

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2045**

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**Introduced by Assembly Member Rendon**

February 20, 2014

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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 amended, 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~~ *the commission* to collect installment payments from owners of eligible real properties whose applications ~~have been~~ *it has* approved ~~by the commission~~. The bill would require the ~~State Board of Equalization~~ *commission* 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; *and* 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~~ *provide incentives for* private equity managers to  
16 invest in clean energy improvements, integrate the smart energy  
17 economy, and stimulate the state economy by directly creating  
18 jobs for contractors and other persons who complete new energy  
19 improvements; and to reinforce the leadership role of the state in  
20 the new energy economy, thereby attracting energy manufacturing  
21 facilities and related jobs to the state.

1 25987.3. The Legislature finds and declares all of the following:

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

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

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

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

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

36 (d) Reduction in the amount of emissions of greenhouse gases  
37 and environmental pollutants, resulting from increased efficiencies  
38 and the resulting decreased use of traditional nonrenewable fuels,  
39 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)~~

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

39 (1) High-efficiency mechanical equipment.

40 (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)~~
- 20 (e) “Conventional energy fuel” means any of the following:
- 21 (1) A fuel derived from petroleum deposits, including, but not
- 22 limited to, oil, heating oil, gasoline, and fuel oil.
- 23 (2) Natural gas, including liquefied natural gas, other than that
- 24 used in cogeneration gas-fired technology.
- 25 (3) Nuclear fissionable materials.
- 26 (4) Coal.
- 27 ~~(g)~~
- 28 (f) “Delinquent repayment installment” means a due and payable
- 29 repayment installation that was not paid within the time specified
- 30 in the schedule for repayment.
- 31 ~~(h)~~
- 32 (g) “Demand response” means reductions or shifts in electricity
- 33 consumption by customers in response to either economic or
- 34 reliability signals.
- 35 ~~(i)~~
- 36 (h) “Due and payable” means the date as specified in the
- 37 schedule for repayment for each repayment installment.
- 38 ~~(j)~~

1 (i) “Eligible real property” means a nonresidential building that  
 2 completed construction on or before January 1, 2015, and is located  
 3 within the boundaries of the state.

4 ~~(k)~~

5 (j) “Energy remittance repayment agreement” means a  
 6 contractual agreement between an owner of an eligible real property  
 7 and the commission, secured by a lien, as described in Section  
 8 25987.21, recorded in the county where the property is situated  
 9 and on an eligible real property specially benefited by the project  
 10 for which the commission will make reimbursement or a direct  
 11 payment to the party financing the project, and “contractual energy  
 12 remittance” means that reimbursement or direct payment. The  
 13 amount to be repaid pursuant to the energy remittance repayment  
 14 agreement shall include the costs necessary to finance the project  
 15 less any rebates, grants, and other direct financial assistance  
 16 received by the owner pursuant to other law, a loan loss reserve  
 17 fee, in an amount to be established by the third-party administrator  
 18 in consultation with the commission and any warehouse financier  
 19 under contract entered into pursuant to paragraph (3) of subdivision  
 20 (a) of Section 25987.25, to insure against nonperformance of the  
 21 loan and other losses of the program, and a program administrative  
 22 cost fee.

23 ~~(l)~~

24 (k) “Energy efficiency specialist” means an individual or  
 25 business authorized or certified by rules of the commission to  
 26 analyze, evaluate, or install a project.

27 ~~(m)~~

28 (l) “Financial assistance” means either of the following:

29 (1) Loans, loan loss reserves, interest rate reductions, secondary  
 30 loan purchase, insurance, guarantees or other credit enhancements  
 31 or liquidity facilities, contributions of money, property, labor, or  
 32 other items of value, or any combination thereof, as determined  
 33 and approved by the commission.

34 (2) Other types of assistance the commission determines are  
 35 appropriate.

36 ~~(n)~~

37 (m) “Loan balance” means the outstanding principal balance of  
 38 loans secured by a mortgage or deed of trust with a first or second  
 39 lien on eligible real property.

40 ~~(o)~~

1 (n) “Loan loss reserve fee” means a fee that serves as collateral  
2 in the event of a loan default.

3 ~~(p)~~

4 (o) “Nonresidential Real Property Energy Retrofit Bond” means  
5 a bond issued pursuant to Section 25987.31 that is secured by an  
6 energy remittance repayment agreement lien on real property and  
7 is entered into voluntarily to finance the project.

