generating all of Hawaii's
7 electricity through renewable energy sources by the end of 2045.

8 The legislature further finds that during the 2010 regular
9 session, House Bill No. 2643 H.D. 2, S.D. 2, proposed a type of
10 property assessed clean energy program, titled the Hawaii clean
11 energy bond loan program. This program proposed allowing
12 commercial and residential property owners to take loans to fund
13 energy efficiency improvements with repayments on the loans made
14 through an increased property tax assessment on the property.
15 The measure raised concerns by the Federal Housing Finance
16 Agency which questioned whether the loan lien would have
17 priority over a mortgage lien. While House Resolution No. 47,



1 H.D. 1, Regular Session 2010, and a subsequent report by the
2 department of business, economic development, and tourism
3 addressed some of the concerns with the bill, no property
4 assessed clean energy program has been enacted in Hawaii.

5 On August 24, 2015, President Barack Obama announced new
6 actions to bring renewable energy and energy efficiency to
7 households across the country. Through subsequent actions by
8 the Federal Housing Administration and the United States
9 Department of Housing and Urban Development, the federal
10 government set forth guidelines to address the Federal Housing
11 Finance Agency's lien priority concerns regarding property
12 assessed clean energy programs.

13 Accordingly, the legislature finds that now is the
14 appropriate time for Hawaii to enact property assessed clean
15 energy legislation.

16 The purpose of this Act is to establish an additional form
17 of financing for commercial and residential property owners to
18 implement energy efficiency improvements and install renewable
19 energy systems.



PART II

SECTION 2. Chapter 196, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . HAWAII PROPERTY ASSESSED CLEAN ENERGY PROGRAM

§196-A Definitions. As used in this part:

"Department" means the department of business, economic development, and tourism.

"Director" means the director of business, economic development, and tourism.

"Energy efficiency improvements":

(1) Means installation or physical modifications to property designed to reduce energy consumption;

(2) For the purposes of this part, do not include fixtures specific to a certain trade or appliances such as washing machines, dryers, dishwashers, non-centralized air-conditioning units, and all similar appliances; and

(3) Shall include the following:

(A) Air sealing and ventilation;

(B) Insulation;



- 1 (C) Space heating and cooling;
- 2 (D) Solar hot water systems;
- 3 (E) Hardwired lighting;
- 4 (F) Daylighting;
- 5 (G) Windows;
- 6 (H) Doors and skylights;
- 7 (I) Reflective roofs; and
- 8 (J) Energy efficiency improvements to pool equipment
- 9 and landscaping.

10 "Loan program" means the Hawaii property assessed clean
11 energy program.

12 "Participating county" means a county that has agreed to
13 take part in the loan program by taking the legal action as is
14 necessary under its real property tax system to levy upon a
15 property benefited by the loan a special assessment of an amount
16 necessary to repay each loan financed under the loan program.

17 "Property owner" means the person who holds title to or is
18 in possession of the subject real property, or the person's
19 lessee or agent.

20 "Renewable energy system":



(1) Means a system that produces thermal or electrical energy from renewable sources, including units with an electrical back-up or storage component, intended for use within the residential or commercial property on which it is located; and

(2) Shall include the following systems:

(A) Solar photovoltaic systems;

(B) Wind systems with capacity to generate no more than fifty kilowatts of electricity; and

(C) Biogas systems.

§196-B Hawaii property assessed clean energy program.

Notwithstanding section 39-112, there is established the Hawaii property assessed clean energy program, which shall be administered by the director.

§196-C Hawaii property assessed clean energy revolving

fund. (a) There is established the Hawaii property assessed clean energy revolving fund, into which shall be deposited:

(1) Proceeds from the issuance of revenue bonds that are deposited into the revolving fund;

(2) Repayments of moneys loaned from the revolving fund and interest earned on those moneys;



- 1 (3) Moneys received from the operation of the loan
2 program;
3 (4) Appropriations made by the legislature to the
4 revolving fund;
5 (5) Interest earned from the investment of moneys in the
6 revolving fund; and
7 (6) Any moneys received from grants.

