

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 122

Introduced by Assembly Member Rendon

January 14, 2013

An act to add Chapter 13 (commencing with Section 25987.1) to Division 15 of the Public Resources Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 122, as amended, Rendon. Energy: energy assessment: nonresidential buildings: financing.

Existing law requires the State Energy Resources Conservation and Development Commission to implement a program to provide financial assistance for energy efficiency projects.

This bill would enact the Nonresidential Building Energy Retrofit Financing Act of ~~2012~~ 2013 and would require the commission to establish the Nonresidential Building Energy Retrofit Financing Program and to develop a request for proposal for a third-party administrator by July 1, ~~2013~~ 2014, to develop and operate the program to provide financial assistance, through authorizing the issuance of, among other things, revenue bonds, to owners of eligible nonresidential buildings for implementing energy improvements for their properties. The bill would require that the bonds be secured by the recording of an energy remittance repayment agreement, as defined, on the deed of the property for which the improvements are performed. The bill would require the State Board of Equalization to collect installment payments from owners of eligible properties whose applications have been approved by the commission.

The bill would require the commission to meet for the purpose of approving applicants to participate in the program. The bill would authorize the California Alternative Energy and Advanced Transportation Financing Authority, on behalf of the commission, to issue and renew the negotiable revenue bonds to generate moneys to finance energy improvements for approved applicants.

The bill would establish the Nonresidential Building Energy Retrofit Debt Servicing Fund in the State Treasury and the Loan Loss Reserve Account and Administration Account within the fund. The bill would require the State Board of Equalization to deposit the installment payment received from the owners of eligible buildings into the fund and certain fees collected into the specified accounts. The bill would continuously appropriate the moneys in the fund and the accounts to repay the principal and interest on the bonds, and to cover the administrative costs incurred by the authority, the commission, and the State Board of Equalization, thereby making an appropriation.

The bill would require the Director of Finance to transfer, as a loan, up to \$1,000,000, to the authority, and up to \$7,000,000, to the commission, from the General Fund for the purposes of implementing the program. The bill would require the loans to be repaid on or before January 1, ~~2023~~ 2024.

Existing law establishes incentives in the form of grants and loans to low-income residents, small businesses, and residential property owners for constructing and retrofitting buildings to be more energy efficient.

The bill would require the State Energy Resources Conservation and Development Commission, to the extent it determines necessary to effectively complete its duties under the act, to analyze and evaluate specified standards developed for nonresidential energy building retrofits.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Chapter 13 (commencing with Section 25987.1)
- 2 is added to Division 15 of the Public Resources Code, to read:

CHAPTER 13. NONRESIDENTIAL BUILDING ASSESSMENT
FINANCING

Article 1. General Provisions and Definitions

25987.1. This act shall be known, and may be cited, as the Nonresidential Building Energy Retrofit Financing Act of ~~2012~~ 2013.

25987.2. The purpose of this chapter is to facilitate private financing to enable private nonresidential building owners and eligible public entities to invest in clean energy improvements, renewable energy, and ~~conservation~~, *conservation*; to incentivize private equity managers to invest in clean energy improvements, integrate the smart energy economy, and stimulate the state economy by directly creating jobs for contractors and other persons who complete new energy ~~improvements~~, *improvements*; and to reinforce the leadership role of the state in the new energy economy, thereby attracting energy manufacturing facilities and related jobs to the state.

25987.3. The Legislature finds and declares all of the following:

(a) Nonresidential buildings represent a huge opportunity to significantly increase energy efficiency and reduce greenhouse gas emissions. To do this, ~~we need~~ *California needs* to address the design, construction, and operation of these buildings.

(b) The lack of accessible and affordable financing for energy efficiency retrofits results in energy-inefficient buildings that are estimated to consume up to 50 percent more energy than required to achieve the same level of comfort. Energy use in the building sector accounts for approximately 20 percent of global emissions of carbon dioxide, or 10 billion tons, annually.

(c) It is possible to retrofit the California nonresidential building stock to use, on average, at least 50 percent less energy by 2050 through the wide adoption of deep energy retrofits that save more energy and increase profits for building owners.

(d) Investment in building performance upgrades is an intelligent business decision. Building performance upgrades lower operating costs, improve occupant comfort, hedge against utility price increases, demonstrate commitment to tenant well-being, reduce exposure to regulation, help the environment, and ultimately boost property values.

1 (e) It is in the best interest of the state and its citizens to enable
2 and encourage the owners of eligible nonresidential property to
3 invest in new energy improvements, including building energy
4 efficiency improvements that qualify for investor-owned utility or
5 publicly owned utility programs, water efficiency improvements,
6 and renewable energy improvements, by enacting this division to
7 establish, develop, finance, implement, and administer a new
8 energy improvement program that provides for both building
9 energy efficiency improvements and renewable energy
10 improvements and to assist those owners who choose to participate
11 in the program to complete new energy improvements to their
12 properties because of the following:

13 (1) New energy improvements, including building energy
14 efficiency improvements and renewable energy improvements,
15 can provide positive cashflow when the costs of the improvements
16 are spread out over a long enough time that a building's cumulative
17 utility bill cost savings exceed the amount of the liens recorded
18 on the eligible building to ensure payment for the improvements.

19 (2) Many owners of eligible nonresidential buildings are unable
20 to fund a new energy improvement because the owners do not
21 have sufficient liquid assets to directly fund the improvement or
22 are unable or unwilling to incur the negative net cashflow likely
23 to result if the owner uses a typical existing loan program to fund
24 the improvement.

25 (f) Reduction in the amount of emissions of greenhouse gases
26 and environmental pollutants, resulting from increased efficiencies
27 and the resulting decreased use of traditional nonrenewable fuels,
28 will improve air quality and may help to mitigate climate change.

29 (g) The nonresidential building owners who participate in the
30 program established pursuant to this division to assist them in
31 completing new energy improvements, including building energy
32 efficiency improvements and renewable energy improvements, to
33 the building shall do so voluntarily.

34 25987.4. Unless the context otherwise requires, for the purposes
35 of this chapter, the following terms have the following meanings:

36 (a) (1) "Alternative sources of energy" or "alternative energy
37 sources" means energy from renewable cogeneration or gas-fired
38 cogeneration technology that meets the greenhouse gas emissions
39 and efficiency standards applicable to the Self-Generation Incentive
40 Program in effect at the time of the application, energy storage

1 technologies, or energy from solar, biomass, wind, or geothermal
2 systems, or fuel cells, the efficient use of which will reduce the
3 use of conventional energy fuels.

4 (2) The system shall be sized appropriately to offset part or all
5 of the applicant’s own electricity demand and shall be located on
6 the same premises of the application where the applicant’s own
7 electrical demand is located.