8 ~~(q)~~

9 (p) “Participant” means a person, or an entity or group of  
10 entities, engaged in business or operations in the state, whether  
11 organized for profit or not for profit, that, as a qualified applicant,  
12 is approved for financial assistance pursuant to Article 2  
13 (commencing with Section 25987.5) and has entered into an energy  
14 remittance repayment agreement with the commission for the  
15 purpose of implementing a project in a manner prescribed by the  
16 commission. “Participant” includes a subsequent owner taking  
17 title to real property subject to an energy remittance repayment  
18 agreement lien.

19 ~~(r)~~

20 (q) “Portfolio” means an aggregation of approved applications.

21 ~~(s)~~

22 (r) “Program” means the Nonresidential Real Property Energy  
23 Retrofit Financing Program established by the commission in  
24 accordance with Section 25987.7.

25 ~~(t)~~

26 (s) “Program administration cost fee” means a fee imposed for  
27 the costs incurred by the ~~commission~~, *commission and the*  
28 ~~authority, and the State Board of Equalization~~ *authority* to  
29 administer the program.

30 ~~(u)~~

31 (t) “Project” means an improvement to an eligible real property  
32 that constitutes a water efficiency improvement, renewable energy  
33 improvement, or building energy efficiency improvement.

34 ~~(v)~~

35 (u) “Qualified applicant” means a person or business entity who  
36 does all of the following:

37 (1) Owns an eligible real property that has a ratio of loan balance  
38 to its appraised value not to exceed 85 percent, which is subject  
39 to adjustment by the program administrator at the time the person’s  
40 program application is approved, as shown in the records of the

1 county assessor, unless the holder of the deed of trust or mortgage  
2 recorded against the eligible real property that has priority over  
3 all other deeds of trust or mortgages recorded against the eligible  
4 real property has consented in writing to the recording of an energy  
5 remittance repayment agreement lien pursuant to this division  
6 against the eligible real property.

7 (2) Timely submits to the commission a complete application,  
8 which notes the existence of any priority mortgage or deed of trust  
9 on the eligible property and the identity of the holder of the  
10 mortgage or deed of trust, to join the program and consents to the  
11 levying of a lien in the amount of the energy remittance repayment  
12 agreement on the real property pursuant to this chapter.

13 (3) Meets standard of credit worthiness that the commission  
14 may establish.

15 ~~(w)~~

16 (v) “Renewable energy” means heat, processed heat, space  
17 heating, water heating, steam, space cooling, refrigeration,  
18 mechanical energy, electricity, fuel cells, or energy in any form  
19 convertible to these uses, and including energy storage  
20 technologies, that does not expend or use conventional energy  
21 fuels, and that uses any of the following electrical generation  
22 technologies:

- 23 (1) Biomass.
- 24 (2) Solar thermal.
- 25 (3) Photovoltaic.
- 26 (4) Wind.
- 27 (5) Geothermal.

28 ~~(x)~~

29 (w) “Renewable energy improvement” means one or more  
30 fixtures, products, systems, or devices, or an interacting group of  
31 fixtures, products, systems, or devices, that use an alternative  
32 energy source, are permanently affixed to, or located on, the real  
33 property, and directly benefit an eligible real property or that are  
34 installed on the customer side of a meter of an eligible real property  
35 and that produce renewable energy from renewable resources,  
36 including, but not limited to, photovoltaic, solar thermal, small  
37 wind, biomass, fuel cells, or geothermal systems, such as ground  
38 source heat pumps, as may be approved by the commission.

39 ~~(y)~~

1 (x) “Repayment installation” means the monthly amount  
2 specified pursuant to the agreed schedule for repayment approved  
3 by the commission.

4 (z)

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

9 (aa)

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

14

15 Article 2. Nonresidential Real Property Energy Retrofit  
16 Financing Program

17

18 25987.5. The purpose of the Nonresidential Real Property  
19 Energy Retrofit Financing Program is to help provide the special  
20 benefits of water efficiency improvements, renewable energy  
21 improvements, and building energy efficiency improvements to  
22 owners of eligible real properties who voluntarily participate in  
23 the program by establishing, developing, financing, and  
24 administering a program to assist those owners in completing  
25 improvements.

