

ASSEMBLY BILL

No. 2045

Introduced by Assembly Member Rendon

February 20, 2014

An act to add Chapter 12.5 (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 2045, as introduced, Rendon. Energy improvements: 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 Real Property Energy Retrofit Financing Act of 2014 and would require the commission to establish the Nonresidential Real Property Energy Retrofit Financing Program. The program would provide financial assistance, through authorizing the issuance of, among other things, revenue bonds, to owners of eligible real properties, as defined, 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 lien, as defined, on the eligible real property for which the improvements are performed. The bill would require a loan servicer to collect installment payments from owners of eligible real properties whose applications have been approved by the commission. The bill would require the State Board of Equalization to collect repayment installments that are delinquent.

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 Real Property 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 commission to deposit the installment payment received from the owners of eligible real properties 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.

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 12.5 (commencing with Section 25987.1)
2 is added to Division 15 of the Public Resources Code, to read:

3

4 CHAPTER 12.5. NONRESIDENTIAL REAL PROPERTY ENERGY
5 RETROFIT FINANCING

6

7 Article 1. General Provisions and Definitions

8

9 25987.1. This act shall be known, and may be cited, as the
10 Nonresidential Real Property Energy Retrofit Financing Act of
11 2014.

12 25987.2. The purpose of this chapter is to facilitate private
13 financing to enable nonresidential real property owners to invest
14 in clean energy improvements, renewable energy, and conservation;
15 to incentivize private equity managers to invest in clean energy
16 improvements, integrate the smart energy economy, and stimulate
17 the state economy by directly creating jobs for contractors and
18 other persons who complete new energy improvements; and to
19 reinforce the leadership role of the state in the new energy
20 economy, thereby attracting energy manufacturing facilities and
21 related jobs to the state.

22 25987.3. The Legislature finds and declares all of the following:

1 (a) Nonresidential real properties represent a huge opportunity
2 to significantly increase energy efficiency and reduce greenhouse
3 gas emissions. To do this, California needs to address the design,
4 construction, and operation of these buildings.

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

11 (c) It is in the best interest of the state and its citizens to enable
12 and encourage the owners of eligible nonresidential real property
13 to invest in new energy improvements, including building energy
14 efficiency improvements that qualify for investor-owned utility or
15 publicly owned utility programs, water efficiency improvements,
16 and renewable energy improvements, by enacting this division to
17 establish, develop, finance, implement, and administer a new
18 energy improvement program that provides for both building
19 energy efficiency improvements and renewable energy
20 improvements and to assist those owners who choose to participate
21 in the program to complete new energy improvements to their
22 properties because of the following:

23 (1) New energy improvements, including building energy
24 efficiency improvements and renewable energy improvements,
25 can provide positive cashflow when the costs of the improvements
26 are spread out over a long enough time that a building's cumulative
27 utility bill cost savings exceed the amount of the liens recorded
28 on the eligible building to ensure payment for the improvements.

29 (2) Many owners of eligible nonresidential real properties are
30 unable to fund a new energy improvement because the owners do
31 not have sufficient liquid assets to directly fund the improvement
32 or are unable or unwilling to incur the negative net cashflow likely
33 to result if the owner uses a typical existing loan program to fund
34 the improvement.

35 (d) Reduction in the amount of emissions of greenhouse gases
36 and environmental pollutants, resulting from increased efficiencies
37 and the resulting decreased use of traditional nonrenewable fuels,
38 will improve air quality and may help to mitigate climate change.

1 (e) The owners of nonresidential real properties who participate
2 in the program established pursuant to this division shall do so
3 voluntarily.

4 25987.4. Unless the context otherwise requires, for the purposes
5 of this chapter, the following terms have the following meanings:

6 (a) (1) “Alternative energy sources” means energy from
7 renewable cogeneration or gas-fired cogeneration technology that
8 meets the greenhouse gas emissions and efficiency standards
9 applicable to the Self-Generation Incentive Program in effect at
10 the time of the application, energy storage technologies, or energy
11 from solar, biomass, wind, or geothermal systems, or fuel cells,
12 the efficient use of which will reduce the use of conventional
13 energy fuels.

14 (2) The system shall be sized appropriately to offset part or all
15 of the applicant’s own energy demand for the permanent fixtures
16 that consume energy, as if all cost-effective energy efficiency
17 measures have been installed, and shall be located on the same
18 property where the eligible real property is located.

19 (b) “Applicant” means a person, or an entity or group of entities,
20 engaged in business or operations in the state, whether organized
21 for profit or not for profit that owns a nonresidential real property
22 and applies for financial assistance from the commission for the
23 purpose of implementing a project in a manner prescribed by the
24 commission.

25 (c) “Authority” means the California Alternative Energy and
26 Advanced Transportation Financing Authority established pursuant
27 to Section 26004.

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

29 (e) “Building energy efficiency improvement” means one or
30 more installations or modifications that are permanently affixed
31 to the building or located on the premises of the building site, for
32 which a building permit is issued after January 1, 2015, to an
33 eligible building that either qualifies for an investor-owned utility
34 or publicly owned utility energy efficiency program or is designed
35 to reduce the energy consumption of the building, and that may
36 include, but is not limited to, all of the following to the extent they
37 qualify:

38 (1) High-efficiency mechanical equipment.

39 (2) High-efficiency electrical equipment.