8 (b) “Applicant” means a person, or an entity or group of entities,
9 engaged in business or operations in the state, whether organized
10 for profit or not for profit that owns a nonresidential building and
11 applies for financial assistance from the commission for the
12 purpose of implementing a project in a manner prescribed by the
13 commission.

14 (c) “Authority” means the California Alternative Energy and
15 Advanced Transportation Financing Authority established pursuant
16 to Section 26004.

17 (d) “Board” means the State Board of Equalization.

18 (e) “Building energy efficiency improvement” means one or
19 more installations or modifications, for which a building permit
20 is issued after January 1, ~~2013~~ 2014, to an eligible building that
21 either qualifies for an investor-owned utility or publicly owned
22 utility energy efficiency program or is designed to reduce the
23 energy consumption of the building, and that may include, but is
24 not limited to, all of the following to the extent they qualify:

25 (1) High-efficiency mechanical equipment.

26 (2) High-efficiency electrical equipment.

27 (3) Capturing or reducing heat gain or solar shading, including
28 the roof and south and west walls, and not just glazing.

29 (4) High-efficiency water heating.

30 (5) Insulation in walls, roofs, floors, and foundations and in
31 heating and cooling distribution systems.

32 (6) Fenestration and door replacements, and door modifications
33 that reduce energy consumption.

34 (7) Automatic energy control systems.

35 (8) Heating, ventilating, or air conditioning and distribution
36 system modifications or replacements.

37 (9) Caulking and weather stripping.

38 (10) Replacement or modification of luminaries to increase the
39 energy efficiency of the system, or additional lighting controls to
40 reduce electric lighting during periods of vacancy.

- 1 (11) Energy recovery systems.
- 2 (12) Daylighting systems and associated lighting controls for
3 daylight harvesting.
- 4 (13) A modification, installation, or remodeling approved as a
5 utility cost-savings measure by the commission or the Public
6 Utilities Commission and utilized by investor-owned utilities and
7 energy efficiency specialists participating in their Energy Efficiency
8 programs.
- 9 (14) Plug load solutions.
- 10 (15) Building commissioning or retrocommissioning.
- 11 (f) “Conventional energy fuel” means any of the following:
- 12 (1) A fuel derived from petroleum deposits, including, but not
13 limited to, oil, heating oil, gasoline, and fuel oil.
- 14 (2) Natural gas, including liquefied natural gas.
- 15 (3) Nuclear fissionable materials.
- 16 (4) Coal.
- 17 (g) “Demand response” means reductions or shifts in electricity
18 consumption by customers in response to either economic or
19 reliability signals.
- 20 (h) “Eligible building” means a nonresidential building that
21 completed construction on or before January 1, ~~2013~~ 2014, and *is*
22 located within the boundaries of the state.
- 23 (i) “Energy remittance repayment agreement” means a
24 contractual agreement between an eligible building owner and the
25 commission, secured by a lien, as described in Section 25987.21,
26 recorded in the county where the property is situated and on an
27 eligible building specially benefited by a new energy improvement
28 for which the commission will make reimbursement or a direct
29 payment to the party financing the energy improvements, and
30 “contractual energy remittance” means that reimbursement or
31 direct payment. The amount to be repaid pursuant to the energy
32 remittance repayment agreement shall include the costs necessary
33 to finance the building energy efficiency improvements less any
34 rebates, grants, and other direct financial assistance received by
35 the owner pursuant to other law and a loan loss reserve fee in an
36 amount to be established by the ~~program~~ *third-party* administrator
37 in consultation with the commission and the warehouse financier
38 under contract entered into pursuant to paragraph (8) of subdivision
39 (a) of Section 25987.25 to insure against nonperformance of the

1 loan and other losses of the program, and a program administrative
2 cost fee.

3 (j) “Energy efficiency specialist” means an individual or
4 business authorized or certified by rules of the commission to
5 analyze, evaluate, or install a renewable energy source, building
6 energy efficiency improvement, or water efficiency improvement
7 for eligible property.

8 (k) “Financial assistance” means either of the following:

9 (1) Loans, loan loss reserves, interest rate reductions, secondary
10 loan purchase, insurance, guarantees or other credit enhancements
11 or liquidity facilities, contributions of money, property, labor, or
12 other items of value, or any combination thereof, as determined
13 and approved by the commission.

14 (2) Other types of assistance the commission determines are
15 appropriate.

16 (l) “Loan balance” means the outstanding principal balance of
17 loans secured by a mortgage or deed of trust with a first or second
18 lien on eligible property.

19 (m) “Loan loss reserve fee” means a fee that serves as collateral
20 in the event of a loan default.

21 (n) “Nonresidential Building Energy Retrofit Bond” means a
22 bond issued pursuant to Section 25987.31 that is secured by an
23 energy remittance repayment agreement on property entered into
24 voluntarily to finance the installation of renewable energy sources,
25 building energy efficiency improvement or retrofits, or water
26 efficiency improvements.

27 (o) “Participant” means a person, or an entity or group of
28 entities, engaged in business or operations in the state, whether
29 organized for profit or not for profit, that, as a qualified applicant
30 is approved for financial assistance pursuant to Article 2
31 (commencing with Section 25987.5) and has entered into an energy
32 remittance repayment agreement with the commission for the
33 purpose of implementing a project in a manner prescribed by the
34 commission.

35 (p) “Portfolio” means an aggregation of approved applications.

36 (q) “Program” means the Nonresidential Building Energy
37 Retrofit Financing Program established by the commission in
38 accordance with Section 25987.7.

1 (r) “Program administration cost fee” means a fee imposed for
2 the costs incurred by the commission, the authority, and the State
3 Board of Equalization to administer the program.

4 (s) “Project” means an improvement to an eligible building that
5 constitutes a water efficiency improvement, alternative source of
6 energy, or building energy efficiency improvement.

7 (t) “Qualified applicant” means a person or business entity who
8 does all of the following:

9 (1) Owns an eligible building that has a ratio of loan balance to
10 its appraised value not to exceed 85 percent and subject to
11 adjustment by the program administrator at the time the person’s
12 program application is approved, as shown in the records of the
13 county assessor, unless the holder of the deed of trust or mortgage
14 recorded against the eligible property that has priority over all
15 other deeds of trust or mortgages recorded against the eligible
16 property has consented in writing to the recording of an energy
17 remittance repayment agreement pursuant to this division against
18 the eligible property.

19 (2) Timely submits to the commission a complete application,
20 which notes the existence of any priority mortgage or deed of trust
21 on the eligible property and the identity of the holder of the
22 mortgage or deed of trust, to join the program and consents to the
23 levying of a special assessment on the property pursuant to this
24 chapter.

25 (3) Meets standard of credit worthiness that the commission
26 may establish.