26 25987.6. The commission shall have and exercise all rights  
27 and powers necessary or incidental to or implied from the specific  
28 powers granted to the commission by this chapter. Those specific  
29 powers shall not be considered as a limitation upon any power  
30 necessary or appropriate to carry out the purposes and intent of  
31 this chapter.

32 25987.7. (a) The commission shall establish, develop, finance,  
33 and administer, consistent with Section 25987.9, the Nonresidential  
34 Building Real Property Retrofit Financing Program. The  
35 commission shall provide general direction and oversight to the  
36 authority ~~and board~~ as they complete duties specified in this  
37 chapter. The program shall be designed to provide financial  
38 assistance for an owner of an eligible real property to use one or  
39 more energy efficiency specialists to retrofit or benefit the property  
40 with one or more renewable energy improvements, building energy

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

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

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

22 (d) (1) Within six months after the first two years of  
23 implementation of the program established pursuant to subdivision  
24 (a) or after the expenditure of the first two hundred fifty million  
25 dollars (\$250,000,000) of proceeds authorized pursuant to Section  
26 25987.29, whichever occurs earlier, the commission shall prepare  
27 and make publicly available a report on the efficacy of the program  
28 in achieving the purposes of the program as specified in Section  
29 25987.5 and recommendations that would enhance the ability of  
30 the program to achieve those purposes.

31 (2) The commission shall post the report on its Internet Web  
32 site.

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

36 25987.8. To receive financial assistance pursuant to this  
37 chapter, a qualified applicant shall contractually agree to the  
38 recording of an energy remittance repayment agreement lien on  
39 the eligible real property that is being retrofitted or benefited.

1 25987.9. By July 1, 2015, the commission shall develop a  
2 request for proposal to develop the program by a third-party  
3 administrator. The third-party administrator shall administer the  
4 program and establish an automated, asset-based underwriting  
5 system for all eligible real properties in the state. The third-party  
6 administrator shall provide consultation to the commission in  
7 developing guidelines for the program. The third-party  
8 administrator shall provide an independent energy advisor to assist  
9 owners of real properties in evaluating projects. ~~The third-party~~  
10 ~~administrator shall provide a loan servicer to service the loans.~~  
11 The party selected as the third-party administrator shall only be  
12 selected if the program proposal submitted by the party requires  
13 all costs, including startup costs of the program, to be covered by  
14 the loan recipients, the administrator, the bond purchasers, or some  
15 combination thereof. The program selected shall not include  
16 General Fund costs or liabilities.

17 25987.10. The third-party administrator shall establish  
18 underwriting guidelines that consider an applicant's qualifications,  
19 and other appropriate factors, including, but not limited to, credit  
20 reports and loan-to-value ratios, consistent with good and  
21 customary lending practices, necessary for the authority to obtain  
22 a bond rating for bonds issued pursuant to Article 3 (commencing  
23 with Section 25987.29) for a successful bond sale.

24 25987.11. The third-party administrator shall disclose to an  
25 owner of an eligible real property all fees imposed pursuant to this  
26 chapter, including the loan loss reserve fee, the program  
27 administration cost fee, and the interest rate charged, prior to the  
28 submission of an application by the owner.

29 25987.12. (a) An owner of an eligible real property undertaking  
30 a project shall submit to the third-party administrator an application  
31 to participate in the program.

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

36 (c) The application form developed by the third-party  
37 administrator shall include a statement in no less than 12-point  
38 type stating the following:  
39

1 SUBMISSION OF THIS APPLICATION CONSTITUTES THE  
2 VOLUNTARY CONSENT OF THE APPLICANT FOR THE  
3 RECORDATION OF THE ENERGY REMITTANCE  
4 REPAYMENT AGREEMENT LIEN AGAINST THE ELIGIBLE  
5 REAL PROPERTY. UPON THE APPROVAL BY THE  
6 COMMISSION OF THE APPLICATION AND THE  
7 RECORDATION OF THE ENERGY REMITTANCE  
8 REPAYMENT AGREEMENT LIEN, A LIEN IN THE AMOUNT  
9 SPECIFIED IN THE ENERGY REMITTANCE REPAYMENT  
10 AGREEMENT SHALL BE RECORDED ON THE PROPERTY  
11 TO SECURE THE AGREEMENT.  
12

13 25987.13. The owner of an eligible real property shall include  
14 all of the following information in the application:

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

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

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

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

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

26 (f) The name of the financial institution providing interim  
27 financing for the project or the warehouse line of credit developed  
28 pursuant to Section 25987.26.

