
A BILL FOR AN ACT

RELATING TO GREEN INFRASTRUCTURE.

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

1 SECTION 1. The legislature finds that although the
2 coronavirus disease 2019 pandemic demonstrated the importance of
3 ensuring the health of our people and economy, it is equally
4 important to invest resources sufficient to ensure Hawaii's
5 environmental health. The legislature further finds that there
6 is a compelling interest for state government to provide non-
7 traditional financing options to assist low and moderate-income
8 homeowners and other eligible property owners to voluntarily
9 undertake projects for the upgrade, conversion, or connection to
10 municipal or private wastewater systems, installation of energy
11 conservation, or renewable energy retrofits because properties
12 that are not protected from harmful environmental health hazards
13 contribute to the environmental health burdens affecting the
14 State. For example, properties that do not use energy
15 conservation or production strategies are contrary to the state
16 renewable energy standard and contribute to the reliance on
17 fossil fuels. In addition, properties that do not use septic



1 tanks or are not connected to wastewater sewage systems
2 contribute to water quality problems affecting the State.

3 The legislature also finds that innovative, non-traditional
4 financing options and repayment mechanisms such as property
5 assessed financing contracts and voluntary assessments are
6 reasonable and necessary, not only to improve a property's
7 resilience and remove health hazards, but to bridge financing
8 gaps, attract private capital, and address specific market
9 failures and institutional barriers; thereby accelerating
10 economic recovery and economic diversification efforts
11 statewide.

12 Accordingly, the purpose of this Act is to require the
13 Hawaii green infrastructure authority to:

- 14 (1) Establish an at or below-market interest loan program
15 to provide financial assistance to certain parties for
16 certain green infrastructure improvements; and
17 (2) Authorize property assessed financing through various
18 mechanisms, including but not limited to non-ad
19 valorem special tax assessments and property assessed
20 financing assessment contracts.



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

4 "§196-A Environmental and economic development revolving
5 loan program. The authority shall design and administer an
6 environmental and economic development revolving loan program
7 that provides at or below-market rates or other authorized
8 financial assistance to eligible public, private, and nonprofit
9 borrowers for environmental and economic diversification
10 investments, qualifying improvements, or other authorized uses,
11 on terms approved by the authority, including lessees on
12 Hawaiian home lands with cesspools or septic systems to be
13 upgraded or converted to director of health-approved wastewater
14 systems or connected to sewer systems.

15 §196-B Environmental and economic development revolving
16 loan fund. (a) There is established, in the Hawaii green
17 infrastructure special fund established under section 196-65,
18 the environmental and economic development revolving loan fund
19 into which shall be deposited:

20 (1) Funds from federal, state, county, private, or other
21 funding sources;



- 1 (2) Investments from public or private investors;
- 2 (3) Moneys received as repayment of loans and interest
3 payments; provided that the repayment of loans and
4 interest payments under this paragraph shall not
5 include repayment of loans and interest collected as a
6 result of funds advanced from proceeds of the green
7 energy market securitization bonds; and
- 8 (4) Any fees collected by the authority pursuant to this
9 section; provided that moneys collected as a result of
10 the funds advanced from proceeds of the green energy
11 market securitization bonds shall be kept separate
12 from fees collected as a result of funds advanced from
13 proceeds of this fund so that no such separate moneys
14 shall be used to fund or guarantee any environmental
15 and economic development revolving loan purposes.
- 16 (b) Moneys in the environmental and economic development
17 revolving loan fund shall be used to provide at or below-market
18 rates or other authorized financial assistance pursuant to the
19 environmental and economic development revolving loan program
20 established pursuant to section 196-A. Moneys from the fund may
21 be used to cover administrative and legal costs of fund



1 management and management associated with individual loans, to
2 include personnel, services, technical assistance, data
3 collection and reporting, materials, equipment, and travel for
4 the purposes of this section.

5 (c) The environmental and economic development revolving
6 loan fund shall be similar to a revolving line of credit, which
7 shall be administered by the authority. Appropriations or
8 authorizations from the fund shall be expended by the authority.
9 The authority may contract with other public or private entities
10 for the provision of all or a portion of the services necessary
11 for the administration and implementation of the environmental
12 and economic development revolving loan program. The authority
13 may establish subaccounts within the fund as necessary. The
14 authority may set fees or charges for fund management and
15 technical site assistance provided under this section. Funds
16 deposited into the environmental and economic development
17 revolving loan fund shall not be under the jurisdiction of nor
18 be subject to Hawaii public utilities commission approval.

19 (d) All interest earned on the loans, deposits, or
20 investments of the moneys in the environmental and economic
21 development revolving loan fund shall become part of the fund.