27 (u) “Renewable energy” means heat, processed heat, space
28 heating, water heating, steam, space cooling, refrigeration,
29 mechanical energy, electricity, fuel cells, or energy in any form
30 convertible to these uses, and including energy storage
31 technologies, that does not expend or use conventional energy
32 fuels, and that uses any of the following electrical generation
33 technologies:

- 34 (1) Biomass.
- 35 (2) Solar thermal.
- 36 (3) Photovoltaic.
- 37 (4) Wind.
- 38 (5) Geothermal.

39 (v) “Renewable energy improvement” means one or more
40 fixtures, products, systems, or devices, or an interacting group of

1 fixtures, products, systems, or devices, that directly benefit an
2 eligible building or that are installed on the customer side of a
3 meter of an eligible building and that produce renewable energy
4 from renewable resources, including, but not limited to,
5 photovoltaic, solar thermal, small wind, biomass, fuel cells, or
6 geothermal systems such as ground source heat pumps, as may be
7 approved by the commission.

8 (w) *“Third-party administrator” means an entity selected by*
9 *the commission through a request for proposal to manage project*
10 *applications and make recommendations to the commission as to*
11 *individual project’s compliance with this chapter.*

12 (x) *“Warehouse financier” means a financial entity, bank, or*
13 *pension fund, chosen by the commission through a request for*
14 *proposal to provide an ongoing and revolving source of financing*
15 *for projects approved pursuant to Section 25987.20.*

16

17 Article 2. Nonresidential Building Energy Retrofit Financing
18 Program

19

20 25987.5. The purpose of the Nonresidential Building Energy
21 Retrofit Financing Program is to help provide the special benefits
22 of water efficiency improvements, alternative energy, and building
23 energy efficiency improvements to owners of eligible buildings
24 who voluntarily participate in the program by establishing,
25 developing, financing, and administering a program to assist those
26 owners in completing improvements.

27 25987.6. The commission shall have and exercise all rights
28 and powers necessary or incidental to or implied from the specific
29 powers granted to the commission by this chapter. Those specific
30 powers shall not be considered as a limitation upon any power
31 necessary or appropriate to carry out the purposes and intent of
32 this chapter.

33 25987.7. (a) The commission shall establish, develop, finance,
34 and administer, pursuant to Section 25987.9, the Nonresidential
35 Building Energy Retrofit Financing Program. The commission
36 shall provide general direction and oversight to the authority and
37 board as they complete duties specified in this chapter. The
38 program shall be designed to provide financial assistance for an
39 owner of an eligible building to use one or more energy efficiency
40 specialists to retrofit the property with one or more alternative

1 energy sources or renewable energy improvements, building energy
2 efficiency improvements, or water efficiency improvements, by
3 applying to the commission for inclusion of the owner's project
4 in a portfolio that will be financed through the use of the revenue
5 bonds issued pursuant to this chapter. These bonds shall be secured
6 by revenues generated through energy remittance repayment
7 agreements recorded on the buildings benefited by the projects in
8 the portfolio.

9 (b) (1) The program shall provide financial assistance for
10 improvements when the total energy and water cost savings
11 realized by the property owner, and any successor or successors
12 to the property owner, during the useful life of the improvements,
13 as determined by an analysis required pursuant to subdivision (i)
14 of Section 25987.13 are expected to equal or exceed the total costs
15 incurred by the owner pursuant to the program.

16 (2) The commission may waive the requirements of paragraph
17 (1) by adopting a specific finding that additional improvements
18 may be undertaken that significantly increase energy efficiency
19 and improve public health.

20 (c) In developing rules to certify an energy efficiency specialist,
21 the commission shall consult with the Public Utilities Commission,
22 the investor-owned utilities, the contractor community, and other
23 entities the commission deems appropriate and consider existing
24 trade certifications or licensing requirements applicable to
25 occupations that perform work contemplated pursuant to this
26 chapter.

27 25987.8. To receive financial assistance pursuant to this
28 chapter, a qualified applicant shall contractually agree to the
29 recording of an energy remittance repayment agreement on the
30 eligible building that is being retrofitted.

31 25987.9. By July 1, ~~2013~~ 2014, the commission shall develop
32 a request for proposal to develop the program by a third-party
33 administrator. The third-party administrator shall administer the
34 program and establish an automated, asset-based underwriting
35 system for all eligible buildings in the state. The third-party
36 administrator shall provide consultation to the commission in
37 developing guidelines for the program. The party selected as the
38 third-party administrator shall only be selected if the program
39 proposal submitted by the party requires all costs, including startup
40 costs of the program, to be covered by the loan recipients, the

1 administrator, the bond purchasers, or some combination thereof.
2 The program selected shall not include General Fund costs or
3 liabilities, with the exception of loans from the General Fund
4 pursuant to Section 25987.41 utilized for startup costs.

5 25987.10. The third-party administrator shall establish
6 underwriting guidelines that consider an applicant's qualifications,
7 and other appropriate factors, including, but not limited to, credit
8 reports and loan-to-value ratios, consistent with good and
9 customary lending practices, necessary for the authority to obtain
10 a bond rating for bonds issued pursuant to Article 3 (commencing
11 with Section 25987.29) for a successful bond sale.

12 25987.11. The third-party administrator shall disclose to an
13 owner of a nonresidential building all fees imposed pursuant to
14 this chapter, including the loan loss reserve fee, the program
15 administration cost fee, and the interest rate charged, prior to the
16 submission of an application by the building owner.

17 25987.12. (a) An owner of an eligible building who wishes to
18 undertake an improvement shall submit to the third-party
19 administrator an application to participate in the program.

20 (b) The submission of an application is deemed to be a voluntary
21 agreement by the owner for the commission to record the energy
22 remittance repayment agreement on the deed of the eligible
23 building upon the approval of the application.

24 (c) The application form developed by the third-party
25 administrator shall include a statement in no less than 12-point
26 type stating the following:

27 SUBMISSION OF THIS APPLICATION CONSTITUTES THE
28 VOLUNTARY CONSENT OF THE APPLICANT FOR THE
29 RECORDATION OF THE ENERGY REMITTANCE
30 REPAYMENT AGREEMENT ON THE DEED OF THE
31 ELIGIBLE PROPERTY. UPON THE APPROVAL BY THE
32 COMMISSION OF THE APPLICATION AND THE
33 RECORDATION OF THE ENERGY REMITTANCE
34 REPAYMENT AGREEMENT, A LIEN IN THE AMOUNT
35 SPECIFIED IN THE ENERGY REMITTANCE REPAYMENT
36 AGREEMENT SHALL BE SECURED BY THE PROPERTY.