29 (g) The structure of the loan financing the project.

30 (h) Any information that the commission or third-party  
31 administrator requires to verify that the owner will complete the  
32 project.

33 (i) An analysis performed by an energy efficiency specialist to  
34 quantify the costs of the project, and total energy and water cost  
35 savings realized by the owner or his or her successor during the  
36 effective useful life of, and estimated carbon impacts of, the project,  
37 including an annual cashflow analysis.

38 (j) Copies of an application that have been made for energy  
39 efficiency incentives identified pursuant to subdivision (d) of  
40 Section 25987.19 for any applicable retrofits.

1 (k) Other information deemed necessary by the commission or  
2 the third-party administrator.

3 (l) The total amount of the loan requested showing any and all  
4 adjustments to reduce the loan amount after all federal, state, local,  
5 and ratepayer-funded incentives have been applied.

6 25987.14. In addition to the information required under Section  
7 25987.13, an applicant shall provide in the application a detailed  
8 description of all of the following:

9 (a) The eligible real property.

10 (b) The transactional activities associated with the project,  
11 including the transactional costs.

12 (c) Other information deemed necessary by the commission or  
13 the third-party administrator.

14 25987.15. (a) The third-party administrator shall make  
15 recommendations to the commission regarding the approval or  
16 disapproval of an application.

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

19 (1) The applicant is a qualified applicant.

20 (2) Prior to receiving funding for renewable energy  
21 improvement, the applicant shall show both of the following:

22 (A) Evidence of intent to make feasible energy efficiency  
23 upgrades recommended by the analysis required pursuant to  
24 subdivision (i) of Section 25987.13.

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

27 (c) The commission shall determine appropriate guarantees  
28 necessary to ensure cost neutrality of the improvements that may  
29 include the requirement that the owner of the eligible building  
30 obtain insurance issued by an A.M. Best "A" or better rated  
31 insurance carrier or a similar product as approved by the  
32 commission. *improvements.*

33 25987.16. (a) Upon the mutual agreement of the participant  
34 and the third-party administrator, the third-party administrator  
35 shall establish an annualized schedule for the repayment with  
36 monthly repayment installments required by the energy remittance  
37 repayment agreement, including the interest charged, administrative  
38 cost fee, and loan loss reserve fee.

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

4 (2) The calculated effective useful life of the building energy  
5 efficiency and renewable energy improvements, shall be calculated  
6 using methodologies adopted by the commission, in consultation  
7 with the Public Utilities Commission.

8 (A) The commission shall hold at least one public hearing on  
9 the useful life of the improvement to take public and industry  
10 comments on the commission's determinations.

11 (B) The commission shall update the useful life of improvements  
12 as new information becomes available and when new technologies  
13 become available and shall make this information publicly available  
14 on its Internet Web site.

15 (C) The commission shall remove any improvements from its  
16 information on improvements if the improvement is no longer  
17 available or if the commission determines that manufacturer defects  
18 disqualify the improvement from loan eligibility.

19 ~~(c) The loan servicer commission shall collect the repayment~~  
20 ~~installments that become due and payable. Funds collected shall~~  
21 ~~be remitted to the commission. payable and repayment installments~~  
22 ~~that are delinquent. A repayment installment is delinquent upon~~  
23 ~~the failure of the participant to pay any installment due and payable~~  
24 ~~pursuant to the schedule for repayment. The loan servicer shall~~  
25 ~~notify the board of the delinquency.~~

26 ~~(d) (1) The board shall collect the repayment installments that~~  
27 ~~are delinquent. Funds collected shall be remitted to the commission.~~  
28 ~~The collection provisions contained in the Fee Collection~~  
29 ~~Procedures Law (Chapter 4 (commencing with Section 55121) of~~  
30 ~~Part 30 of Division 2 of the Revenue and Taxation Code), to the~~  
31 ~~extent feasible or practical, shall apply to the collection of the~~  
32 ~~delinquent repayment installments. For the purposes of chapter,~~  
33 ~~reference in the Fee Collection Procedures Law to "fee" shall~~  
34 ~~include the repayment installment imposed by this chapter and~~  
35 ~~references to the "fee payer" shall include a participant required~~  
36 ~~to pay the repayment installment imposed pursuant to this chapter.~~  
37 ~~For the purposes of collection, a delinquent repayment installment~~  
38 ~~is a final liability of the participant.~~

39 ~~(2) The board shall assess liquidated damages on the delinquent~~  
40 ~~repayment installment of 10 percent of the unpaid installment.~~

1 Within 60 days of a failure to pay the delinquent repayment  
2 installment, the board shall issue a demand letter to the participant,  
3 with written notice provided to the commission, and provide the  
4 participant with 30 days from the date of the demand letter to cure  
5 the delinquency before the board commences further action to  
6 collect a delinquent repayment installment.