- 1 (3) Capturing or reducing heat gain or solar shading, including
- 2 the roof and south and west walls, and not just glazing.
- 3 (4) High-efficiency water heating.
- 4 (5) Insulation in walls, roofs, floors, and foundations and in
- 5 heating and cooling distribution systems.
- 6 (6) Fenestration and door replacements, and door modifications
- 7 that reduce energy consumption.
- 8 (7) Automatic energy control systems.
- 9 (8) Heating, ventilating, or air conditioning and distribution
- 10 system modifications or replacements.
- 11 (9) Caulking and weather stripping.
- 12 (10) Replacement or modification of luminaries to increase the
- 13 energy efficiency of the system, or additional lighting controls to
- 14 reduce electric lighting during periods of vacancy.
- 15 (11) Energy recovery systems.
- 16 (12) Daylighting systems and associated lighting controls for
- 17 daylight harvesting.
- 18 (13) Building commissioning or retrocommissioning.
- 19 (f) “Conventional energy fuel” means any of the following:
- 20 (1) A fuel derived from petroleum deposits, including, but not
- 21 limited to, oil, heating oil, gasoline, and fuel oil.
- 22 (2) Natural gas, including liquefied natural gas, other than that
- 23 used in cogeneration gas-fired technology.
- 24 (3) Nuclear fissionable materials.
- 25 (4) Coal.
- 26 (g) “Delinquent repayment installment” means a due and payable
- 27 repayment installation that was not paid within the time specified
- 28 in the schedule for repayment.
- 29 (h) “Demand response” means reductions or shifts in electricity
- 30 consumption by customers in response to either economic or
- 31 reliability signals.
- 32 (i) “Due and payable” means the date as specified in the
- 33 schedule for repayment for each repayment installment.
- 34 (j) “Eligible real property” means a nonresidential building that
- 35 completed construction on or before January 1, 2015, and is located
- 36 within the boundaries of the state.
- 37 (k) “Energy remittance repayment agreement” means a
- 38 contractual agreement between an owner of an eligible real property
- 39 and the commission, secured by a lien, as described in Section
- 40 25987.21, recorded in the county where the property is situated

1 and on an eligible real property specially benefited by the project
2 for which the commission will make reimbursement or a direct
3 payment to the party financing the project, and “contractual energy
4 remittance” means that reimbursement or direct payment. The
5 amount to be repaid pursuant to the energy remittance repayment
6 agreement shall include the costs necessary to finance the project
7 less any rebates, grants, and other direct financial assistance
8 received by the owner pursuant to other law, a loan loss reserve
9 fee, in an amount to be established by the third-party administrator
10 in consultation with the commission and any warehouse financier
11 under contract entered into pursuant to paragraph (3) of subdivision
12 (a) of Section 25987.25, to insure against nonperformance of the
13 loan and other losses of the program, and a program administrative
14 cost fee.

15 (l) “Energy efficiency specialist” means an individual or
16 business authorized or certified by rules of the commission to
17 analyze, evaluate, or install a project.

18 (m) “Financial assistance” means either of the following:

19 (1) Loans, loan loss reserves, interest rate reductions, secondary
20 loan purchase, insurance, guarantees or other credit enhancements
21 or liquidity facilities, contributions of money, property, labor, or
22 other items of value, or any combination thereof, as determined
23 and approved by the commission.

24 (2) Other types of assistance the commission determines are
25 appropriate.

26 (n) “Loan balance” means the outstanding principal balance of
27 loans secured by a mortgage or deed of trust with a first or second
28 lien on eligible real property.

29 (o) “Loan loss reserve fee” means a fee that serves as collateral
30 in the event of a loan default.

31 (p) “Nonresidential Real Property Energy Retrofit Bond” means
32 a bond issued pursuant to Section 25987.31 that is secured by an
33 energy remittance repayment agreement lien on real property and
34 is entered into voluntarily to finance the project.

35 (q) “Participant” means a person, or an entity or group of
36 entities, engaged in business or operations in the state, whether
37 organized for profit or not for profit, that, as a qualified applicant,
38 is approved for financial assistance pursuant to Article 2
39 (commencing with Section 25987.5) and has entered into an energy
40 remittance repayment agreement with the commission for the

1 purpose of implementing a project in a manner prescribed by the
2 commission. “Participant” includes a subsequent owner taking
3 title to real property subject to an energy remittance repayment
4 agreement lien.

5 (r) “Portfolio” means an aggregation of approved applications.

6 (s) “Program” means the Nonresidential Real Property Energy
7 Retrofit Financing Program established by the commission in
8 accordance with Section 25987.7.

9 (t) “Program administration cost fee” means a fee imposed for
10 the costs incurred by the commission, the authority, and the State
11 Board of Equalization to administer the program.

12 (u) “Project” means an improvement to an eligible real property
13 that constitutes a water efficiency improvement, renewable energy
14 improvement, or building energy efficiency improvement.

15 (v) “Qualified applicant” means a person or business entity who
16 does all of the following:

17 (1) Owns an eligible real property that has a ratio of loan balance
18 to its appraised value not to exceed 85 percent, which is subject
19 to adjustment by the program administrator at the time the person’s
20 program application is approved, as shown in the records of the
21 county assessor, unless the holder of the deed of trust or mortgage
22 recorded against the eligible real property that has priority over
23 all other deeds of trust or mortgages recorded against the eligible
24 real property has consented in writing to the recording of an energy
25 remittance repayment agreement lien pursuant to this division
26 against the eligible real property.

27 (2) Timely submits to the commission a complete application,
28 which notes the existence of any priority mortgage or deed of trust
29 on the eligible property and the identity of the holder of the
30 mortgage or deed of trust, to join the program and consents to the
31 levying of a lien in the amount of the energy remittance repayment
32 agreement on the real property pursuant to this chapter.

33 (3) Meets standard of credit worthiness that the commission
34 may establish.

35 (w) “Renewable energy” means heat, processed heat, space
36 heating, water heating, steam, space cooling, refrigeration,
37 mechanical energy, electricity, fuel cells, or energy in any form
38 convertible to these uses, and including energy storage
39 technologies, that does not expend or use conventional energy

1 fuels, and that uses any of the following electrical generation
2 technologies:

- 3 (1) Biomass.
- 4 (2) Solar thermal.
- 5 (3) Photovoltaic.
- 6 (4) Wind.
- 7 (5) Geothermal.

8 (x) “Renewable energy improvement” means one or more
9 fixtures, products, systems, or devices, or an interacting group of
10 fixtures, products, systems, or devices, that use an alternative
11 energy source, are permanently affixed to, or located on, the real
12 property, and directly benefit an eligible real property or that are
13 installed on the customer side of a meter of an eligible real property
14 and that produce renewable energy from renewable resources,
15 including, but not limited to, photovoltaic, solar thermal, small
16 wind, biomass, fuel cells, or geothermal systems, such as ground
17 source heat pumps, as may be approved by the commission.

18 (y) “Repayment installation” means the monthly amount
19 specified pursuant to the agreed schedule for repayment approved
20 by the commission.