37
38 25987.13. The owner of an eligible building shall include all
39 of the following information in the application:

- 1 (a) The name, business address, and email address of the owners
2 of the eligible building.
- 3 (b) The names of all entities that hold a secured lien on the
4 eligible building and their contact information.
- 5 (c) The total dollar amount of liens that have been recorded on
6 the eligible building.
- 7 (d) An appraisal of the value of the eligible building that has
8 been conducted within the past six months or during an appropriate
9 timeframe consistent with industry practices for underwriting of
10 nonresidential buildings.
- 11 (e) A detailed description of the building energy efficiency
12 improvements being funded.
- 13 (f) The name of the financial institution providing interim
14 financing for the improvements or the warehouse line of credit
15 developed pursuant to Section 25987.26.
- 16 (g) The structure of the loan financing the building energy
17 efficiency improvements.
- 18 (h) Any information that the commission or third-party
19 administrator requires to verify that the owner will complete the
20 project.
- 21 (i) An analysis performed by an energy efficiency specialist to
22 quantify the costs of the energy and water efficiency improvements,
23 and total energy and water cost savings realized by the owner, or
24 his or her successor during the effective useful life of, and
25 estimated carbon impacts of, the improvements, including an
26 annual cashflow analysis.
- 27 (j) Copies of an application that have been made for energy
28 efficiency incentives identified pursuant to subdivision (d) of
29 Section 25987.19 for any applicable retrofits.
- 30 (k) Other information deemed necessary by the commission or
31 the third-party administrator.
- 32 25987.14. (a) In addition to the information required under
33 Section 25987.13, an applicant shall provide in the application a
34 detailed description of all of the following:
- 35 (1) The eligible building.
- 36 (2) The transactional activities associated with the eligible
37 improvements, including the transactional costs.
- 38 (3) Other information deemed necessary by the commission or
39 the third-party administrator.

1 (b) An applicant shall agree in the application to remit repayment
2 installments due by an electronic funds transfer under procedures
3 prescribed by the board.

4 25987.15. (a) The third-party administrator shall make
5 recommendations to the commission regarding the approval or
6 disapproval of an application.

7 (b) The commission may approve and accept an applicant into
8 the program if both of the following conditions are met:

9 (1) The applicant is a qualified applicant.

10 (2) Prior to receiving funding for renewable energy improvement
11 or alternative energy sources, the applicant shall show both of the
12 following:

13 (A) Evidence of intent to make feasible energy efficiency
14 upgrades recommended by the analysis required pursuant to
15 subdivision (i) of Section 25987.13.

16 (B) Evidence of intent to enroll in eligible demand response
17 programs, if appropriate.

18 (c) The commission shall determine appropriate guarantees
19 necessary to ensure cost neutrality of the improvements that may
20 include the requirement that the owner of the eligible building
21 obtain insurance issued by an A.M. Best “A” or better rated
22 insurance carrier or a similar product as approved by the
23 commission.

24 25987.16. (a) Upon the mutual agreement of the participant
25 and the third-party administrator, the third-party administrator
26 shall establish an annualized schedule for the repayment required
27 by the energy remittance repayment agreement, including the
28 interest charged, administrative cost fee, and loan loss fee.

29 (b) The board shall collect the repayment installments that
30 become due and payable.

31 (c) (1) The period for repayment of the energy remittance
32 repayment agreement shall not exceed the effective useful life of
33 the improvements or 20 years, whichever is shorter.

34 (2) The calculated effective useful life of the building energy
35 efficiency improvements shall be calculated using methodologies
36 adopted by the commission, in consultation with the Public Utilities
37 Commission.

38 (d) Upon the failure of the participant to pay any installment
39 toward the repayment of the energy remittance repayment
40 agreement when the installment becomes due and owing pursuant

1 to the schedule for repayment, the board shall assess a penalty on
2 the delinquent payment of 10 percent of the unpaid installment.

3 (e) Within 60 days of a failure to pay the scheduled energy
4 remittance payment, the board shall issue a demand letter to the
5 participant with notice provided to the commission and provide
6 the participant with 30 days to cure the default.

7 (f) (1) If the participant fails to cure the default within the time
8 allotted, the board may declare the entire outstanding energy
9 remittance repayment agreement balance, including any interest
10 due, penalties assessed, and costs of collection incurred,
11 immediately due and owing and foreclose on the energy remittance
12 repayment agreement by either judicial or nonjudicial foreclosure.

13 (2) Revenue generated from the sale of the eligible building
14 shall be distributed to satisfy liens on the eligible building in
15 accordance with the priority of the liens as provided by law.

16 (g) Upon the full repayment of the balance of the energy
17 remittance repayment agreement, and interest and penalties that
18 had accrued, the board shall notify the commission of that
19 repayment. Within 30 days of the receipt of the notice, the board
20 shall record with the county in which the eligible building is located
21 a release of the energy remittance repayment agreement.

22 25987.17. (a) A participant shall remit repayment installments
23 due by an electronic funds transfer to the board under procedures
24 prescribed by the board.

25 (b) Any participant remitting amounts due pursuant to
26 subdivision (a) shall perform electronic funds transfers in
27 compliance with the due dates prescribed in the schedule for
28 repayment. Payment is deemed complete on the date the electronic
29 funds transfer is initiated if settlement to the state's demand account
30 occurs on or before the banking day following the date the transfer
31 is initiated. If settlement to the state's demand account does not
32 occur on or before the banking day following the date the transfer
33 is initiated, payment is deemed to occur on the date settlement
34 occurs.

35 (c) Any participant who remits a repayment installment by
36 means other than appropriate electronic funds transfer shall pay a
37 penalty of 10 percent of the repayment installment incorrectly
38 remitted.

39 (d) The board may prescribe, adopt, and enforce guidelines
40 relating to the collection of the energy remittance repayment

1 installments. The guidelines adopted pursuant to this section shall
2 be exempt from the requirements of the Administrative Procedure
3 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
4 Division 3 of Title 2 of the Government Code).

5 25987.18. (a) Prior to approving an application for inclusion
6 into a loan portfolio and the recordation of the energy remittance
7 repayment agreement, or a modification of an approved application,
8 the commission shall conduct a public meeting on the proposed
9 application or modification.

10 (b) The commission shall post a notice of the hearing on the
11 commission's Internet Web site and provide the notice, in writing,
12 to all lienholders of the eligible building no later than 30 days prior
13 to the public meeting.

14 (c) The notice shall specify all of the following:

15 (1) The name of the qualified applicant.

16 (2) The address of the eligible meeting.

17 (3) The amount required to be repaid by the energy remittance
18 repayment agreement proposed to be recorded on the eligible
19 building.

20 (4) The date and place of the public meeting.

21 (5) The schedule for repayment of the contractual energy
22 remittance and associated costs as agreed upon between the
23 qualified applicant and the commission.

