

ACT 60

S.B. NO. 502

A Bill for an Act Relating to State Bonds.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 39-8, Hawaii Revised Statutes, is amended to read as follows:

“§39-8 Form and execution of bonds. Bonds issued under this part shall be in such form as the director of finance may determine, and shall be lithographed or steel engraved[,]. All such bonds shall be manually signed by the director of finance[,] or deputy director of finance, shall bear a lithographed or engraved facsimile of the signature of the comptroller of the State, and shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the department of budget and finance of the State[; provided, however, that]. In addition, fully registered bonds may be authenticated with the manual signature of the registrar, if any, thereunto duly appointed by the director of finance. Notwithstanding the preceding provisions of this section, the director of finance, with the approval of the governor, may provide that bonds issued under this part may be typewritten, printed, or otherwise reproduced, and that the signature of the comptroller upon such bonds may be his manual signature. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the director of finance. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the director of finance may decide upon may be issued to the purchaser or purchasers of bonds sold pursuant to this part.”

SECTION 2. Section 39-9, Hawaii Revised Statutes, is amended to read as follows:

“§39-9 Same, signatures. When bonds of the State are prepared and signed by the director of finance or deputy director of finance of the State and by the comptroller of the State in office at the time of such signing, the signatures of such director or deputy director and comptroller shall be valid and sufficient for all

purposes, and shall have the same effect as if the persons so officially signing such bonds had remained in office until the delivery of the same to the initial purchasers [although] thereof, and in the case of fully registered bonds upon any exchange or transfer between subsequent holders thereof, notwithstanding that the term of office of such persons or [either] any of them may have expired or they may otherwise have ceased to be such officers before such delivery[.], exchange, or transfer. If the director of finance shall have designated a registrar for fully registered bonds, the director of finance may provide that no such fully registered bond shall be valid or obligatory for any purpose unless certified or authenticated by such registrar. If the director of finance shall have provided for a registrar as aforesaid, then such fully registered bond shall be valid and sufficient only if so certified or authenticated by the manual signature of an authorized officer of such registrar. Anything to the contrary notwithstanding, if blanks of fully registered bonds shall be held by a registrar pending exchange or transfer for other fully registered bonds of the same series, then upon delivery of bonds in an exchange or transfer, such bonds shall be valid and sufficient for all purposes notwithstanding that the signature of the comptroller and the director of finance or deputy director of finance appearing thereon shall be that of the person in office at the time of initial delivery of the bonds or that of the person in office at the time of such exchange or transfer."

SECTION 3. Section 39-31, Hawaii Revised Statutes, is amended to read as follows:

"§39-31 Duplicates. Whenever it appears to the director of finance of the State by clear proof satisfactory to him that any interest bearing bond of the State has, without bad faith upon the part of the owner, been lost, stolen, destroyed, wholly or in part, or so defaced as to impair its value to the owner; the bond is identified by number and description[.]; and the request for issuance of a new bond was made before the director had notice that the bond had been acquired by a bona-fide purchaser[.]; the director [shall], under such conditions and upon such security as prescribed in section 39-33, shall cause to be issued a duplicate thereof, with remaining unpaid coupons, if any, attached and so marked as to show the original number of the bond lost, stolen, destroyed, or defaced and the date thereof[.]; provided that in the case of fully registered bonds such duplicate may be numbered in such manner as the registrar deems proper.

All duplicate bonds in coupon form issued in place of bonds lost, stolen, destroyed, or defaced shall be lithographed or steel engraved[,], unless otherwise provided in the proceedings authorizing the issuance thereof, and shall [be signed by] bear the manual signatures of the director or duly authorized deputy director of finance of the State[,], and [by] the comptroller of the State, and [be sealed with] an impression of the seal of the department of budget and finance[.] shall be affixed thereon. Interest coupons shall bear a lithographed or engraved facsimile of the signature of the director of finance of the State. Each signature of an officer on a duplicate coupon bond shall be the signature of the person serving as such officer on the date of signing and any duplicate coupon bond so executed and sealed shall be valid and sufficient for all purposes. All duplicate bonds in fully registered form issued in place of bonds lost, stolen, destroyed, or defaced shall be from the stock of fully registered bonds of such series then held by the registrar for such series and

shall be executed, sealed, and authenticated in the same manner as fully registered bonds of such series. Any duplicate fully registered bond executed, sealed, and authenticated as provided in this section shall be valid and sufficient for all purposes.