21 (z) “Third-party administrator” means an entity selected by the
22 commission through a request for a proposal to manage project
23 applications and make recommendations to the commission as to
24 an individual project’s compliance with this chapter.

25 (aa) “Warehouse financier” means a financial entity, bank, or
26 pension fund, chosen by the commission through a request for
27 proposal to provide an ongoing and revolving source of financing
28 for applications approved pursuant to Section 25987.20.

29

30 Article 2. Nonresidential Real Property Energy Retrofit
31 Financing Program

32

33 25987.5. The purpose of the Nonresidential Real Property
34 Energy Retrofit Financing Program is to help provide the special
35 benefits of water efficiency improvements, renewable energy
36 improvements, and building energy efficiency improvements to
37 owners of eligible real properties who voluntarily participate in
38 the program by establishing, developing, financing, and
39 administering a program to assist those owners in completing
40 improvements.

1 25987.6. The commission shall have and exercise all rights
2 and powers necessary or incidental to or implied from the specific
3 powers granted to the commission by this chapter. Those specific
4 powers shall not be considered as a limitation upon any power
5 necessary or appropriate to carry out the purposes and intent of
6 this chapter.

7 25987.7. (a) The commission shall establish, develop, finance,
8 and administer, consistent with Section 25987.9, the Nonresidential
9 Building Real Property Retrofit Financing Program. The
10 commission shall provide general direction and oversight to the
11 authority and board as they complete duties specified in this
12 chapter. The program shall be designed to provide financial
13 assistance for an owner of an eligible real property to use one or
14 more energy efficiency specialists to retrofit or benefit the property
15 with one or more renewable energy improvements, building energy
16 efficiency improvements, or water efficiency improvements, by
17 applying to the commission for inclusion of the owner's project
18 in a portfolio that will be financed through the use of the revenue
19 bonds issued pursuant to this chapter. These bonds shall be secured
20 by revenues generated through energy remittance repayment
21 agreement liens recorded against the real properties benefited by
22 the projects in the portfolio.

23 (b) The program shall provide financial assistance for projects
24 when the total energy and water cost savings realized by the real
25 property owner, and any successor or successors to the real property
26 owner, during the useful life of the improvements, as determined
27 by an analysis required pursuant to subdivision (i) of Section
28 25987.13 are expected to equal or exceed the total costs incurred
29 by the owner pursuant to the program.

30 (c) In developing rules to certify an energy efficiency specialist,
31 the commission shall consult with the Public Utilities Commission,
32 the investor-owned utilities, the contractor community, and other
33 entities the commission deems appropriate and consider existing
34 trade certifications or licensing requirements applicable to
35 occupations that perform work contemplated pursuant to this
36 chapter.

37 (d) (1) Within six months after the first two years of
38 implementation of the program established pursuant to subdivision
39 (a) or after the expenditure of the first two hundred fifty million
40 dollars (\$250,000,000) of proceeds authorized pursuant to Section

1 25987.29, whichever occurs earlier, the commission shall prepare
2 and make publicly available a report on the efficacy of the program
3 in achieving the purposes of the program as specified in Section
4 25987.5 and recommendations that would enhance the ability of
5 the program to achieve those purposes.

6 (2) The commission shall post the report on its Internet Web
7 site.

8 (3) Prior to the additional expenditure of the proceeds authorized
9 pursuant to Section 25987.29, the commission shall hold at least
10 one public hearing and take public comments on the report.

11 25987.8. To receive financial assistance pursuant to this
12 chapter, a qualified applicant shall contractually agree to the
13 recording of an energy remittance repayment agreement lien on
14 the eligible real property that is being retrofitted or benefited.

15 25987.9. By July 1, 2015, the commission shall develop a
16 request for proposal to develop the program by a third-party
17 administrator. The third-party administrator shall administer the
18 program and establish an automated, asset-based underwriting
19 system for all eligible real properties in the state. The third-party
20 administrator shall provide consultation to the commission in
21 developing guidelines for the program. The third-party
22 administrator shall provide an independent energy advisor to assist
23 owners of real properties in evaluating projects. The third-party
24 administrator shall provide a loan servicer to service the loans.
25 The party selected as the third-party administrator shall only be
26 selected if the program proposal submitted by the party requires
27 all costs, including startup costs of the program, to be covered by
28 the loan recipients, the administrator, the bond purchasers, or some
29 combination thereof. The program selected shall not include
30 General Fund costs or liabilities.

31 25987.10. The third-party administrator shall establish
32 underwriting guidelines that consider an applicant's qualifications,
33 and other appropriate factors, including, but not limited to, credit
34 reports and loan-to-value ratios, consistent with good and
35 customary lending practices, necessary for the authority to obtain
36 a bond rating for bonds issued pursuant to Article 3 (commencing
37 with Section 25987.29) for a successful bond sale.

38 25987.11. The third-party administrator shall disclose to an
39 owner of an eligible real property all fees imposed pursuant to this
40 chapter, including the loan loss reserve fee, the program

1 administration cost fee, and the interest rate charged, prior to the
2 submission of an application by the owner.

3 25987.12. (a) An owner of an eligible real property undertaking
4 a project shall submit to the third-party administrator an application
5 to participate in the program.

6 (b) The submission of an application is deemed to be a voluntary
7 agreement by the owner for the commission to record the energy
8 remittance repayment agreement lien against the eligible real
9 property upon the approval of the application.

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

13
14 SUBMISSION OF THIS APPLICATION CONSTITUTES THE
15 VOLUNTARY CONSENT OF THE APPLICANT FOR THE
16 RECORDATION OF THE ENERGY REMITTANCE
17 REPAYMENT AGREEMENT LIEN AGAINST THE ELIGIBLE
18 REAL PROPERTY. UPON THE APPROVAL BY THE
19 COMMISSION OF THE APPLICATION AND THE
20 RECORDATION OF THE ENERGY REMITTANCE
21 REPAYMENT AGREEMENT LIEN, A LIEN IN THE AMOUNT
22 SPECIFIED IN THE ENERGY REMITTANCE REPAYMENT
23 AGREEMENT SHALL BE RECORDED ON THE PROPERTY
24 TO SECURE THE AGREEMENT.