24 (6) The interest rate assessed pursuant to the energy remittance
25 repayment agreement.

26 (7) A detailed description of the proposed modification, if
27 applicable.

28 (d) The notice shall inform the lienholder that any complaints
29 or objections to either the approval of the application and the
30 recordation of the energy remittance repayment agreement on the
31 eligible building or the modification of an approved application
32 shall be submitted, in writing, to the commission not less than 10
33 days prior to the public meeting.

34 25987.19. In evaluating the eligibility of an applicant, the
35 commission shall consider the creditworthiness of the applicant
36 and the effectiveness of the improvements applying the following
37 criteria, which may include, but not be limited to, all of the
38 following:

39 (a) Whether applicants are legal owners of the underlying
40 property.

- 1 (b) Whether applicants are current on any outstanding mortgage
- 2 and property tax payments.
- 3 (c) Whether applicants are in default or in bankruptcy
- 4 proceedings.
- 5 (d) Whether applicants have applied for incentives available
- 6 through the energy efficiency programs offered by an electrical or
- 7 gas corporation.
- 8 (e) Whether improvements financed by the program follow
- 9 applicable standards including any guidelines adopted by the
- 10 commission.
- 11 25987.20. (a) The commission shall approve an application
- 12 at a business meeting. Upon approval of an application, the
- 13 commission shall authorize a recording of the energy remittance
- 14 repayment agreement on the deed of the eligible building.
- 15 (b) The commission shall specify the amount required to be
- 16 paid to the board pursuant to the energy remittance repayment
- 17 agreement, the schedule of repayment, and the interest rate charged.
- 18 (c) The commission shall approve a modification of an approved
- 19 application at a business meeting.
- 20 25987.21. (a) The energy remittance repayment agreement
- 21 that is secured by a lien recorded pursuant to this section, shall
- 22 have the force, effect, and priority of a judgment lien, and shall be
- 23 subordinate to any and all secured mortgage liens recorded against
- 24 the deed of the eligible building at the time of recording of the
- 25 energy remittance repayment agreement.
- 26 (b) Except as otherwise required by law, the energy remittance
- 27 repayment agreement shall be superior in priority to all subsequent
- 28 liens recorded on the deed of the eligible building except where
- 29 the first mortgage is refinanced, in which case the energy
- 30 remittance repayment agreement shall remain secondary to the
- 31 primary mortgage.
- 32 (c) The sale of the eligible building to enforce the payment of
- 33 general ad valorem taxes shall not extinguish the energy remittance
- 34 repayment agreement recorded on the eligible building.
- 35 (d) In the event of foreclosure, the energy remittance repayment
- 36 agreement installments shall not be due and owing during such
- 37 time when the building is owned by a financial institution taking
- 38 title by way of foreclosure. The installments owing pursuant to
- 39 the energy remittance repayment agreement shall, however,

1 continue to accrue and shall become due 60 days after a new,
2 nonfinancial owner takes title.

3 (e) Notwithstanding any other law, in the event of a foreclosure
4 of the property, the energy remittance repayment agreement shall
5 not be extinguished, unless the outstanding balance of the energy
6 remittance repayment agreement, including the interest accrued
7 and all penalties and fees assessed prior to the foreclosure, is fully
8 paid through the foreclosure proceeding.

9 25987.22. (a) No later than 30 days after the approval of an
10 application, the commission shall forward the agreement and any
11 other information necessary to collect the installment repayments
12 to the board which shall record with the county in which the
13 eligible building is located the energy remittance repayment
14 agreement on the deed of the eligible building. The board shall
15 notify the commission upon the recordation of the energy
16 remittance repayment agreement.

17 (b) Within 60 days of the notice of recording of the energy
18 remittance repayment agreement, the commission shall include
19 the approved application in a portfolio posted on the commission's
20 Internet Web site.

21 25987.23. (a) The board shall deposit into the Nonresidential
22 Building Energy Retrofit Debt Servicing Fund established pursuant
23 to Section 25987.38 any moneys collected pursuant to this chapter.

24 (b) The board may charge a program administration cost fee on
25 the owner of an eligible building to cover its costs as well as the
26 authority's and the commission's costs in implementing this
27 chapter.

28 (c) Nothing in this chapter shall be construed to require ~~investor~~
29 ~~owned~~ *investor-owned* utilities or municipal utilities to serve in
30 the role as a third-party private guarantor or loan servicer or
31 otherwise provide credit support for the loan program.

32 25987.24. (a) A local government that has issued revenue
33 bonds pursuant to a program providing financial assistance to
34 *owners of nonresidential buildings* ~~owners~~ undertaking a renewable
35 energy, water efficiency, or energy efficiency retrofit improvement
36 on the buildings may apply to the commission for participation in
37 the program.

38 (b) Upon the approval of an application submitted by the local
39 government ~~for the building or buildings in which that jurisdiction~~

1 is located, the authority may purchase all those outstanding revenue
 2 bonds issued by the local government.

3 (c) Upon the purchase of the revenue bonds issued by the local
 4 government by the authority, the authority succeeds to all rights
 5 conferred upon the bondholder by those revenue bonds and the
 6 local government shall remit revenue that is used to secure those
 7 revenue bonds to the board.

8 25987.25. (a) To the extent that the commission determines
 9 necessary to effectively complete the duties specified by this
 10 chapter, the commission shall do all of the following:

11 (1) (A) Analyze and evaluate standards for nonresidential
 12 energy building retrofits previously developed by various national
 13 and international organizations to provide uniformity and
 14 transparency for financial institutions evaluating loan proposals
 15 for energy improvements to nonresidential buildings. To the extent
 16 that the commission determines necessary, this evaluation shall
 17 be completed not later than January 1, ~~2014~~ 2015.

18 (B) The evaluation shall review existing protocols or a
 19 combination of elements of existing measurement protocols and
 20 shall be made available in an electronic format to financial
 21 institutions and local governments initiating loans pursuant to this
 22 chapter.

23 (2) Establish those standards, guidelines, and procedures,
 24 through regulation, including, but not limited to, standards of credit
 25 worthiness for qualification of program applicants, that are
 26 necessary to ensure the financial stability of the program and
 27 otherwise prevent fraud and abuse.

28 (3) Establish those measurement and verification standards
 29 necessary to ensure that the building energy efficiency
 30 improvements financed pursuant to this chapter are realized at a
 31 level specified by the commission.

32 (4) Consider reliance on existing trade certifications or licensing
 33 requirements applicable to occupations that perform the work
 34 contemplated under this chapter.

35 (5) Establish qualifications for the certification of contractors
 36 to construct or install building energy efficiency improvements.

37 (6) Contract with a party, public or private, to do any of the
 38 following:

39 (A) Ensure that appropriate and reasonable steps are taken to
 40 monitor and verify the quality and longevity of building energy

1 efficiency improvements financed pursuant to this division and
2 measure the total energy savings achieved by the program.

