

S.B. NO. 1314

JAN 22 2007

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**A BILL FOR AN ACT**

RELATING TO THE OBLIGATION OF FUNDS.

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

1           SECTION 1. Section 37-40, Hawaii Revised Statutes is  
2 amended to read as follows:

3           "§37-40 Exceptions; trust funds. Except as to  
4 administrative expenditures, and except as otherwise provided by  
5 law, expenditures from trust funds may be made by any department  
6 or establishment without appropriation or allotment; provided  
7 that no expenditure shall be made from and no obligation shall  
8 be incurred against any trust fund in excess of the amount  
9 standing to the credit of the fund or for any purposes for which  
10 the fund may not lawfully be expended[-]; provided, obligations  
11 in excess of the amount standing to the credit of a department  
12 of Hawaiian home lands trust fund or moneys of the Hawaii  
13 housing finance and development corporation may be incurred when  
14 the director of finance determines that:

15           (1) Moneys to pay the obligation made in excess of the  
16           amount standing to the credit of the trust fund are  
17           expected to be received by the trust fund within a  
18           reasonable time period; or

1       (2) Moneys to pay the obligation made in excess of the  
2       amount standing to the credit of the Hawaii housing  
3       finance and development corporation are expected to be  
4       received by the corporation within a reasonable time  
5       period; and

6       (3) With the approval of the governor, that such action is  
7       in the best interests of the State and will not impede  
8       or hamper the financial obligations of the State. The  
9       director of finance may impose such conditions as the  
10      director believes are reasonably necessary.

11      Nothing in sections 37-31 to 37-41 shall require any trust  
12      fund established pursuant to law be reappropriated  
13      annually."

14           SECTION 2. Section 103D-309, Hawaii Revised Statutes,  
15      is amended by amending subsection (a) to read as follows:

16           "(a) Contracts awarded pursuant to section 103D-302,  
17      103D-303, or 103D-306, shall neither be binding nor have  
18      nay force and effect of law unless the comptroller, the  
19      director of finance of a county, or the respective chief  
20      financial officers of the department of education, the  
21      judiciary, or the legislative branches of the State or  
22      county, as the case may be, endorses thereon a certificate

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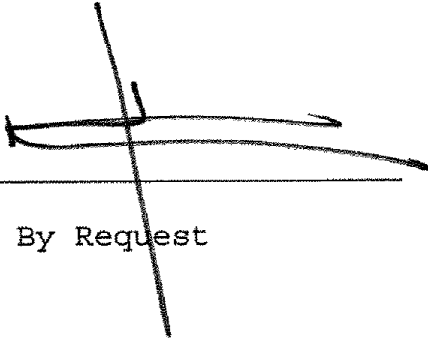
1 that there is an appropriation or balance of an  
2 appropriation over and above all outstanding contracts,  
3 sufficient to cover the amount required by the contract;  
4 provided that if the contract is a multi-term contract, the  
5 comptroller, director of finance, or chief financial  
6 officer shall only be required to certify that there is an  
7 appropriation or balance of an appropriation over and above  
8 all outstanding contracts, that is sufficient to cover the  
9 amount required to be paid under the contract during the  
10 fiscal year or remaining portion of the fiscal year of each  
11 term of the multi-year contract; provided further that the  
12 administrator of the state procurement office shall attest  
13 in writing to any recommendation or solicitations. This  
14 section shall not apply to any contract under which the  
15 total amount to be paid to the contractor cannot be  
16 accurately estimated at the time the contract is to be  
17 awarded, or to any contract for which consideration is in  
18 kind or forbearance, or to any contract awarded pursuant to  
19 section 103D-306 that is a one-time payment through a  
20 purchase order [-], or to any contract which encumbrance is  
21 approved under section 37-40."

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1           SECTION 3. Statutory material to be repealed is  
2 bracketed and stricken.

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

5  
6 INTRODUCED BY: \_\_\_\_\_



By Request

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JUSTIFICATION SHEET

DEPARTMENT: Accounting and General Services

TITLE: A BILL FOR AN ACT RELATING TO THE OBLIGATION OF FUNDS.

PURPOSE: To enable Department of Hawaiian Home Lands and the Hawaii Housing Finance and Development Corporation to begin projects without having the full and final amount of the capital costs on hand at the beginning of the project.

MEANS: Amend sections 37-40 and 103D-309(a), Hawaii Revised Statues.

JUSTIFICATION: Currently, state-funded housing projects are required to have full capitalization funding on hand before proceeding. This requirement is unreasonable in projects where an income stream is derived by selling completed homes. Changing the law to follow the private industry standard which allows a developer-contractor to be bonded and to proceed with only those funds needed to complete a portion of the project, will allow state-financed affordable housing projects to be expedited.

Impact on the public: Will enable individuals on Hawaiian Home Lands waiting lists to purchase and occupy their homes more quickly and will expedite an increase in the inventory of affordable homes for the general public through the efforts of the Hawaii Housing Finance and Development Corporation.

Impact on the department and other agencies: Will allow the Department of Hawaiian Home Lands and the Hawaii Housing Finance and Development Corporation to fulfill their missions faster and more effectively.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: Department of Hawaiian Home Lands, Hawaii

Housing Finance and Development Corporation,  
Budget and Finance.

EFFECTIVE DATE: Upon approval.