1 (e) The authority may adopt rules pursuant to chapter 91
2 to carry out the purposes of this section.

3 §196-C Property assessed financing program. (a) The
4 authority shall design and administer a special improvement
5 program to be known as a property assessed financing program
6 authorized pursuant to section 46-80(b) to finance qualifying
7 improvements on commercial and residential properties that are
8 repaid through a non-ad valorem special tax assessment on the
9 property owner's property tax bill. The program shall address
10 market needs while attracting private capital.

11 (b) Any county that has a charter may authorize the
12 authority, pursuant to this section, to offer a property
13 assessed financing program within its jurisdiction and may
14 contract with the authority for this purpose.

15 (c) A property owner may apply to a property assessed
16 financing lender that is approved by the authority for property
17 assessed financing to pay the costs of qualifying improvements
18 and enter into a property assessed financing contract with the
19 approved property assessed financing lender and the authority.
20 Costs incurred for qualifying improvements shall be levied and
21 collected by each county as provided in section 196-E, as a non-



1 ad valorem special tax assessment on the benefitted property.
2 The authority, on behalf of the State, may issue revenue bonds
3 to finance or refinance the improvements, and the form of any
4 revenue bond may be a property assessed financing assessment
5 contract or other instrument prescribed by the authority. Bonds
6 issued to finance qualified improvements, when the only security
7 is the special tax assessment levied against benefitted or
8 improved property, shall be excluded from any determination of
9 the power of the State to issue general obligation bonds or
10 funded debt for purposes of article VII, section 13, of the
11 Hawaii State Constitution.

12 **§196-D Property assessed financing assessment contracts.**

13 (a) A property assessed financing lender may enter into a
14 property assessed financing assessment contract to finance or
15 refinance a qualifying improvement only with the recorded owner
16 of the affected property and the authority. Each property
17 assessed financing assessment contract shall be executed by the
18 authority as the administrator of the property assessed
19 financing program. A property assessed financing assessment
20 contract shall require the authority to assign, pledge, and
21 transfer revenues to be derived from property assessed financing



1 assessments to one or more property assessed financing lenders
2 as security for their direct financing of qualifying
3 improvements. The obligation of the authority to transfer the
4 revenues to one or more property assessed financing lenders
5 shall be evidenced by a revenue bond issued on behalf of the
6 State by the authority in a form prescribed by the authority,
7 which may include the property assessed financing assessment
8 contract or other instrument. No bonds shall be required to be
9 issued by the State, the authority, any county or city, or any
10 other public entity in order to cause qualifying improvements to
11 be funded through a property assessed financing assessment
12 contract. The installation of qualifying improvements shall be
13 affixed to a building or facility or affixed to real property,
14 subject to property assessed financing assessments.

15 (b) Before entering into a property assessed financing
16 assessment contract, the property assessed financing lender
17 shall reasonably determine that:

18 (1) For residential properties:

19 (A) The property owner is able to pay the estimated
20 annual property assessed financing assessment;



- 1 (B) All property taxes, and any other assessments
2 levied on the same bill as property taxes, are
3 paid and have not been delinquent for the
4 preceding three years or the property owner's
5 period of ownership, whichever is less;
- 6 (C) There are no involuntary liens, including but not
7 limited to construction liens, on the property;
- 8 (D) No notices of default or other evidence of
9 property-based debt delinquency have been
10 recorded during the preceding three years or the
11 property owner's period of ownership, whichever
12 is less; and
- 13 (E) The property owner is current on all mortgage
14 debt on the property; and
- 15 (2) For commercial properties:
- 16 (A) The property owner is able to borrow the amount
17 of property assessed financing using reasonable
18 commercial underwriting practices;
- 19 (B) All property taxes, and any other assessments
20 levied on the same bill as property taxes, are
21 paid; and



1 (C) There are no involuntary liens, including but not
2 limited to construction liens, on the property
3 that will not be paid or satisfied upon the
4 closing of the financing.

5 (c) The property assessed financing assessment contract
6 shall include the amount of an annual assessment over a fixed
7 term that will appear as a non-ad valorem special tax assessment
8 on the property owner's tax bill annually.

9 (d) The property assessed financing assessment contract,
10 or summary memorandum of the contract, shall be recorded by the
11 property assessed financing lender in the public records of the
12 State or of the county within which the property is located
13 within five days after execution by the parties to the contract.
14 The recorded contract shall be constructive notice of the levy
15 of, and obligation of the property owner to pay, the property
16 assessed financing assessment. The property assessed financing
17 assessment to be levied on the property shall be a non-ad
18 valorem special tax assessment and lien against the property on
19 a parity with the lien of general real property taxes and the
20 lien of any other assessments levied under section 46-80, from
21 the date of recordation entered into pursuant to this section



1 until paid or satisfied in accordance with the property assessed
2 financing assessment contract.