3 (B) Monitor the total number of program participants.

4 (C) Determine the average amount, in aggregate, paid to
5 contractors and financial institutions pursuant to the program.
6 Notwithstanding the California Public Records Act (Chapter 3.5
7 (commencing with Section 6250) of Division 7 of Title 1 of the
8 Government Code), upon a finding pursuant to Section 6255 of
9 the Government Code that the public interest is served by not
10 disclosing information clearly outweighs the public interest served
11 by disclosing information, the commission shall not disclose
12 payments made by an applicant or a program participant to
13 individual contractors or financial institutions.

14 (D) Calculate the number of jobs created by the program, the
15 number of defaults by program participants, and the total losses
16 from the defaults, and calculate the total dollar amount of bonds
17 issued by the authority to reimburse program participants.

18 (7) Develop a model energy aligned lease provision that
19 modifies, upon the agreement between the owner and tenants of
20 an eligible building, a commercial lease agreement allowing the
21 owners to recover the costs of the renewable energy, water
22 efficiency, or energy efficiency retrofit improvements that result
23 in operational savings based on the useful life of the retrofit while
24 protecting tenants from underperformance of the building energy
25 efficiency improvements.

26 (8) Develop a request for proposal to contract with one or more
27 financial institutions to secure a short-term, revolving credit facility
28 (warehouse line of credit) for the purpose of creating an interim
29 financing mechanism for the loans that would be aggregated for
30 the purposes of issuance of a revenue bond pursuant to Section
31 25987.29. The warehouse line of credit shall be drawn by the
32 third-party administrator for origination of direct loans to qualified
33 applicants.

34 (9) Adopt a standard notice and disclosure form for the purposes
35 of Section 25987.27.

36 (b) In implementing this chapter, the commission shall do all
37 of the following:

38 (1) Consult with the Public Utilities Commission, representatives
39 from the investor-owned and publicly owned utilities, local
40 governments, real estate licensees, commercial builders,

1 commercial property owners, small businesses, financial
2 institutions, commercial property appraisers, energy rating
3 organizations, and other entities the commission deems appropriate.

4 (2) Hold at least one public hearing.

5 (3) Adopt guidelines and standards for the purposes of
6 implementing this chapter at a publicly noticed meeting offering
7 all interested parties an opportunity to comment. For the initial
8 adoption of the guidelines and standards, the commission shall
9 provide a written public notice at least 30 days prior to the meeting.
10 For the adoption of any substantive change to the guidelines and
11 standards, the commission shall provide a written public notice at
12 least 10 days prior to the meeting. Notwithstanding any other law,
13 guidelines; or standards adopted pursuant to this section shall be
14 exempt from the requirements of Chapter 3.5 (commencing with
15 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
16 Code.

17 25987.26. Credit issued under the warehouse line of credit
18 shall not be deemed to constitute a debt or liability of the state or
19 of any political subdivision thereof, or a pledge of the full faith
20 and credit of the state or of any political subdivision, but shall be
21 payable solely from the funds provided therefor. All credit
22 instruments shall contain a statement to the following effect:

23
24 “Neither the faith and credit nor the taxing power of the State
25 of California is pledged to the payment of principal and interest
26 on this credit instrument.”

27 25987.27. (a) From the date upon which financial assistance
28 is approved by the commission pursuant to Section 25987.20 and
29 for all subsequent transactions entered into pursuant to this chapter,
30 a seller of real property subject to an energy remittance repayment
31 agreement shall deliver to the buyer an energy remittance
32 repayment agreement notice and disclosure as adopted by the
33 commission pursuant to paragraph (9) of subdivision (a) of Section
34 25987.25.

35 (b) (1) Upon the delivery of the completed notice and disclosure
36 form to the buyer of real property, the seller and his or her agent
37 is not required to provide additional information relative to the
38 energy remittance repayment agreement.

39 (2) The information in the notice and disclosure form is deemed
40 sufficient to provide notice to the buyer of the existence of the

1 energy improvements, the energy remittance repayment agreement,
2 and the repayment obligation that will be assigned to, and assumed
3 by, the buyer upon taking title.

4 25987.28. No later than June 30, ~~2014~~ 2015, and no later than
5 June 30 of every fifth year thereafter, the State Auditor shall
6 conduct, or cause to be conducted, a performance audit of the
7 program. The State Auditor shall prepare a report and
8 recommendations on each audit conducted and present the report
9 and recommendations to the President pro Tempore of the Senate
10 and the Speaker of the Assembly.

11
12 Article 3. Nonresidential Building Energy Retrofit Bond

13
14 25987.29. The authority, on behalf of the commission, may
15 incur indebtedness and issue and renew negotiable bonds, notes,
16 debentures, or other securities of any kind or class. All
17 indebtedness, however evidenced, shall be payable solely from
18 moneys received pursuant to this chapter and the proceeds of its
19 negotiable bonds, notes, debentures, or other securities and shall
20 not exceed the sum of two billion dollars (\$2,000,000,000).

21 25987.30. The Legislature may, by statute, authorize the
22 authority to issue bonds, as defined in Section 25987.31 in excess
23 of the amount provided in Section 25987.29.

24 25987.31. (a) On a semiannual basis, the authority shall
25 conduct a meeting for the purpose of authorizing the issuance of,
26 by the adoption of a resolution, negotiable bonds, notes, debentures,
27 or other securities (collectively called “bonds”) for the purposes
28 of generating sufficient moneys to fund the approved applications
29 in the portfolio at the time of the meeting or to repay an outstanding
30 balance of the participant on whose behalf the commission has
31 provided funds through the warehouse line of credit. In anticipation
32 of the sale of bonds as authorized by Section 25987.29, or as may
33 be authorized pursuant to Section 25987.30, the authority, on behalf
34 of the commission, may issue negotiable bond anticipation notes
35 and may renew the notes from time to time. The bond anticipation
36 notes may be paid from the proceeds of sale of the bonds of the
37 authority in anticipation of which they were issued. Notes and
38 agreements relating to the notes and bond anticipation notes
39 (collectively called “notes”) and the resolution or resolutions
40 authorizing the notes may contain any provisions, conditions, or

1 limitations that a bond, agreement relating to the bond, and bond
2 resolution of the authority may contain. However, a note or renewal
3 of the note shall mature at a time not exceeding two years from
4 the date of issue of the original note.

5 (b) Every issue of its bonds, notes, or other obligations shall be
6 general obligations of the authority payable from revenues or
7 moneys received pursuant to this chapter. Notwithstanding that
8 the bonds, notes, or other obligations may be payable from a special
9 fund, they are for all purposes negotiable instruments, subject only
10 to the provisions of the bonds, notes, or other obligations for
11 registration.