25
26 25987.13. The owner of an eligible real property shall include
27 all of the following information in the application:

28 (a) The name, business address, and email address of the owners
29 of the eligible real property.

30 (b) The names of all entities that hold a secured lien on the
31 eligible real property and their contact information.

32 (c) The total dollar amount of liens that have been recorded
33 against the eligible real property.

34 (d) An appraisal of the value of the eligible real property that
35 has been conducted within the past six months or during an
36 appropriate timeframe consistent with industry practices for
37 underwriting of nonresidential buildings.

38 (e) A detailed description of the project to be funded.

- 1 (f) The name of the financial institution providing interim
2 financing for the project or the warehouse line of credit developed
3 pursuant to Section 25987.26.
- 4 (g) The structure of the loan financing the project.
- 5 (h) Any information that the commission or third-party
6 administrator requires to verify that the owner will complete the
7 project.
- 8 (i) An analysis performed by an energy efficiency specialist to
9 quantify the costs of the project, and total energy and water cost
10 savings realized by the owner or his or her successor during the
11 effective useful life of, and estimated carbon impacts of, the project,
12 including an annual cashflow analysis.
- 13 (j) Copies of an application that have been made for energy
14 efficiency incentives identified pursuant to subdivision (d) of
15 Section 25987.19 for any applicable retrofits.
- 16 (k) Other information deemed necessary by the commission or
17 the third-party administrator.
- 18 (l) The total amount of the loan requested showing any and all
19 adjustments to reduce the loan amount after all federal, state, local,
20 and ratepayer-funded incentives have been applied.
- 21 25987.14. In addition to the information required under Section
22 25987.13, an applicant shall provide in the application a detailed
23 description of all of the following:
 - 24 (a) The eligible real property.
 - 25 (b) The transactional activities associated with the project,
26 including the transactional costs.
 - 27 (c) Other information deemed necessary by the commission or
28 the third-party administrator.
- 29 25987.15. (a) The third-party administrator shall make
30 recommendations to the commission regarding the approval or
31 disapproval of an application.
 - 32 (b) The commission may approve and accept an applicant into
33 the program if both of the following conditions are met:
 - 34 (1) The applicant is a qualified applicant.
 - 35 (2) Prior to receiving funding for renewable energy
36 improvement, the applicant shall show both of the following:
 - 37 (A) Evidence of intent to make feasible energy efficiency
38 upgrades recommended by the analysis required pursuant to
39 subdivision (i) of Section 25987.13.

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

3 (c) The commission shall determine appropriate guarantees
4 necessary to ensure cost neutrality of the improvements that may
5 include the requirement that the owner of the eligible building
6 obtain insurance issued by an A.M. Best “A” or better rated
7 insurance carrier or a similar product as approved by the
8 commission.

9 25987.16. (a) Upon the mutual agreement of the participant
10 and the third-party administrator, the third-party administrator
11 shall establish an annualized schedule for the repayment with
12 monthly repayment installments required by the energy remittance
13 repayment agreement, including the interest charged, administrative
14 cost fee, and loan loss reserve fee.

15 (b) (1) The period for repayment of the energy remittance
16 repayment agreement shall not exceed the effective useful life of
17 the improvements or 20 years, whichever is shorter.

18 (2) The calculated effective useful life of the building energy
19 efficiency and renewable energy improvements, shall be calculated
20 using methodologies adopted by the commission, in consultation
21 with the Public Utilities Commission.

22 (A) The commission shall hold at least one public hearing on
23 the useful life of the improvement to take public and industry
24 comments on the commission’s determinations.

25 (B) The commission shall update the useful life of improvements
26 as new information becomes available and when new technologies
27 become available and shall make this information publicly available
28 on its Internet Web site.

29 (C) The commission shall remove any improvements from its
30 information on improvements if the improvement is no longer
31 available or if the commission determines that manufacturer defects
32 disqualify the improvement from loan eligibility.

33 (c) The loan servicer shall collect the repayment installments
34 that become due and payable. Funds collected shall be remitted to
35 the commission. A repayment installment is delinquent upon the
36 failure of the participant to pay any installment due and payable
37 pursuant to the schedule for repayment. The loan servicer shall
38 notify the board of the delinquency.

39 (d) (1) The board shall collect the repayment installments that
40 are delinquent. Funds collected shall be remitted to the commission.

1 The collection provisions contained in the Fee Collection
2 Procedures Law (Chapter 4 (commencing with Section 55121) of
3 Part 30 of Division 2 of the Revenue and Taxation Code), to the
4 extent feasible or practical, shall apply to the collection of the
5 delinquent repayment installments. For the purposes of chapter,
6 reference in the Fee Collection Procedures Law to “fee” shall
7 include the repayment installment imposed by this chapter and
8 references to the “fee payer” shall include a participant required
9 to pay the repayment installment imposed pursuant to this chapter.
10 For the purposes of collection, a delinquent repayment installment
11 is a final liability of the participant.

12 (2) The board shall assess liquidated damages on the delinquent
13 repayment installment of 10 percent of the unpaid installment.
14 Within 60 days of a failure to pay the delinquent repayment
15 installment, the board shall issue a demand letter to the participant,
16 with written notice provided to the commission, and provide the
17 participant with 30 days from the date of the demand letter to cure
18 the delinquency before the board commences further action to
19 collect a delinquent repayment installment.

20 (3) The board may periodically consult with the commission
21 on the status of the energy remittance agreements with outstanding
22 delinquent repayment installments. If the board deems that
23 available remedies to collect the delinquent repayment installments
24 on an energy remittance repayment agreement have been exhausted,
25 to the extent feasible or practical, and the delinquency cannot be
26 cured, the board shall inform the commission in writing. At a
27 business meeting, the commission may declare the entire
28 outstanding energy remittance repayment agreement balance,
29 including any interest due, liquidated damages assessed, and costs
30 of collection incurred, immediately due and payable and direct the
31 board to take action to satisfy the energy remittance repayment
32 agreement lien. The board may contract with a foreclosure service
33 provider to carry out the foreclosure on behalf of the commission.

34 (4) Revenues generated from the sale of the eligible real property
35 shall be distributed to satisfy liens on the eligible buildings in
36 accordance with the priority of the liens as provided by law.