When the lost, stolen, destroyed, or defaced bond appears to have been of a class or series that has been called or will be called in for redemption or will mature within a period of one year following the date of application for a duplicate bond, instead of issuing a duplicate bond therefor, the director [may], under such conditions and upon such security, if any, as he may prescribe, may pay the bond at its call date with interest if it is already called for redemption or if it is to be called for redemption, or will mature within the period of one year, issue a transferable certificate of ownership to the applicant, and pay on the certificate the call price of the bond represented thereby together with interest called for by the lost, stolen, destroyed, or defaced bond on the date of its call or its original maturity upon surrender of the certificate of ownership. All transferable certificates of ownership which may be issued pursuant to the terms hereof shall be in such form as the director may prescribe and shall be signed by the director or duly authorized deputy director and by the comptroller of the State and [sealed with] an impression of the seal of the department of budget and finance[.] shall be affixed thereto.

All expenses necessary for the providing of any duplicate bond, coupon, or both, as the case may be, or certificate of ownership shall be borne by the owner thereof[.] and such expenses shall be paid at the time the request for replacement is filed."

SECTION 4. Section 39-33, Hawaii Revised Statutes, is amended to read as follows:

"§39-33 Method of issuance and payment. [An applicant] A claimant for issuance of a new bond or for payment shall make written application, under oath, in such form as the director of finance of the State shall prescribe, stating facts definitely identifying the bonds or coupons and showing the loss, destruction, or theft of the same, and the ownership of the same by the person applying, and shall present such further evidence as the director may reasonably require to establish the identity of the bonds or coupons, their loss, destruction, defacement, or theft, and the ownership of the same by the [applicant.] claimant.

[The director, if he is satisfied that the person is the legal holder of the bonds or coupons, that the same have been lost, destroyed, defaced, or stolen, and that the same has not been acquired by a bona-fide purchaser, shall thereupon, except as hereinafter provided, issue a new bond or pay to the applicant the amount of the lost, destroyed, defaced, or stolen bonds or coupons, the payments to be made out of the general fund of the State by warrant of the comptroller of the State; provided, that no such issuance or payment shall be made until and unless (1) at least six months shall have elapsed after the date of application during which time the bonds or coupons shall not have been presented and paid to a holder in due course thereof; and (2) the applicant shall have executed and delivered to the director a legal and sufficient bond in the amount of twice the aggregate sum called for by the lost, destroyed, defaced, or stolen bonds or coupons, in such form and with such sufficient surety or sureties as shall be satisfactory to the director, conditioned to

indemnify and save harmless the State from any loss on account of the bonds or coupons so claimed to have been lost, destroyed, defaced, or stolen.]

The director of finance shall not provide for the issuance of a replacement for or the payment of the lost, stolen, destroyed, or defaced bond, coupon, or both, as the case may be, unless the claimant shall have executed and delivered to the director a legal and sufficient surety bond in an amount equal to the loss which may be suffered by the State, any transfer agent, paying agent, or bond registrar by reason of issuing replacements or making payments mentioned in this section. Any such surety bond shall be in such form and with such sufficient surety or sureties as shall be satisfactory to the director of finance, and shall be conditioned to indemnify and save harmless the State, any transfer agent, paying agent, or bond registrar from any and all loss on account of the bond, coupon, or both, as the case may be, so claimed to have been lost, stolen, destroyed, or defaced. The duration of the surety bond shall be not less than the date upon which the bond, coupon, or both, as the case may be, being replaced or paid, become due and payable, plus the period of the statute of limitations applicable to bonds and coupons. In the case of a partially destroyed or defaced bond, coupon, or both, as the case may be, the claimant shall surrender such partially destroyed or defaced bond, coupon, or both, as the case may be, at the time of delivery of the replacement therefor."