3 (e) Before entering into a property assessed financing
4 assessment contract, the property owner shall:

5 (1) For residential properties, at least thirty days
6 before:

7 (A) Provide to the holders or loan servicers of any
8 existing mortgages encumbering or otherwise
9 secured by the property:

10 (i) The notice of the owner's intent to enter
11 into a property assessed financing
12 assessment contract;

13 (ii) The maximum principal amount to be financed;
14 and

15 (iii) The maximum annual assessment necessary to
16 repay that amount and any incidental fees;
17 and

18 (B) Provide to the property assessed financing lender
19 a verified copy or other proof of the notice
20 provided under this paragraph;



1 A provision in any agreement between a mortgagee
2 or other lienholder and a property owner, which allows
3 for acceleration of payment of the mortgage, note, or
4 lien or other unilateral modification solely as a
5 result of entering into a property assessed financing
6 assessment contract as provided for in this paragraph,
7 shall not be enforceable. This paragraph shall not
8 limit the authority of the holder or loan servicer to
9 increase the required monthly escrow by an amount
10 necessary to annually pay the qualifying improvement
11 assessment; and

12 (2) For commercial properties: Provide the property
13 assessed financing lender and the authority with
14 evidence of the written consent of each holder or loan
15 servicer of any mortgage that encumbers or otherwise
16 secures the commercial property at the time of the
17 execution of the property assessed financing
18 assessment contract by the parties.

19 Each consent shall be in a form prescribed by the
20 authority.



1 (f) At or before the time a purchaser executes a contract
2 for the sale and purchase of any property for which a non-ad
3 valorem special tax assessment has been levied under this part
4 and has an unpaid balance due, the seller shall give the
5 prospective purchaser a written disclosure statement notifying
6 the prospective purchaser of the property assessed financing
7 assessment.

8 (g) The term of the property assessed financing assessment
9 contract shall not exceed the useful life of the qualifying
10 improvement being installed or the weighted average useful life
11 of all qualifying improvements being financed if multiple
12 qualifying improvements are being financed, as determined by the
13 authority.

14 §196-E Non-ad valorem special tax assessments. (a) The
15 authority shall coordinate with each county to bill and collect
16 a non-ad valorem special tax assessment on a benefitted property
17 as a repayment mechanism on the real property tax bill.

18 (b) Without the consent of the holders or loan servicers
19 of any mortgage encumbering or otherwise secured by the
20 residential property, the total principal amount funded through
21 any property assessed financing assessment contract secured with



1 a non-ad valorem special tax assessment for a property under
2 this part shall not exceed twenty per cent of the market value
3 of the property as determined by the county property appraiser.
4 This limitation shall not apply to any property assessed
5 financing assessment on residential property that is consented
6 to the holders or loan servicers of any mortgage encumbering or
7 otherwise secured by the property.

8 (c) Prior to the execution by the authority of the first
9 property assessed financing assessment contact in a county, the
10 authority shall enter into a contract with the county director
11 of finance or county director of budget and fiscal services to
12 cause the county director to levy and collect any property
13 assessed financing assessment approved and certified by the
14 authority to the county director for collection. Each property
15 assessed financing assessment approved for collection shall:

- 16 (1) Be a non-ad valorem special tax assessment;
17 (2) Not be a generally applicable tax upon the real
18 property;
19 (3) Be collected in the same manner that real property
20 taxes are collected; and



1 (4) Be subject to the same penalties and the same
2 procedures, sale, and lien priority, subject to the
3 provisions of section 196-D, in the case of
4 delinquency as is provided by general law for default
5 of the payment of real property taxes unless another
6 procedure is agreed upon by the authority and the
7 county director.

8 (d) The county director may add to any property assessed
9 financing assessment reasonable administrative costs as agreed
10 upon by the authority and the director. The county director
11 shall remit any property assessed financing assessments
12 collected, less the reasonable administrative costs added by the
13 county director, to or on the direction of the authority, for
14 further application by the authority to pay each property
15 assessed financing lender and to pay the reasonable
16 administrative costs of the authority in accordance with each
17 property assessed financing assessment contract.