37 (5) The board shall perform the collection of delinquent
38 repayment installments and the foreclosure duties imposed by this
39 chapter as a ministerial function on behalf of the commission.

1 (6) The board may prescribe, adopt, and enforce guidelines
2 relating to the collection of the delinquent repayment installments.
3 The guidelines adopted pursuant to this section shall be exempt
4 from the Administrative Procedures Act (Chapter 3.5 (commencing
5 with Section 11340) of Part 1 of Division 3 of Title 2 of the
6 Government Code).

7 (e) Upon the full repayment of the balance of the energy
8 remittance repayment agreement lien, accrued interest, and
9 liquidated damages, the commission shall record with the county
10 in which the eligible real property is located a release of the energy
11 remittance repayment agreement lien.

12 25987.18. (a) Prior to approving an application for inclusion
13 into a loan portfolio and the recordation of the energy remittance
14 repayment agreement lien, or a modification of an approved
15 application, the commission shall conduct a public meeting on the
16 proposed application or modification.

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

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

22 (1) The name of the qualified applicant.

23 (2) The address of the eligible real property.

24 (3) The amount required to be repaid secured by the energy
25 remittance repayment agreement lien proposed to be recorded
26 against the eligible real property.

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

28 (5) The schedule for repayment of the contractual energy
29 remittance and associated costs as agreed upon between the
30 qualified applicant and the commission.

31 (6) The interest rate assessed pursuant to the energy remittance
32 repayment agreement.

33 (7) A detailed description of the proposed modification, if
34 applicable.

35 (d) The notice shall inform the lienholder that any complaints
36 or objections to either the approval of the application and the
37 recordation of the energy remittance repayment agreement lien on
38 the eligible real property or the modification of an approved
39 application shall be submitted, in writing, to the commission not
40 less than 10 days prior to the public meeting.

1 25987.19. In evaluating the eligibility of an applicant, the
2 commission shall consider the creditworthiness of the applicant
3 and the effectiveness of the improvements applying the following
4 criteria, which may include, but not be limited to, all of the
5 following:

6 (a) Whether applicants are legal owners of the underlying real
7 property.

8 (b) Whether applicants are current on any outstanding mortgage
9 and property tax payments.

10 (c) Whether applicants are in default or in bankruptcy
11 proceedings.

12 (d) Whether applicants have applied for incentives, if they are
13 available, through the energy efficiency programs offered by an
14 electrical or gas corporation or a publicly owned utility.

15 (e) Whether improvements financed by the program follow
16 applicable standards including any guidelines adopted by the
17 commission.

18 25987.20. (a) The commission shall approve an application
19 at a business meeting. Upon approval of an application, the
20 commission shall record the energy remittance repayment
21 agreement lien against the eligible real property.

22 (b) The commission shall specify the amount required to be
23 paid pursuant to the energy remittance repayment agreement lien,
24 the schedule of repayment that details the monthly repayment
25 installment amount and due date, and the interest rate charged.

26 (c) The commission shall approve a modification of an approved
27 application at a business meeting.

28 25987.21. (a) The energy remittance repayment agreement
29 lien recorded pursuant to this section shall have a prominent header
30 on the document that reads “Energy Remittance Repayment
31 Agreement Lien” in 14-point type and contains all of the following
32 information related to the affected real property:

33 (1) The assessor’s parcel number.

34 (2) The owners of record.

35 (3) The legal description.

36 (4) The street address.

37 (5) The amount of the lien.

38 (b) The energy remittance agreement lien shall have the force,
39 effect, and priority of a judgment lien from the time of recording
40 in the county where the real property is located.

1 25987.22. (a) No later than 30 days after the approval of an
2 application, the commission or the third-party administrator shall
3 record with the county in which the eligible real property is located
4 the energy remittance repayment agreement lien. The third-party
5 administrator shall notify the commission upon the recordation of
6 the energy remittance repayment agreement lien.

7 (b) Within 60 days of the notice of recording of the energy
8 remittance repayment agreement lien, the commission shall include
9 the approved application in a portfolio posted on the commission's
10 Internet Web site.

11 25987.23. (a) The commission shall deposit into the
12 Nonresidential Real Property Energy Retrofit Debt Servicing Fund
13 established pursuant to Section 25987.38, or the accounts within
14 the fund, any moneys collected pursuant to this chapter.

15 (b) This chapter shall not be construed to require investor-owned
16 utilities or municipal utilities to serve in the role as a third-party
17 private guarantor or loan servicer or otherwise provide credit
18 support for the loan program.

19 25987.24. (a) A local government that has issued revenue
20 bonds pursuant to a program providing financial assistance to
21 owners of nonresidential buildings undertaking a renewable energy,
22 water efficiency, or energy efficiency retrofit improvement on the
23 real properties may apply to the commission for participation in
24 the program.

25 (b) Upon the approval of an application submitted by the local
26 government, the authority may purchase all those outstanding
27 revenue bonds issued by the local government.

28 (c) Upon the purchase of the revenue bonds issued by the local
29 government by the authority, the authority succeeds to all rights
30 conferred upon the bondholder by those revenue bonds and the
31 local government shall remit revenue that is used to secure those
32 revenue bonds to the commission.

33 25987.25. (a) To the extent that the commission determines
34 necessary to effectively complete the duties specified by this
35 chapter, the commission shall do all of the following:

36 (1) (A) Analyze and evaluate standards for nonresidential
37 energy building retrofits previously developed by various national
38 and international organizations to provide uniformity and
39 transparency for financial institutions evaluating loan proposals
40 for energy improvements to nonresidential buildings. To the extent

1 that the commission determines necessary, this evaluation shall
2 be completed not later than January 1, 2016.

3 (B) The evaluation shall review existing protocols or a
4 combination of elements of existing measurement protocols and
5 shall be made available in an electronic format to financial
6 institutions and local governments initiating loans pursuant to this
7 chapter.

8 (2) Develop, in consultation with the Department of Real Estate
9 and representatives from the commercial real estate industry, a
10 model energy aligned lease provision that modifies, upon the
11 agreement between the owner and tenants of eligible real property,
12 a commercial lease agreement allowing the owners to recover the
13 costs of the renewable energy, water efficiency, or energy
14 efficiency retrofit improvements that result in operational savings
15 based on the useful life of the retrofit while protecting tenants from
16 underperformance of the building energy efficiency improvements.