12 (c) Subject to the limitations in Sections 25987.29 and 25987.30,
13 the bonds may be issued as serial bonds or as term bonds, or the
14 authority, in its discretion, may issue bonds of both types. The
15 bonds shall be authorized by resolution of the authority and shall
16 bear the date or dates, mature at the time or times, not exceeding
17 30 years from their respective dates, bear interest at the rate or
18 rates, be payable at the time or times, be in the denominations, be
19 in the form, either coupon or registered, carry the registration
20 privileges, be executed in a manner, be payable in lawful money
21 of the United States of America at a place or places, and be subject
22 to terms of redemption, as the resolution or resolutions may
23 provide. The sales may be a public or private sale, and for the price
24 or prices and on the terms and conditions, as the authority shall
25 determine after giving due consideration to the recommendations
26 of any participating party to be assisted from the proceeds of the
27 bonds or notes. Pending preparation of the definitive bonds, the
28 authority may issue interim receipts, certificates, or temporary
29 bonds that shall be exchanged for the definitive bonds. The
30 authority may sell bonds, notes, or other evidence of indebtedness
31 at a price below their par value. However, the discount on a security
32 sold pursuant to this section shall not exceed 6 percent of the par
33 value.

34 (d) A resolution or resolutions authorizing bonds or an issue of
35 bonds may contain provisions that shall be a part of the contract
36 with the holders of the bonds to be authorized, as to all of the
37 following:

38 (1) Pledging the moneys collected pursuant to this chapter from
39 the portfolio of approved applications that are funded by the bonds,
40 to secure the payment of the bonds or of any particular issue of

1 bonds, subject to the agreements with bondholders as may then
2 exist.

3 (2) The setting aside of reserves or sinking funds, and the
4 regulation and disposition of the reserves or sinking funds.

5 (3) Limitations on the right of the authority or the commission
6 or their agent to restrict and regulate the use of the project or
7 projects to be financed out of the proceeds of the bonds or any
8 particular issue of bonds.

9 (4) Limitations on the purpose to which the proceeds of sale of
10 an issue of bonds then or thereafter to be issued may be applied
11 and pledging those proceeds to secure the payment of the bonds
12 or the issue of the bonds.

13 (5) Limitations on the issuance of additional bonds, the terms
14 upon which additional bonds may be issued and secured, and the
15 refunding of outstanding bonds.

16 (6) The procedure, if any, by which the terms of a contract with
17 bondholders may be amended or abrogated, the amount of bonds
18 the holders of which must consent to the amendment or abrogation,
19 and the manner in which that consent may be given.

20 (7) Limitations on expenditures for operating, administrative,
21 or other expenses of the authority or commission.

22 (8) Defining the acts or omissions to act that constitute a default
23 in the duties of the authority or commission to holders of its
24 obligations and providing the rights and remedies of the holders
25 in the event of a default.

26 (e) The authority, the commission, and any person executing
27 the bonds or notes shall not be liable personally on the bonds or
28 notes or be subject to personal liability or accountability by reason
29 of the issuance of the bond or note.

30 (f) The authority shall have power out of any funds available
31 for these purposes to purchase its bonds or notes. The authority
32 may hold, pledge, cancel, or resell those bonds, subject to and in
33 accordance with agreements with bondholders.

34 (g) The commission, the authority, and the board may enter into
35 a memorandum of understanding providing for the transfer of
36 energy remittance payments between the three agencies in
37 furtherance of this chapter.

38 (h) Should there be insufficient project valuation or insufficient
39 demand for the revenue bonds authorized by this chapter, the board
40 shall continue to collect the energy remittance payments and

1 service the loans. Failure to sell the revenue bonds shall not create
2 any liability for the state.

3 25987.32. In the discretion of the authority, any bonds issued
4 under the provisions of this article may be secured by a trust
5 agreement by and between the authority and a corporate trustee
6 or trustees, which may be the authority or any trust company or
7 bank having the powers of a trust company within or without the
8 state. Such trust agreement or the resolution providing for the
9 issuance of such bonds may pledge or assign the revenues to be
10 received pursuant to this chapter, to be financed out of the proceeds
11 of such bonds. Such trust agreement or resolution providing for
12 the issuance of such bonds may contain such provisions for
13 protecting and enforcing the rights and remedies of the bondholders
14 as may be reasonable and proper and not in violation of law,
15 including particularly such provisions as have herein above been
16 specifically authorized to be included in any resolution or
17 resolutions of the commission authorizing bonds thereof. Any bank
18 or trust company doing business under the laws of this state which
19 may act as depository of the proceeds of bonds or of revenues or
20 other moneys may furnish such indemnifying bonds or pledge such
21 securities as may be required by the authority. Any such trust
22 agreement may set forth the rights and remedies of the bondholders
23 and of the trustee or trustees, and may restrict the individual right
24 of action by bondholders. In addition to the foregoing, any such
25 trust agreement or resolution may contain such other provisions
26 as the authority may deem reasonable and proper for the security
27 of the bondholders. Notwithstanding any other law, the authority
28 shall not be deemed to have a conflict of interest by reason of
29 acting as trustee pursuant to this chapter.

30 25987.33. Bonds issued under the provisions of this article
31 shall not be deemed to constitute a debt or liability of the state or
32 of any political subdivision thereof, other than the authority, or a
33 pledge of the faith and credit of the state or of any such political
34 subdivision, but shall be payable solely from the funds herein
35 provided therefor. All such bonds shall contain on the face thereof
36 a statement to the following effect: "Neither the faith and credit
37 nor the taxing power of the State of California is pledged to the
38 payment of the principal of or interest on this bond." The issuance
39 of bonds under the provisions of this article shall not directly or
40 indirectly or contingently obligate the state or any political

1 subdivision thereof to levy or to pledge any form of taxation
2 whatever therefor or to make any appropriation for their payment.
3 Nothing contained in this section shall prevent or be construed to
4 prevent the authority from pledging its full faith and credit to the
5 payment of bonds or issue of bonds authorized pursuant to this
6 chapter.

7 25987.34. (a) The authority is hereby authorized to provide
8 for the issuance of bonds of the authority for the purpose of
9 refunding any bonds, notes, or other securities of the authority
10 then outstanding, including the payment of any redemption
11 premium thereon and any interest accrued or to accrue to the
12 earliest or subsequent date of redemption, purchase, or maturity
13 of such bonds.

14 (b) The proceeds of any such bonds issued for the purpose of
15 refunding outstanding bonds, notes, or other securities may, in the
16 discretion of the authority, be applied to the purchase or retirement
17 at maturity or redemption of such outstanding bonds either on their
18 earliest or any subsequent redemption date or upon the purchase
19 or retirement at the maturity thereof and may, pending such
20 application, be placed in escrow to be applied to such purchase or
21 retirement at maturity or redemption on such date as may be
22 determined by the authority.