8 (b) Moneys in the Hawaii property assessed clean energy
9 revolving fund shall be used for the following purposes:

- 10 (1) To make loans to residential and commercial property
11 owners for energy efficiency improvements and
12 renewable energy systems;
13 (2) To repay any debt service on the revenue bonds, the
14 proceeds of which are deposited into the revolving
15 fund; and
16 (3) For administrative expenses relating to the operation
17 of the fund and the loan program.

18 **§196-D Powers.** The director may:

- 19 (1) Enter into contracts relating to the operation of the
20 loan program including administering the loan program;
21 and



(2) Perform all functions necessary to effectuate the purposes of this part.

§196-E Rules. The department shall adopt rules pursuant to chapter 91 to carry out the purposes of this part, including the following:

(1) Prescribing the qualifications for eligibility of applicants for loans;

(2) Establishing preferences and priorities in determining eligibility for loans;

(3) Establishing the conditions, consistent with the purposes of this part, for the granting of or for the continuance of a grant of a loan;

(4) Providing for inspection at reasonable hours of the structures, equipment, books, and records of the entity that has applied for or has been granted a loan, and requiring the submission of reports as may be requested by the department;

(5) Establishing rates and charges for the operation of the loan program; and

(6) Establishing requirements for single-family properties subject to this part to comply with property assessed



1 clean energy loan guidelines established by the
2 Federal Housing Administration.

3 **§196-F Loans.** (a) The department may make loans to
4 qualifying commercial and residential property owners for energy
5 efficiency improvements and renewable energy systems in a
6 participating county. The participating county shall remit the
7 moneys to the Hawaii property assessed clean energy revolving
8 fund and shall receive reasonable compensation for its services.

9 (b) The loan repayment charge may include the amount of
10 the loan, interest on the loan, and the costs incurred by the
11 department to implement and administer the loan program.

12 (c) The loans shall be subject to the terms and conditions
13 specified in rules adopted by the department.

14 (d) The department shall record a lien on the property
15 benefited by the loan. The lien shall attach to the property on
16 which the installation or improvements pursuant to this part
17 were made.

18 (e) Notwithstanding any law to the contrary, if the
19 director determines that the department is unable to issue a
20 sufficient number of loans to offset the reasonable cost to the
21 department of operating the loan program, the director may delay



1 or suspend the loan program in one or more participating
2 counties or may delay or suspend any feature of the loan
3 program.

4 **§196-G Liens.** The lien recorded pursuant to section
5 196-F(d) shall relate to and take effect from the date of
6 completion of all contracted improvements, installations, and
7 operations undertaken by the property owner in accordance with
8 this part."

9 PART III

SECTION 3. Purpose. This part shall govern, with respect to the Hawaii property assessed clean energy program, the practice and procedure before the State; program administrator; department of business, economic development, and tourism; and the department of budget and finance and shall be construed to promote increased activity in residential and commercial renewable energy projects, stimulate the State's clean energy sector, reach energy efficiency and clean energy goals, increase energy security, encourage economic diversification, provide increased career opportunities for Hawaii residents, and attract funding and investment into the State. The Hawaii property assessed clean energy program shall begin on July 1, 2022, and



1 no loans shall be issued after December 31, 2040. The purpose
2 of this part is to clarify the role of the program administrator
3 and the program application processes for counties and
4 applicants.

5 SECTION 4. Definitions. In addition to the definitions
6 contained in part II of this Act, the following definitions
7 shall apply to this part:

8 "Commercial properties" and "residential properties" mean
9 those properties as defined by the county code for the
10 particular county in which the property is located and do not
11 fall under the category of facilities.

12 SECTION 5. Program administrator. The powers and duties
13 of the program administrator are as contained in this part. The
14 administrator shall be selected through a competitive bidding
15 process pursuant to chapter 103D, Hawaii Revised Statutes. The
16 administrator shall have the authority to hire private
17 subcontractors for the purposes of energy inspections and
18 audits. The administrator shall:

19 (1) Establish criteria and procedures for the
20 qualification of technologies and systems, perform
21 energy inspections and audits, including identifying



1 the energy efficiency improvements and renewable
2 energy systems that qualify for the loan program
3 financing, and develop appropriate procedures for the
4 qualification of these improvements and systems;