17 (3) Develop a request for proposal to contract with one or more
18 financial institutions to secure a short-term, revolving credit facility
19 (warehouse line of credit) for the purpose of creating an interim
20 financing mechanism for the loans that would be aggregated for
21 the purposes of issuance of a revenue bond pursuant to Section
22 25987.29. The warehouse line of credit shall be drawn by the
23 third-party administrator for origination of direct loans to qualified
24 applicants.

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

27 (1) Consult with the Public Utilities Commission, representatives
28 from the investor-owned and publicly owned utilities, local
29 governments, real estate licensees, commercial builders,
30 commercial property owners, small businesses, financial
31 institutions, commercial property appraisers, energy rating
32 organizations, and other entities the commission deems appropriate.

33 (2) Hold at least one public hearing.

34 (3) Adopt guidelines and standards for the purposes of
35 implementing this chapter at a publicly noticed meeting offering
36 all interested parties an opportunity to comment. For the initial
37 adoption of the guidelines and standards, the commission shall
38 provide a written public notice at least 30 days prior to the meeting.
39 For the adoption of any substantive change to the guidelines and
40 standards, the commission shall provide a written public notice at

1 least 10 days prior to the meeting. Notwithstanding any other law,
2 guidelines or standards adopted pursuant to this section shall be
3 exempt from the requirements of Chapter 3.5 (commencing with
4 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
5 Code. In implementing the requirements of this chapter, in the
6 interest of promoting consistency across the demand-side
7 management programs statewide, the commission shall seek to
8 harmonize these requirements, to the greatest extent practicable,
9 with the rules and requirements of the Public Utilities Commission
10 for its nonresidential energy efficiency, distributed generation,
11 demand response, and other demand-side management programs.

12 (4) Establish loan limits for each type of eligible improvements
13 for commercial or public buildings.

14 (5) Establish standard metrics for estimating performance of
15 eligible improvements for different building types to be used in
16 underwriting loans made pursuant to the program.

17 (6) Establish standard assumptions to be used for estimating the
18 energy benefits of improvements that shall include a reasonable
19 assumption for the cost of kilowatthours and therms and a
20 reasonable assumption of future expectations of the rate these costs
21 will increase.

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

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

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

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

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

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

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

3 (B) Determine the median, average, and aggregate amount
4 financed by an applicant for eligible improvements to different
5 building types under the program. Make data on program
6 participation publicly available in a timely manner and in an
7 aggregate format that would not provide identifying information
8 about individual customers of the electrical and gas corporations
9 and include, at a minimum, the types of energy efficiency measures
10 installed, the location of each customer receiving ratepayer-funded
11 energy efficiency assistance, the amount of funds expended at each
12 site, the expected annual energy savings and reduced energy usage
13 expected in kilowatthours or therms. Unless the affected person,
14 customer, or entity consents, the information, data, and reports
15 required to be provided pursuant to this section shall not include
16 any of the following:

17 (i) Personal information as defined in subdivision (e) of Section
18 1798.80 of the Civil Code.

19 (ii) A customer’s electrical or gas consumption data as defined
20 in subdivision (a) of Section 8380.

21 (iii) Other information excluded from public disclosure pursuant
22 to the California Public Records Act (Chapter 3.5 (commencing
23 with Section 6250) of Division 7 of Title 1 of the Government
24 Code).

25 (12) Adopt a standard notice and disclosure form for the
26 purposes of Section 25987.27.

27 25987.26. Credit issued under the warehouse line of credit
28 shall not be deemed to constitute a debt or liability of the state or
29 of any political subdivision thereof, or a pledge of the full faith
30 and credit of the state or of any political subdivision, but shall be
31 payable solely from the funds provided therefor. All credit
32 instruments shall contain a statement to the following effect:

33
34 “Neither the faith and credit nor the taxing power of the State
35 of California is pledged to the payment of principal and interest
36 on this credit instrument.”

37
38 25987.27. (a) From the date upon which financial assistance
39 is approved by the commission pursuant to Section 25987.20 and
40 for all subsequent transactions entered into pursuant to this chapter,

1 a seller of real property subject to an energy remittance repayment
2 agreement shall deliver to the buyer an energy remittance
3 repayment agreement notice and disclosure as adopted by the
4 commission pursuant to paragraph (12) of subdivision (b) of
5 Section 25987.25.

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

10 (2) The information in the notice and disclosure form is deemed
11 sufficient to provide notice to the buyer of the existence of the
12 energy improvements and of the energy remittance repayment
13 agreement lien.

14 (3) The commission or the third-party administrator shall report
15 periodically, but no less often than once annually, on the number
16 and amount of loans that are made available in areas of the state
17 where climate conditions are more extreme and in disadvantaged
18 communities.

19 25987.28. No later than June 30, 2016, and no later than June
20 30 of every fifth year thereafter, the California State Auditor shall
21 conduct, or cause to be conducted, a performance audit of the
22 program. Notwithstanding Section 10231.5 of the Government
23 Code, the California State Auditor shall prepare a report and
24 recommendations on each audit conducted and present the report
25 and recommendations to the President pro Tempore of the Senate
26 and the Speaker of the Assembly.

27
28 Article 3. Nonresidential Real Property Energy Retrofit Bond

29
30 25987.29. The authority, on behalf of the commission, may
31 incur indebtedness and issue and renew negotiable bonds, notes,
32 debentures, or other securities of any kind or class. All
33 indebtedness, however evidenced, shall be payable solely from
34 moneys received pursuant to this chapter and the proceeds of its
35 negotiable bonds, notes, debentures, or other securities and shall
36 not exceed the sum of two billion dollars (\$2,000,000,000).

37 25987.30. The Legislature may, by statute, authorize the
38 authority to issue bonds in excess of the amount provided in
39 Section 25987.29.