23 (c) Pending such use, any such escrowed proceeds may be
24 invested and reinvested by the authority in obligations of, or
25 guaranteed by, the United States of America, or in certificates of
26 deposit or time deposits secured by obligations of, or guaranteed
27 by, the United States of America, maturing at such time or times
28 as shall be appropriate to ensure the prompt payment, as to
29 principal, interest, and redemption premium, if any, of the
30 outstanding bonds to be so refunded. The interest, income, and
31 profits, if any, earned or realized on any such investment may also
32 be applied to the payment of the outstanding bonds to be so
33 refunded. After the terms of the escrow have been fully satisfied
34 and carried out, any balance of such proceeds and interest, income,
35 and profits, if any, earned or realized on the investments thereof
36 may be returned to the authority for use by it in any lawful manner.

37 (d) All such bonds shall be subject to the provisions of this
38 division in the same manner and to the same extent as other bonds
39 issued pursuant to this chapter.

1 25987.35. Bonds issued by the authority are legal investments
2 for all trust funds, the funds of all insurance companies, banks,
3 both commercial and savings, trust companies, savings and loan
4 associations, and investment companies, for executors,
5 administrators, trustees, and other fiduciaries, for state school
6 funds, and for any funds which may be invested in county,
7 municipal, or school district bonds, and such bonds are securities
8 which may properly and legally be deposited with, and received
9 by, any state or municipal officer or agency or political subdivision
10 of the state for any purpose for which the deposit of bonds or
11 obligations of the state, is now, or may hereafter be, authorized by
12 law, including deposits to secure public funds if, and only to the
13 extent that, evidence of indebtedness or debt securities of the
14 participating party receiving financing through the issuance of
15 such bonds qualify or are eligible for such purposes and uses.

16 25987.36. The state hereby pledges and agrees with the holders
17 of the bonds and with a participant with an approved application
18 that the state will not limit, alter, restrict, or impair the rights vested
19 in the authority or the commission or the rights or obligations of
20 a person or entity with which the commission contracts to fulfill
21 the terms of an agreement made pursuant to this chapter. The state
22 further agrees that it will not in any way impair the rights or
23 remedies of the holder of the bonds until the bonds have been paid
24 or until adequate provision for payment has been made. The
25 authority may include this provision and undertaking for the
26 authority in its bonds.

27 25987.37. (a) Bonds issued pursuant to this division shall be
28 exempt from all taxation and assessment imposed pursuant to state
29 law.

30 (b) No later than February 1, ~~2013~~ 2014, the commission shall
31 apply to the United States Department of the Treasury under the
32 Energy Tax Incentives Act of 2005 (Title XIII of Public Law
33 109-58) for the authority to issue tax advantage bonds under the
34 federal Clean Renewable Energy Bonds program or any other
35 applicable programs.

1 Article 4. Nonresidential Building Energy Retrofit Debt
2 Servicing Fund
3

4 25987.38. (a) The Nonresidential Building Energy Retrofit
5 Debt Servicing Fund is hereby established in the State Treasury.
6 Notwithstanding Section 13340 of the Government Code, the
7 moneys in the fund are hereby continuously appropriated to the
8 authority without regard to fiscal year for the purposes of paying
9 the principal and interest on bonds issued by the authority pursuant
10 to Section 25987.29, servicing the warehouse line of credit, and
11 defraying any direct and indirect costs incurred by the Treasurer
12 in executing duties required by this chapter.

13 (b) All interest and income derived from the deposit and
14 investment of moneys in the fund shall be credited to the fund,
15 and all unexpended and unencumbered moneys in the fund at the
16 end of any fiscal year shall remain in the fund.

17 25987.39. The Loan Loss Reserve Account is hereby
18 established in the Nonresidential Building Energy Retrofit Debt
19 Servicing Fund. The board shall deposit the portion of the
20 contractual energy remittance that is the loan loss reserve fee into
21 the account. Notwithstanding Section 13340 of the Government
22 Code, the moneys in the account are hereby continuously
23 appropriated to the authority without regard to fiscal year for the
24 purposes of paying outstanding balances due under an energy
25 remittance repayment agreement on a building that has been
26 foreclosed upon if the proceeds generated from the foreclosure
27 proceedings are insufficient to pay any past due payments past due
28 under the energy remittance repayment agreement, including
29 accrued interest, penalties, and fees. All interest and income derived
30 from the deposit and investment of moneys in the account shall
31 be credited to the account, and all unexpended and unencumbered
32 moneys in the account at the end of any fiscal year shall remain
33 in the account.

34 25987.40. The Administration Account is hereby established
35 in the Nonresidential Building Energy Retrofit Debt Servicing
36 Fund. The authority shall deposit into the account the program
37 administration fee collected pursuant to subdivision (b) of Section
38 25987.23 and penalties collected pursuant to Section 25987.16.
39 Notwithstanding Section 13340 of the Government Code, moneys
40 in the account shall be continuously appropriated to the authority,

1 the commission, and the board for the costs of implementing this
2 chapter.

3 25987.41. (a) The Director of Finance shall transfer, as a loan,
4 up to one million dollars (\$1,000,000) from the General Fund to
5 the board to implement this chapter.

6 (b) The Director of Finance shall transfer, as a loan, up to seven
7 million dollars (\$7,000,000) from the General Fund to the
8 commission to implement this chapter.

9 (c) Any loan made pursuant to this section shall be repaid on
10 or before January 1, ~~2023~~ 2024, with interest at the pooled money
11 investment rate, from energy remittance repayment collected
12 pursuant to this chapter.

13 (d) If the fees authorized for collection pursuant to subdivision
14 (b) of Section 25987.23 are not sufficient to support the loans made
15 pursuant to this section, the Director of Finance shall discuss
16 alternative repayment terms with the borrowing agencies.

17 25987.42. (a) The commission, the board, and the authority
18 shall be authorized to promulgate necessary regulations to
19 implement and administer this chapter.

20 (b) Guidelines for the purposes of implementing this chapter
21 shall be adopted by the commission, board, or authority at a
22 publicly noticed meeting offering all interested parties an
23 opportunity to comment. For the initial adoption of the guidelines
24 and standards, the commission, board, or authority shall provide
25 a written public notice at least 30 days prior to the meeting. For
26 the adoption of any substantive change to the guidelines and
27 standards, the commission, board, or authority shall provide a
28 written public notice at least 10 days prior to the meeting.
29 Notwithstanding any other law, guidelines or standards adopted
30 pursuant to this section shall be exempt from the requirements of
31 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
32 3 of Title 2 of the Government Code.