7 (3) The board may periodically consult with the commission  
8 on the status of the energy remittance agreements with outstanding  
9 delinquent repayment installments. If the board deems that  
10 available remedies to collect the delinquent repayment installments  
11 on an energy remittance repayment agreement have been exhausted,  
12 to the extent feasible or practical, and the delinquency cannot be  
13 cured, the board shall inform the commission in writing. At a  
14 business meeting, the commission may declare the entire  
15 outstanding energy remittance repayment agreement balance,  
16 including any interest due, liquidated damages assessed, and costs  
17 of collection incurred, immediately due and payable and direct the  
18 board to take action to satisfy the energy remittance repayment  
19 agreement lien. The board may contract with a foreclosure service  
20 provider to carry out the foreclosure on behalf of the commission.

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

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

27 (6)

28 (d) The board *commission* may prescribe, adopt, and enforce  
29 guidelines relating to the collection of the delinquent repayment  
30 installments. The guidelines adopted pursuant to this section shall  
31 be exempt from the Administrative Procedures Act (Chapter 3.5  
32 (commencing with Section 11340) of Part 1 of Division 3 of Title  
33 2 of the Government Code).

34 (e) Upon the full repayment of the balance of the energy  
35 remittance repayment agreement lien, accrued interest, and  
36 liquidated damages, *lien and accrued interest*, the commission  
37 shall record with the county in which the eligible real property is  
38 located a release of the energy remittance repayment agreement  
39 lien.

- 1 25987.18. (a) Prior to approving an application for inclusion  
2 into a loan portfolio and the recordation of the energy remittance  
3 repayment agreement lien, or a modification of an approved  
4 application, the commission shall conduct a public meeting on the  
5 proposed application or modification.
- 6 (b) The commission shall post a notice of the hearing on the  
7 commission’s Internet Web site and provide the notice, in writing,  
8 to all lienholders of the eligible building no later than 30 days prior  
9 to the public meeting.
- 10 (c) The notice shall specify all of the following:
- 11 (1) The name of the qualified applicant.
  - 12 (2) The address of the eligible real property.
  - 13 (3) The amount required to be repaid secured by the energy  
14 remittance repayment agreement lien proposed to be recorded  
15 against the eligible real property.
  - 16 (4) The date and place of the public meeting.
  - 17 (5) The schedule for repayment of the contractual energy  
18 remittance and associated costs as agreed upon between the  
19 qualified applicant and the commission.
  - 20 (6) The interest rate assessed pursuant to the energy remittance  
21 repayment agreement.
  - 22 (7) A detailed description of the proposed modification, if  
23 applicable.
- 24 (d) The notice shall inform the lienholder that any complaints  
25 or objections to either the approval of the application and the  
26 recordation of the energy remittance repayment agreement lien on  
27 the eligible real property or the modification of an approved  
28 application shall be submitted, in writing, to the commission not  
29 less than 10 days prior to the public meeting.
- 30 25987.19. In evaluating the eligibility of an applicant, the  
31 commission shall consider the creditworthiness of the applicant  
32 and the effectiveness of the improvements applying the following  
33 criteria, which may include, but not be limited to, all of the  
34 following:
- 35 (a) Whether applicants are legal owners of the underlying real  
36 property.
  - 37 (b) Whether applicants are current on any outstanding mortgage  
38 and property tax payments.
  - 39 (c) Whether applicants are in default or in bankruptcy  
40 proceedings.

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

4 (e) Whether improvements financed by the program follow  
5 applicable standards including any guidelines adopted by the  
6 commission.

7 25987.20. (a) The commission shall approve an application  
8 at a business meeting. Upon approval of an application, the  
9 commission shall record the energy remittance repayment  
10 agreement lien against the eligible real property.

