

ACT 12

S.B. NO. 34

A Bill for an Act Relating to Private Activity Bonds.

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

SECTION 1. The purpose of this Act is to set forth the State's allocation of private activity bonds among the governmental units in the State authorized to issue such bonds.

The Deficit Reduction Act of 1984 (DEFRA), P.L. No. 98-369, put a \$200 million ceiling on the principal amount of tax-exempt private activity bonds which may be issued within Hawaii during any calendar year. Although DEFRA includes a formula for the allocation of the \$200 million among the governmental units authorized to issue such bonds, DEFRA also allows a state to establish a different formula for allocating the state ceiling among its governmental units by state law.

This Act modifies the federal allocation formula to provide more flexibility and to better serve the needs of issuers of private activity bonds within the State.

SECTION 2. Chapter 39A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read:

**"PART . ALLOCATION OF PRIVATE ACTIVITY BONDS**

**§39A- Definitions.** Whenever used in this part, unless a different meaning clearly appears from the context:

"Annual state ceiling" means the principal amount of private activity bonds which may be issued in each calendar year by all issuers and counties in the State under DEFRA.

"DEFRA" means the federal Deficit Reduction Act of 1984, P.L. 98-369.

"Department" means the department of budget and finance.

"Governing body" means the councils of the counties, or any other body exercising the legislative powers of a county.

"Issuer" means any state department, board, commission, officer, authority, or private not-for-profit corporation authorized under the laws of the State to issue private activity bonds.

"Private activity bond" shall have the same meaning as the term is defined in DEFRA, section 621. (Section 103(n) of the federal Internal Revenue Code of 1954, as amended.)

**§39A- Allocation of annual state ceiling.** (a) The annual state ceiling shall be allocated for each calendar year, for so long as DEFRA is in effect, in the following proportions:

- (1) An amount equal to fifty per cent of the annual state ceiling to the State;
- (2) An amount equal to 38.72 per cent of the annual state ceiling to the city and county of Honolulu;
- (3) An amount equal to 5.13 per cent of the annual state ceiling to the county of Hawaii;
- (4) An amount equal to 2.15 per cent of the annual state ceiling to the county of Kauai; and
- (5) An amount equal to 4.00 per cent of the annual state ceiling to the county of Maui.

(b) The department, with the approval of the governor, may assign the allocation of the State to any issuer or any county for a specific calendar year or years. At the request of the department, any issuer or county to which the State's allocation has been assigned shall return all or part of the assignment, in which case the department may provide for its reassignment.

(c) The department may request return of the allocations of one or more counties made pursuant to subsection (a), and may assign and reassign the allocation to any other county or issuer for a specified calendar year or years.

(d) A county, by resolution of its governing body, may request additional bond allocations from, or assign all or part of its bond allocation to, the State for a specified calendar year or years."

**SECTION 3.** If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**SECTION 4.** This Act shall take effect upon its approval.

(Approved April 13, 1985.)