5 (2) Calculate a property's current energy consumption and
6 energy costs when an application is submitted by the
7 property owner, and estimate the potential cost
8 benefits that could be realized through energy
9 efficiency improvements or installation of renewable
10 energy systems on the subject property;

11 (3) Provide education and training on energy efficiency
12 improvements to applicants, including education and
13 training on the selection and use of improvements to
14 maximize energy efficiency;

15 (4) Prescribe loan repayment periods and provide projected
16 property tax assessment estimates when the applicant
17 opts to take advantage of the financing made available
18 under this Act, including establishing deadlines for
19 loan repayments and providing applicant property
20 owners the projected property tax assessment estimates
21 that will be due and collected along with the ad



1 valorem property tax bill; provided that the length of
2 time allowed for the property owner to repay the
3 assessment shall not exceed the life expectancy of the
4 systems or improvements; provided further that where
5 multiple systems or improvements have been installed,
6 the length of time shall not exceed the average
7 lifetime of all projects, weighted by cost;

8 (5) Assist the counties with administrative duties related
9 to the execution of this Act, including:

10 (A) Initiation and authorship of any and all written
11 agreements between participating property owners
12 and the counties or funding institutions;

13 (B) Public outreach and program promotion within the
14 counties, including community informational
15 briefings and making available information
16 related to the program; and

17 (C) Any revision to existing county documents and
18 systems needed to efficiently collect property
19 tax assessment payments from property owners;

20 (6) Distribute state bond proceeds appropriated for this
21 program to participating property owners, private



1 contractors, or funding institutions, including
2 responsibility for ensuring loan repayment to the
3 State from revenues generated by participating county
4 property tax assessments under this part; and

5 (7) Collect, compile, and report all data and information
6 relating to the loan program to the State, department,
7 and the department of budget and finance; provided
8 that the criteria, qualifications and procedures, and
9 lifetimes of projects described in paragraphs (1) and
10 (3) shall be determined with approval from the
11 department.

12 SECTION 6. Program application requirements for counties.

13 (a) Local ordinance requirement. For a county to access
14 funding generated by the sale of bonds issued by the State, the
15 county shall voluntarily agree to participate in the State's
16 loan program by enacting an ordinance or other legally binding
17 action. Subsequently, county officials shall submit a report to
18 the department for approval.

19 (b) County report. County reports shall include:

20 (1) A draft contract agreement between participating
21 property owners and the county government;



- 1 (2) A list of eligible distributed renewable energy
- 2 systems;
- 3 (3) A list of eligible energy-efficiency improvements;
- 4 (4) A designated county official who is authorized to
- 5 enter into contractual assessments on behalf of the
- 6 county;
- 7 (5) A maximum aggregate dollar amount for any contractual
- 8 assessments;
- 9 (6) A method for prioritizing applications or requests if
- 10 applications exceed the authorization amount;
- 11 (7) A plan for dispersing the capital amount required to
- 12 pay for work performed pursuant to contractual
- 13 assessments; and
- 14 (8) An accounting of any costs incidental to the
- 15 financing, administration, and collection of the
- 16 contractual assessment for the county.
- 17 (c) Real property assessments and payments to the State.
- 18 The applicable portion of property assessment payments from the
- 19 affected properties within the participating county or counties,
- 20 upon agreement between the State and the county or counties,



1 shall be applied to service the State debt on the bonds issued
2 pursuant to this Act.

3 SECTION 7. Program application process for property
4 owners. (a) Properties with existing public liens, including
5 liens resulting from delinquent green infrastructure loans made
6 pursuant to part IV of chapter 196, Hawaii Revised Statutes,
7 shall not be eligible for the loan program. The department may
8 grant exemptions to this restriction on a case-by-case basis
9 upon request from the applicant. Properties that are valued at
10 less than the total amount owed to the mortgage lender are not
11 eligible for the loan program. All subsequent liens placed on
12 the subject property after loan funds have been dispersed
13 pursuant to this Act shall be subordinate. The loan applicant
14 shall possess title for the subject property as well as
15 documentation to prove timely mortgage payments if applicable.