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

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

17 25987.21. (a) The energy remittance repayment agreement  
18 lien recorded pursuant to this section shall have a prominent header  
19 on the document that reads “Energy Remittance Repayment  
20 Agreement Lien” in 14-point type and contains all of the following  
21 information related to the ~~affected~~ *eligible* real property:

- 22 (1) The assessor’s parcel number.
- 23 (2) The owners of record.
- 24 (3) The legal description.
- 25 (4) The street address.
- 26 (5) The amount of the lien.

27 (b) The energy remittance agreement lien shall have the force,  
28 effect, and priority of a judgment lien from the time of recording  
29 in the county where the *eligible* real property is located.

30 25987.22. (a) No later than 30 days after the approval of an  
31 application, the commission or the third-party administrator shall  
32 record with the county in which the eligible real property is located  
33 the energy remittance repayment agreement lien. The third-party  
34 administrator shall notify the commission upon the recordation of  
35 the energy remittance repayment agreement lien.

36 (b) Within 60 days of the notice of recording of the energy  
37 remittance repayment agreement lien, the commission shall include  
38 the approved application in a portfolio posted on the commission’s  
39 Internet Web site.

1 25987.23. (a) The commission shall deposit into the  
2 Nonresidential Real Property Energy Retrofit Debt Servicing Fund  
3 established pursuant to Section 25987.38, or the accounts within  
4 the fund, any moneys collected pursuant to this chapter.

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

9 25987.24. (a) A local government that has issued revenue  
10 bonds pursuant to a program providing financial assistance to  
11 owners of nonresidential buildings undertaking a renewable energy,  
12 water efficiency, or energy efficiency retrofit improvement on the  
13 real properties may apply to the commission for participation in  
14 the program.

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

18 (c) Upon the purchase of the revenue bonds issued by the local  
19 government by the authority, the authority succeeds to all rights  
20 conferred upon the bondholder by those revenue bonds and the  
21 local government shall remit revenue that is used to secure those  
22 revenue bonds to the commission.

23 25987.25. (a) To the extent that the commission determines  
24 necessary to effectively complete the duties specified by this  
25 chapter, the commission shall do all of the following:

26 (1) (A) Analyze and evaluate standards for nonresidential  
27 energy building retrofits previously developed by various national  
28 and international organizations to provide uniformity and  
29 transparency for financial institutions evaluating loan proposals  
30 for energy improvements to nonresidential buildings. To the extent  
31 that the commission determines necessary, this evaluation shall  
32 be completed not later than January 1, 2016.

33 (B) The evaluation shall review existing protocols or a  
34 combination of elements of existing measurement protocols and  
35 shall be made available in an electronic format to financial  
36 institutions and local governments initiating loans pursuant to this  
37 chapter.

38 (2) Develop, in consultation with the Department of Real Estate  
39 and representatives from the commercial real estate industry, a  
40 model energy aligned lease provision that modifies, upon the

1 agreement between the owner and tenants of eligible real property,  
2 a commercial lease agreement allowing the owners to recover the  
3 costs of the renewable energy, water efficiency, or energy  
4 efficiency retrofit improvements that result in operational savings  
5 based on the useful life of the retrofit while protecting tenants from  
6 underperformance of the building energy efficiency improvements.

7 (3) Develop a request for proposal to contract with one or more  
8 financial institutions to secure a short-term, revolving credit facility  
9 (warehouse line of credit) for the purpose of creating an interim  
10 financing mechanism for the loans that would be aggregated for  
11 the purposes of issuance of a revenue bond pursuant to Section  
12 25987.29. The warehouse line of credit shall be drawn by the  
13 third-party administrator for origination of direct loans to qualified  
14 applicants.

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

17 (1) Consult with the Public Utilities Commission, representatives  
18 from the investor-owned and publicly owned utilities, local  
19 governments, real estate licensees, commercial builders,  
20 commercial property owners, small businesses, financial  
21 institutions, commercial property appraisers, energy rating  
22 organizations, and other entities the commission deems appropriate.

23 (2) Hold at least one public hearing.