1 25987.31. (a) On a semiannual basis, the authority shall
2 conduct a meeting to adopt a resolution authorizing the issuance
3 of negotiable bonds, notes, debentures, or other securities
4 (collectively called “bonds”) for the purposes of generating
5 sufficient moneys to fund the approved applications in the portfolio
6 at the time of the meeting or to repay an outstanding balance of
7 the participant on whose behalf the commission has provided funds
8 through the warehouse line of credit. In anticipation of the sale of
9 bonds as authorized by Section 25987.29, or as may be authorized
10 pursuant to Section 25987.30, the authority, on behalf of the
11 commission, may issue negotiable bond anticipation notes and
12 may renew the notes from time to time. The bond anticipation
13 notes may be paid from the proceeds of sale of the bonds of the
14 authority in anticipation of which they were issued. Notes and
15 agreements relating to the notes and bond anticipation notes
16 (collectively called “notes”) and the resolution or resolutions
17 authorizing the notes may contain any provisions, conditions, or
18 limitations that a bond, agreement relating to the bond, and bond
19 resolution of the authority may contain. However, a note or renewal
20 of the note shall mature at a time not exceeding two years from
21 the date of issue of the original note.

22 (b) Every issue of its bonds, notes, or other obligations shall be
23 general obligations of the authority payable from revenues or
24 moneys received pursuant to this chapter. Notwithstanding that
25 the bonds, notes, or other obligations may be payable from a special
26 fund, they are for all purposes negotiable instruments, subject only
27 to the provisions of the bonds, notes, or other obligations for
28 registration.

29 (c) Subject to the limitations in Sections 25987.29 and 25987.30,
30 the bonds may be issued as serial bonds or as term bonds, or the
31 authority, in its discretion, may issue bonds of both types. The
32 bonds shall be authorized by resolution of the authority and shall
33 bear the date or dates, mature at the time or times, not exceeding
34 30 years from their respective dates, bear interest at the rate or
35 rates, be payable at the time or times, be in the denominations, be
36 in the form, either coupon or registered, carry the registration
37 privileges, be executed in a manner, be payable in lawful money
38 of the United States of America at a place or places, and be subject
39 to terms of redemption, as the resolution or resolutions may
40 provide. The sales may be a public or private sale, and for the price

1 or prices and on the terms and conditions, as the authority shall
2 determine after giving due consideration to the recommendations
3 of any participating party to be assisted from the proceeds of the
4 bonds or notes. Pending preparation of the definitive bonds, the
5 authority may issue interim receipts, certificates, or temporary
6 bonds that shall be exchanged for the definitive bonds. The
7 authority may sell bonds, notes, or other evidence of indebtedness
8 at a price below their par value. However, the discount on a security
9 sold pursuant to this section shall not exceed 6 percent of the par
10 value.

11 (d) A resolution or resolutions authorizing bonds or an issue of
12 bonds may contain provisions that shall be a part of the contract
13 with the holders of the bonds to be authorized, as to all of the
14 following:

15 (1) Pledging the moneys collected pursuant to this chapter from
16 the portfolio of approved applications that are funded by the bonds,
17 to secure the payment of the bonds or of any particular issue of
18 bonds, subject to the agreements with bondholders as may then
19 exist.

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

22 (3) Limitations on the right of the authority or the commission
23 or their agent to restrict and regulate the use of the project or
24 projects to be financed out of the proceeds of the bonds or any
25 particular issue of bonds.

26 (4) Limitations on the purpose to which the proceeds of sale of
27 an issue of bonds then or thereafter to be issued may be applied
28 and pledging those proceeds to secure the payment of the bonds
29 or the issue of the bonds.

30 (5) Limitations on the issuance of additional bonds, the terms
31 upon which additional bonds may be issued and secured, and the
32 refunding of outstanding bonds.

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

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

39 (8) Defining the acts or omissions to act that constitute a default
40 in the duties of the authority or commission to holders of its

1 obligations and providing the rights and remedies of the holders
2 in the event of a default.

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

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

11 (g) The commission, the authority, and the board may enter into
12 a memorandum of understanding providing for the transfer of
13 energy remittance payments between the three agencies in
14 furtherance of this chapter.

15 (h) If there is insufficient project valuation or insufficient
16 demand for the revenue bonds authorized by this chapter, the loan
17 servicer shall continue to collect the energy remittance installment
18 payments that become due and payable and service the loans, and
19 the board shall continue to collect delinquent repayment
20 installments. Failure to sell the revenue bonds shall not create any
21 liability for the state.

22 25987.32. In the discretion of the authority, any bonds issued
23 under the provisions of this article may be secured by a trust
24 agreement by and between the authority and a corporate trustee
25 or trustees, which may be the authority or any trust company or
26 bank having the powers of a trust company within or without the
27 state. The trust agreement or the resolution providing for the
28 issuance of the bonds may pledge or assign the revenues to be
29 received pursuant to this chapter, to be financed out of the proceeds
30 of the bonds. The trust agreement or resolution providing for the
31 issuance of the bonds may contain provisions for protecting and
32 enforcing the rights and remedies of the bondholders as may be
33 reasonable and proper and not in violation of law, including
34 particularly provisions specifically authorized by this chapter to
35 be included in any resolution or resolutions of the commission
36 authorizing bonds. Any bank or trust company doing business
37 under the laws of this state which may act as depository of the
38 proceeds of bonds or of revenues or other moneys may furnish
39 indemnifying bonds or pledge securities as may be required by the
40 authority. Any trust agreement may set forth the rights and

1 remedies of the bondholders and of the trustee or trustees, and may
2 restrict the individual right of action by bondholders. In addition
3 to the foregoing, any trust agreement or resolution may contain
4 other provisions as the authority may deem reasonable and proper
5 for the security of the bondholders. Notwithstanding any other
6 law, the authority shall not be deemed to have a conflict of interest
7 by reason of acting as trustee pursuant to this chapter.

8 25987.33. Bonds issued under the provisions of this article
9 shall not be deemed to constitute a debt or liability of the state or
10 of any political subdivision thereof, other than the authority, or a
11 pledge of the faith and credit of the state or of any political
12 subdivision, but shall be payable solely from the funds provided
13 by this chapter. All bonds shall contain on the face thereof a
14 statement to the following effect: “Neither the faith and credit nor
15 the taxing power of the State of California is pledged to the
16 payment of the principal of or interest on this bond.” The issuance
17 of bonds under the provisions of this article shall not directly or
18 indirectly or contingently obligate the state or any political
19 subdivision thereof to levy or to pledge any form of taxation or to
20 make any appropriation for their payment. Nothing contained in
21 this section shall prevent or be construed to prevent the authority
22 from pledging its full faith and credit to the payment of bonds or
23 issue of bonds authorized pursuant to this chapter.