18 (e) The county director shall covenant, in a contract or
19 instrument, for the benefit of any property assessed financing
20 lender or bondholder, to commence and diligently pursue to
21 completion the foreclosure of delinquent property assessed



1 financing assessments and any penalty, interest, and costs by
2 advertisement and sale and with the same effect as provided by
3 general law for sales of real property pursuant to default in
4 payment of property taxes. The covenant shall specify a
5 deadline for commencement of the foreclosure sale and any other
6 terms and conditions the county director determines reasonable
7 regarding the foreclosure sale. For property assessed financing
8 assessments levied but not paid when due pursuant to a property
9 assessed financing assessment contract, the foreclosure of the
10 lien of the property assessed financing assessment shall not
11 accelerate or extinguish the remaining term of the property
12 assessed financing assessment as approved in the property
13 assessed financing assessment contract."

14 SECTION 3. Section 46-80, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§46-80 Improvement by assessment; financing. (a)** Any
17 county having a charter may enact an ordinance, and may amend
18 the same from time to time, providing for the making and
19 financing of improvement districts in the county, and [~~sueh~~] the
20 improvements may be made and financed under [~~sueh~~] the
21 ordinance. The county may issue and sell bonds to provide funds



1 for [~~such~~] the improvements. Bonds issued to provide funds for
2 [~~such~~] the improvements may be either bonds when the only
3 security therefor is the properties benefited or improved or the
4 assessments thereon or bonds payable from taxes or secured by
5 the taxing power of the county. If the bonds are secured only
6 by the properties benefited or improved or the assessments
7 thereon, the bonds shall be issued according and subject to the
8 provisions of the ordinance. If the bonds are payable from
9 taxes or secured by the taxing power, the bonds shall be issued
10 according and subject to chapter 47. Except as is otherwise
11 provided in section 46-80.1, in assessing land for improvements
12 a county shall assess the land within an improvement district
13 according to the special benefits conferred upon the land by the
14 special improvement; these methods include assessment on a
15 frontage basis or according to the area of land within an
16 improvement district, or any other assessment method [~~which~~]
17 that assesses the land according to the special benefit
18 conferred, or any combination thereof.

19 (b) Any county with a charter may enact an ordinance, and
20 may amend the same from time to time, to establish and
21 administer its own property assessed financing program pursuant



1 to section 196-C. The county shall assume all the
2 responsibilities of the authority as provided in chapter 196,
3 including determining qualifying improvements eligible for
4 property assessed financing. A property owner may apply to the
5 county for property assessed financing to pay the costs of
6 qualifying improvements and enter into a property assessed
7 financing contract with an approved property assessed financing
8 lender and the county. Costs incurred for qualifying
9 improvements shall be levied and collected by each county as
10 provided in section 196-E, as a non-ad valorem special tax
11 assessment on the benefitted property. The county may issue
12 revenue bonds to finance or refinance the improvements, and the
13 form of any revenue bond may be a property assessed financing
14 assessment contract or other instrument prescribed by the
15 county. Bonds issued to finance qualified improvements, when
16 the only security is the special tax assessment levied against
17 benefitted or improved property, shall be excluded from any
18 determination of the power of the county to issue general
19 obligation bonds or funded debt for purposes of article VII,
20 section 13, of the Hawaii State Constitution."



1 SECTION 4. Section 196-61, Hawaii Revised Statutes, is
2 amended by adding nine definitions to be appropriately inserted
3 and to read as follows:

4 "Commercial property" means any existing or new real
5 property not defined as a residential property, including any
6 agricultural property and property where there is a leasehold or
7 possessory interest in the non-residential property.

8 "County director" means the officer of the county charged
9 with the responsibility of administering the real property
10 taxation function of the county. "County director" also
11 includes the county director of finance or county director of
12 budget and fiscal services.

13 "Non-ad valorem special tax assessment" means a special tax
14 assessment or governmental charge levied by the county as
15 provided in section 196-E on a benefitted property that appears
16 on a property tax bill.

17 "Property assessed financing assessment" means the non-ad
18 valorem special tax assessment that secures the repayment of
19 financing obtained by an owner of commercial or residential
20 property for a qualifying improvement that appears on a property
21 tax bill.



1 "Property assessed financing assessment contract" means the
2 financing contract, under the property assessed financing
3 program, by and among one or more property assessed financing
4 lenders, one or more property owners, and the authority as the
5 administrator of the property assessed financing program for the
6 acquisition or installation of qualifying improvements.

7 "Property assessed financing lender" means a private or
8 public lender approved by the property assessed financing
9 administrator to originate property assessed financing
10 assessment contracts, including any successor or assignee of the
11 lender as provided in the property assessed financing contract.

12 "Property assessed financing program" means a program to
13 finance qualifying improvements on residential and commercial
14 properties that are repaid through a non-ad valorem special tax
15 assessment on the property owner's property tax bill.