24 (3) Adopt guidelines and standards for the purposes of  
25 implementing this chapter at a publicly noticed meeting offering  
26 all interested parties an opportunity to comment. For the initial  
27 adoption of the guidelines and standards, the commission shall  
28 provide a written public notice at least 30 days prior to the meeting.  
29 For the adoption of any substantive change to the guidelines and  
30 standards, the commission shall provide a written public notice at  
31 least 10 days prior to the meeting. Notwithstanding any other law,  
32 guidelines or standards adopted pursuant to this section shall be  
33 exempt from the requirements of Chapter 3.5 (commencing with  
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
35 Code. In implementing the requirements of this chapter, in the  
36 interest of promoting consistency across the demand-side  
37 management programs statewide, the commission shall seek to  
38 harmonize these requirements, to the greatest extent practicable,  
39 with the rules and requirements of the Public Utilities Commission

- 1 for its nonresidential energy efficiency, distributed generation,  
2 demand response, and other demand-side management programs.
- 3 (4) Establish loan limits for each type of eligible improvements  
4 for commercial or public buildings.
- 5 (5) Establish standard metrics for estimating performance of  
6 eligible improvements for different building types to be used in  
7 underwriting loans made pursuant to the program.
- 8 (6) Establish standard assumptions to be used for estimating the  
9 energy benefits of improvements that shall include a reasonable  
10 assumption for the cost of kilowatthours and therms and a  
11 reasonable assumption of future expectations of the rate these costs  
12 will increase.
- 13 (7) Establish those standards, guidelines, and procedures,  
14 through regulation, including, but not limited to, standards of  
15 creditworthiness for qualification of program applicants, that are  
16 necessary to ensure the financial stability of the program and  
17 otherwise prevent fraud and abuse.
- 18 (8) Establish those measurement and verification standards  
19 necessary to ensure that the building energy efficiency  
20 improvements financed pursuant to this chapter are realized at a  
21 level specified by the commission.
- 22 (9) Consider reliance on existing trade certifications or licensing  
23 requirements applicable to occupations that perform the work  
24 contemplated under this chapter.
- 25 (10) Establish qualifications for the certification of contractors  
26 to construct or install building energy efficiency improvements.
- 27 (11) Contract with a party, public or private, to do any of the  
28 following:
- 29 (A) Ensure that appropriate and reasonable steps are taken to  
30 monitor and verify the quality and longevity of building energy  
31 efficiency improvements financed pursuant to this program and  
32 measure the total energy savings achieved by the program.
- 33 (B) Determine the median, average, and aggregate amount  
34 financed by an applicant for eligible improvements to different  
35 building types under the program. Make data on program  
36 participation publicly available in a timely manner and in an  
37 aggregate format that would not provide identifying information  
38 about individual customers of the electrical and gas corporations  
39 and include, at a minimum, the types of energy efficiency measures  
40 installed, the location of each customer receiving ratepayer-funded

1 energy efficiency assistance, the amount of funds expended at each  
2 site, the expected annual energy savings and reduced energy usage  
3 expected in kilowatthours or therms. Unless the affected person,  
4 customer, or entity consents, the information, data, and reports  
5 required to be provided pursuant to this section shall not include  
6 any of the following:

7 (i) Personal information as defined in subdivision (e) of Section  
8 1798.80 of the Civil Code.

9 (ii) A customer's electrical or gas consumption data as defined  
10 in subdivision (a) of Section 8380.

11 (iii) Other information excluded from public disclosure pursuant  
12 to the California Public Records Act (Chapter 3.5 (commencing  
13 with Section 6250) of Division 7 of Title 1 of the Government  
14 Code).

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

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  
28 25987.27. (a) From the date upon which financial assistance  
29 is approved by the commission pursuant to Section 25987.20 and  
30 for all subsequent transactions entered into pursuant to this chapter,  
31 a seller of real property subject to an energy remittance repayment  
32 agreement shall deliver to the buyer an energy remittance  
33 repayment agreement notice and disclosure as adopted by the  
34 commission pursuant to paragraph (12) of subdivision (b) of  
35 Section 25987.25.

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

1 (2) The information in the notice and disclosure form is deemed  
2 sufficient to provide notice to the buyer of the existence of the  
3 energy improvements and of the energy remittance repayment  
4 agreement lien.

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

10 25987.28. No later than June 30, 2016, and no later than June  
11 30 of every fifth year thereafter, the California State Auditor shall  
12 conduct, or cause to be conducted, a performance audit of the  
13 program. Notwithstanding Section 10231.5 of the Government  
14 Code, the California State Auditor shall prepare a report and  
15 recommendations on each audit conducted and present the report  
16 and recommendations to the President pro Tempore of the Senate  
17 and the Speaker of the Assembly.