24 25987.34. (a) The authority is hereby authorized to provide
25 for the issuance of bonds of the authority for the purpose of
26 refunding any bonds, notes, or other securities of the authority
27 then outstanding, including the payment of any redemption
28 premium and any interest accrued or to accrue to the earliest or
29 subsequent date of redemption, purchase, or maturity of the bonds.

30 (b) The proceeds of any bonds issued for the purpose of
31 refunding outstanding bonds, notes, or other securities may, in the
32 discretion of the authority, be applied to the purchase or retirement
33 at maturity or redemption of outstanding bonds either on their
34 earliest or any subsequent redemption date or upon the purchase
35 or retirement at the maturity thereof and may, pending application,
36 be placed in escrow to be applied to purchase or retirement at
37 maturity or redemption on a date as may be determined by the
38 authority.

39 (c) Pending use, any escrowed proceeds may be invested and
40 reinvested by the authority in obligations of, or guaranteed by, the

1 United States of America, or in certificates of deposit or time
2 deposits secured by obligations of, or guaranteed by, the United
3 States of America, maturing at the time or times as shall be
4 appropriate to ensure the prompt payment, as to principal, interest,
5 and redemption premium, if any, of the outstanding bonds to be
6 so refunded. The interest, income, and profits, if any, earned or
7 realized on any investment may also be applied to the payment of
8 the outstanding bonds to be so refunded. After the terms of the
9 escrow have been fully satisfied and carried out, any balance of
10 proceeds and interest, income, and profits, if any, earned or realized
11 on the investments may be returned to the authority for use by it
12 in any lawful manner.

13 (d) These bonds shall be subject to the provisions of this division
14 in the same manner and to the same extent as other bonds issued
15 pursuant to this chapter.

16 25987.35. Bonds issued by the authority are legal investments
17 for all trust funds, the funds of all insurance companies, banks,
18 both commercial and savings, trust companies, savings and loan
19 associations, and investment companies, for executors,
20 administrators, trustees, and other fiduciaries, for state school
21 funds, and for any funds which may be invested in county,
22 municipal, or school district bonds, and the bonds are securities
23 which may properly and legally be deposited with, and received
24 by, any state or municipal officer or agency or political subdivision
25 of the state for any purpose for which the deposit of bonds or
26 obligations of the state, is now, or may hereafter be, authorized by
27 law, including deposits to secure public funds if, and only to the
28 extent that, evidence of indebtedness or debt securities of the
29 participating party receiving financing through the issuance of
30 bonds qualify or are eligible for those purposes and uses.

31 25987.36. The state hereby pledges and agrees with the holders
32 of the bonds and with a participant with an approved application
33 that the state will not limit, alter, restrict, or impair the rights vested
34 in the authority or the commission or the rights or obligations of
35 a person or entity with which the commission contracts to fulfill
36 the terms of an agreement made pursuant to this chapter. The state
37 further agrees that it will not in any way impair the rights or
38 remedies of the holder of the bonds until the bonds have been paid
39 or until adequate provision for payment has been made. The

1 authority may include this provision and undertaking for the
2 authority in its bonds.

3 25987.37. (a) Bonds issued pursuant to this division shall be
4 exempt from all taxation and assessment imposed pursuant to state
5 law.

6 (b) No later than February 1, 2015, the commission shall apply
7 to the United States Department of the Treasury under the Energy
8 Tax Incentives Act of 2005 (Title XIII of Public Law 109-58) for
9 the authority to issue tax advantage bonds under the federal Clean
10 Renewable Energy Bonds program or any other applicable
11 programs.

12
13 Article 4. Nonresidential Real Property Energy Retrofit Debt
14 Servicing Fund
15

16 25987.38. (a) The Nonresidential Real Property Energy
17 Retrofit Debt Servicing Fund is hereby established in the State
18 Treasury. Notwithstanding Section 13340 of the Government Code,
19 the moneys in the fund are hereby continuously appropriated to
20 the authority without regard to fiscal years for the purposes of
21 paying the principal and interest on bonds issued by the authority
22 pursuant to Section 25987.29, servicing the warehouse line of
23 credit, and defraying any direct and indirect costs incurred by the
24 Treasurer in executing duties required by this chapter.

25 (b) All interest and income derived from the deposit and
26 investment of moneys in the fund shall be credited to the fund,
27 and all unexpended and unencumbered moneys in the fund at the
28 end of any fiscal year shall remain in the fund.

29 25987.39. The Loan Loss Reserve Account is hereby
30 established in the Nonresidential Real Property Energy Retrofit
31 Debt Servicing Fund. The commission shall deposit the portion
32 of the repayment installation that is the loan loss reserve fee into
33 the account. Notwithstanding Section 13340 of the Government
34 Code, the moneys in the account are hereby continuously
35 appropriated to the authority without regard to fiscal years for the
36 purposes of paying outstanding balances due under an energy
37 remittance repayment agreement on a building that has been
38 foreclosed upon if the proceeds generated from the foreclosure
39 proceedings are insufficient to pay any past due payments under
40 the energy remittance repayment agreement, including accrued

1 interest, liquidated damages, and fees. All interest and income
2 derived from the deposit and investment of moneys in the account
3 shall be credited to the account, and all unexpended and
4 unencumbered moneys in the account at the end of any fiscal year
5 shall remain in the account.

6 25987.40. The Administration Account is hereby established
7 in the Nonresidential Real Property Energy Retrofit Debt Servicing
8 Fund. The commission shall deposit into the account the program
9 administration fee and liquidated damages collected pursuant to
10 this chapter. Notwithstanding Section 13340 of the Government
11 Code, moneys in the account shall be continuously appropriated
12 without regard to fiscal years to the authority, the commission,
13 and the board for the costs of implementing this chapter.

14
15 Article 5. Miscellaneous
16

17 25987.41. (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.