16 "Qualifying improvement" means septic systems or aerobic
17 treatment unit systems or connections to sewer systems, clean
18 energy technologies, efficiency technologies, resiliency
19 measures, and other improvements approved by the authority.

20 "Residential property" means any existing or new real
21 property consisting of any single-family dwelling or townhouse,



1 or any multi-family dwelling or townhouse consisting of four or
2 fewer units, including existing or new real property where there
3 is a leasehold or possessory interest in the property."

4 SECTION 5. Section 196-64, Hawaii Revised Statutes, is
5 amended by amending subsections (c) and (d) to read as follows:

6 "(c) In the performance of the functions, powers, and
7 duties vested in the authority by this part, the authority shall
8 administer the clean energy and energy efficiency revolving loan
9 fund pursuant to section 196-65.5 and the environmental and
10 economic development revolving loan fund pursuant to section
11 196-B and may:

- 12 (1) Make loans and expend funds to finance the purchase or
13 installation of clean energy technology and services;
14 upgrade or convert a cesspool or a septic system to a
15 director of health-approved wastewater system; connect
16 a cesspool to a sewer system; and finance eligible
17 environmental, economic recovery, and economic
18 diversification projects and initiatives, and other
19 qualifying improvements;
- 20 (2) Implement and administer loan programs on behalf of
21 other [~~state departments or agencies~~] government



1 entities or counties through a memorandum of agreement
2 and expend funds appropriated to the [~~department or~~
3 ~~agency~~] government entity or county for purposes
4 authorized by the legislature[+], government entity,
5 or county;

6 (3) Utilize all repayment mechanisms, including the on-
7 bill repayment mechanism, as authorized by the green
8 energy money saver on-bill program, property assessed
9 financing assessment program, financing tools,
10 servicing and other arrangements, and sources of
11 capital available to the authority;

12 (4) Exercise powers to organize and establish special
13 purpose entities as limited liability companies under
14 the laws of the State;

15 (5) Acquire, hold, and sell qualified securities;

16 (6) Pledge unencumbered net assets, loans receivable,
17 assigned agreements, and security interests over
18 equipment financed, as collateral for the authority's
19 borrowings from federal, county, or private lenders or
20 agencies;



- 1 (7) Utilize the employees of the authority, including the
2 executive director;
- 3 (8) Enter into contracts for the service of consultants
4 for rendering professional and technical assistance
5 and advice and any other contracts that are necessary
6 and proper for the implementation of the loan fund
7 program;
- 8 (9) Enter into contracts for the administration of the
9 loan fund program exempt from chapter 103D;
- 10 (10) Establish loan fund program guidelines;
- 11 (11) Be audited at least annually by a firm of independent
12 certified public accountants selected by the authority
13 and provide the results of the audit to the department
14 and legislature; and
- 15 (12) Perform all functions necessary to effectuate the
16 purposes of this part.
- 17 (d) The authority shall submit an annual report for the
18 clean energy and energy efficiency revolving loan fund and the
19 environmental and economic development revolving loan fund to
20 the legislature no later than twenty days prior to the convening
21 of each regular session describing the projects funded and the



1 projected energy, environmental, and economic development
2 impacts."

3 SECTION 6. There is appropriated out of the general
4 revenues of the State of Hawaii the sum of \$25,000,000 or so
5 much thereof as may be necessary for fiscal year 2022-2023 to be
6 deposited in the environmental and economic development
7 revolving loan fund established pursuant to section 196-B in
8 section 2 of this Act.

9 SECTION 7. There is appropriated out of the environmental
10 and economic development revolving loan fund the sum of
11 \$25,000,000 or so much thereof as may be necessary for fiscal
12 year 2022-2023 to provide loans or other financial assistance to
13 eligible property owners and for other allowable purposes,
14 including implementation costs.

15 The sum appropriated shall be expended by the Hawaii green
16 infrastructure authority for the purposes of this Act.

17 SECTION 8. In codifying the new sections added by section
18 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.



1 SECTION 9. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 10. This Act shall take effect on July 1, 2024.



Report Title:

Hawaii Green Infrastructure Authority; Environmental and Economic Development Revolving Loan Program; Environmental and Economic Development Revolving Loan Fund; Property Assessed Financing Program; Counties; Non-Ad Valorem Special Tax Assessment; Property Assessed Financing Assessment Contract; Appropriation

Description:

Requires the Hawaii Green Infrastructure Authority to design and administer the Environmental and Economic Development Revolving Loan Program and the Property Assessed Financing Program. Creates the Environmental and Economic Development Revolving Loan Fund. Appropriates funds. Effective 7/1/2024. (SD1)

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