16 (b) Loan application prerequisites. The department, in
17 consultation with the administrator, shall establish eligibility
18 criteria for site inspections and individuals or entities
19 wishing to conduct site inspections. An onsite energy
20 inspection to determine total monthly energy consumption and
21 estimated potential energy savings is required for projects



1 valued at more than five per cent of the total value of the
2 subject property in order to participate in the program. Onsite
3 energy inspections or audits may be performed by private
4 contractors subcontracted by the administrator or by persons
5 employed by the administrator; provided that they meet the
6 criteria established by the department. The department shall
7 retain the authority to conduct onsite energy inspections for
8 any and all applications if deemed necessary by the director.

9 (c) Loan application review process. The administrator,
10 or in the case of projects valued at \$100,000 or more, the
11 department, shall accept the loan application so long as it is
12 complete and complies with the loan application prerequisites
13 and application process of this part. If the loan application
14 is accepted, the loan application reviewer shall notify the
15 applicant of acceptance in writing within thirty days. If the
16 loan application does not meet the requirements of this part,
17 the loan application reviewer, not more than thirty days from
18 the submission of the loan application, shall provide the
19 applicant with a written report of the reasons why the loan
20 application is incomplete. The loan application shall be
21 approved or denied not more than ninety days from the date of



1 acceptance, and the loan applicant shall be informed of the
2 action in writing not more than thirty days from the day the
3 action is taken on the loan application.

4 (d) Loan disbursement. Once a loan is approved, the loan
5 applicant shall have thirty days upon receipt of the acceptance
6 to either agree or reject the terms of the loan. If the loan
7 applicant agrees to the terms of the loan, then the financial
8 institution handling the applicable loan program funds shall
9 disburse the appropriate amount to the businesses hired to
10 perform the contractually agreed upon services.

11 (e) Loan repayment. Loans shall be repaid through
12 revenues generated by a special assessment on real property tax
13 bills. The liability to repay the loan shall be attached to the
14 property as an assessment on real property. The participating
15 county in which the assessed property is located shall be
16 responsible for repayment to the State, but shall not be held
17 liable if a default occurs on the loan. Loans for amounts over
18 \$5,000 may be repaid over a period of ten to twenty years, at
19 the program administrator's discretion. The length of time
20 allowed for the property owner to repay the assessment shall not
21 exceed the life expectancy of the system or improvement. Where



multiple systems or improvements have been installed, the length of time for the property owner to repay the loan shall not exceed the average lifetime of all projects, weighted by cost. Projects valued at \$100,000 or more shall require approval by the department. A loan pursuant to this Act shall not exceed \$250,000.

(f) Loan re-application. If a loan application is denied, the applicant may re-apply for the denied loan only if the problems that were the grounds for denial under the preceding loan application have been remedied.

PART IV

SECTION 8. The director of finance is authorized to issue revenue bonds in the sum of \$ or so much thereof as may be necessary and the same sum or so much thereof as may be necessary is appropriated for fiscal year 2022-2023 for deposit into the Hawaii property assessed clean energy program revolving fund.

SECTION 9. There is appropriated out of the Hawaii property assessed clean energy program revolving fund the sum of \$ or so much thereof as may be necessary for fiscal year 2022-2023 for the purposes of this Act.



1 The sum appropriated shall be expended by the department of
2 business, economic development, and tourism for the purposes of
3 this Act.

4 SECTION 10. This Act does not in any way prohibit or limit
5 the counties' authority to institute a similar financing program
6 for and within their respective county, independent of State
7 partnership or involvement.

8 SECTION 11. If any provision of this Act, or the
9 application thereof to any person or circumstance is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act, which can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 12. This Act shall take effect on July 1, 2022;
15 provided that part III shall be repealed upon the adoption of
16 administrative rules in accordance with chapter 91, Hawaii
17 Revised Statutes, by the department of business, economic
18 development, and tourism to effectuate part II of this Act.

19
INTRODUCED BY:



JAN 24 2022



H.B. NO. 2048

Report Title:

Bond Loan; Property Assessed Clean Energy Program; PACE;
Renewable Energy; Revenue Bond Authorization; Special Fund
Appropriation

Description:

Establishes a property assessed clean energy program to promote renewable energy systems and energy efficiency improvements. Increases a property's tax assessment to make loan payments. Authorizes the issuance of revenue bonds and appropriates bond revenues to finance the program.

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