SECTION 5. Section 39-56, Hawaii Revised Statutes, is amended to read as follows:

"§39-56 Validity of revenue bonds. The revenue bonds bearing the signature of officers in office on the date of the signing thereof shall be valid [and binding obligations, notwithstanding that before the delivery thereof and payment therefor any or all the persons whose signatures appear thereon shall have ceased to be officers of the State or of the department.] and sufficient for all purposes, and shall have the same effect as if the persons so officially signing such bonds had remained in office until the delivery of the bonds to the initial purchasers thereof, and in the case of fully registered bonds upon any exchange or transfer between subsequent holders thereof notwithstanding that the term of office of such persons or any of them may have expired or they may otherwise have ceased to be such officers before such delivery, exchange, or transfer. If the director of finance shall have designated a registrar for fully registered bonds, the certificate or resolution authorizing such bonds may provide that no such fully registered bond shall be valid or obligatory for any purpose unless certified or authenticated by such registrar. If such certificate or resolution so provides, then such fully registered bond shall be valid and sufficient only if so certified or authenticated by the manual signature of an authorized officer of such registrar. Anything to the contrary notwithstanding, if blanks of fully registered bonds shall be held by a registrar pending exchange or transfer for other fully registered bonds of the same series, then upon delivery of bonds in an exchange or transfer, such bonds shall be valid and sufficient for all purposes, notwithstanding that the signatures of the officers of the State appearing thereon shall be that of the persons in office at the time of initial delivery of the bonds or that of the persons in office at the time of such exchange or transfer. The validity of the revenue bonds shall not be dependent on [nor] or affected by the validity or regularity of any proceedings relating to the acquisition, purchase,

construction, reconstruction, improvement, betterment, or extension of the undertaking or establishment or administration of the loan program authorized by law for which the revenue bonds are issued. The resolution or certificate authorizing the revenue bonds may provide that the revenue bonds shall contain a recital that they are issued pursuant to this part, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.”

SECTION 6. Section 39-64, Hawaii Revised Statutes, is amended to read as follows:

“§39-64 Execution of revenue bonds. [Revenue bonds issued pursuant to this part shall be executed by the head of the department or a deputy director designated by him and sealed with the seal of the department or in lieu thereof shall bear a lithographed or engraved facsimile of such seal. Further, they shall be countersigned by the state director of finance or in lieu thereof shall bear a lithographed or engraved facsimile of the signature of the director.] Revenue bonds issued under this part shall be in such form as the head of the department may determine, shall be lithographed or engraved, shall be manually signed by the head of the department or a deputy director designated by the director, shall be countersigned with a lithographed or engraved facsimile of the signature of the state director of finance, and shall be sealed with the seal or a lithographed or engraved facsimile of the seal of the department. In addition, fully registered bonds may be authenticated with the manual signature of the registrar, if any, thereunto duly appointed by the director of finance. Notwithstanding the preceding provisions of this section, the head of the department or a deputy director designated by the director, with the approval of the governor, may provide that revenue bonds issued under this part may be typewritten, printed, or otherwise reproduced, and that the signature of the director of finance upon such bonds may be the director’s manual signature. The coupons pertaining to the bonds shall be executed with the lithographed or engraved facsimile signatures of the head of the department and the director of finance. In the case of a department having a governing body, the member thereof who is the chairman or other titular head [shall], for the purposes hereof, shall be the head of the department. Pending the preparation of the definitive bonds, interim receipts or certificates in such form and with such provisions as the head of the department may decide upon may be issued to the purchaser or purchasers of bonds sold pursuant to this part.”

SECTION 7. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved May 19, 1983.)