18

19 Article 3. Nonresidential Real Property Energy Retrofit Bond

20

21 25987.29. The authority, on behalf of the commission, may  
22 incur indebtedness and issue and renew negotiable bonds, notes,  
23 debentures, or other securities of any kind or class. All  
24 indebtedness, however evidenced, shall be payable solely from  
25 moneys received pursuant to this chapter and the proceeds of its  
26 negotiable bonds, notes, debentures, or other securities and shall  
27 not exceed the sum of two billion dollars (\$2,000,000,000).

28 25987.30. The Legislature may, by statute, authorize the  
29 authority to issue bonds in excess of the amount provided in  
30 Section 25987.29.

31 25987.31. (a) On a semiannual basis, the authority shall  
32 conduct a meeting to adopt a resolution authorizing the issuance  
33 of negotiable bonds, notes, debentures, or other securities  
34 (collectively called “bonds”) for the purposes of generating  
35 sufficient moneys to fund the approved applications in the portfolio  
36 at the time of the meeting or to repay an outstanding balance of  
37 the participant on whose behalf the commission has provided funds  
38 through the warehouse line of credit. In anticipation of the sale of  
39 bonds as authorized by Section 25987.29, or as may be authorized  
40 pursuant to Section 25987.30, the authority, on behalf of the

1 commission, may issue negotiable bond anticipation notes and  
2 may renew the notes from time to time. The bond anticipation  
3 notes may be paid from the proceeds of sale of the bonds of the  
4 authority in anticipation of which they were issued. Notes and  
5 agreements relating to the notes and bond anticipation notes  
6 (collectively called “notes”) and the resolution or resolutions  
7 authorizing the notes may contain any provisions, conditions, or  
8 limitations that a bond, agreement relating to the bond, and bond  
9 resolution of the authority may contain. However, a note or renewal  
10 of the note shall mature at a time not exceeding two years from  
11 the date of issue of the original note.

12 (b) Every issue of its bonds, notes, or other obligations shall be  
13 general obligations of the authority payable from revenues or  
14 moneys received pursuant to this chapter. Notwithstanding that  
15 the bonds, notes, or other obligations may be payable from a special  
16 fund, they are for all purposes negotiable instruments, subject only  
17 to the provisions of the bonds, notes, or other obligations for  
18 registration.

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

1 (d) A resolution or resolutions authorizing bonds or an issue of  
2 bonds may contain provisions that shall be a part of the contract  
3 with the holders of the bonds to be authorized, as to all of the  
4 following:

5 (1) Pledging the moneys collected pursuant to this chapter from  
6 the portfolio of approved applications that are funded by the bonds,  
7 to secure the payment of the bonds or of any particular issue of  
8 bonds, subject to the agreements with bondholders as may then  
9 exist.

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

12 (3) Limitations on the right of the authority or the commission  
13 or their agent to restrict and regulate the use of the project or  
14 projects to be financed out of the proceeds of the bonds or any  
15 particular issue of bonds.

16 (4) Limitations on the purpose to which the proceeds of sale of  
17 an issue of bonds then or thereafter to be issued may be applied  
18 and pledging those proceeds to secure the payment of the bonds  
19 or the issue of the bonds.

20 (5) Limitations on the issuance of additional bonds, the terms  
21 upon which additional bonds may be issued and secured, and the  
22 refunding of outstanding bonds.

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

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

29 (8) Defining the acts or omissions to act that constitute a default  
30 in the duties of the authority or commission to holders of its  
31 obligations and providing the rights and remedies of the holders  
32 in the event of a default.

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

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

1 (g) ~~The commission, the authority, and the board~~ *commission*  
2 *and the authority* may enter into a memorandum of understanding  
3 providing for the transfer of energy remittance payments between  
4 the ~~three~~ *two* agencies in furtherance of this chapter.

5 (h) If there is insufficient project valuation or insufficient  
6 demand for the revenue bonds authorized by this chapter, the ~~loan~~  
7 ~~service~~ *commission* shall continue to collect the energy remittance  
8 installment payments that become due and payable and service  
9 the loans, and the ~~board~~ *commission* shall continue to collect  
10 delinquent repayment installments. Failure to sell the revenue  
11 bonds shall not create any liability for the state.

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

38 25987.33. Bonds issued under the provisions of this article  
39 shall not be deemed to constitute a debt or liability of the state or  
40 of any political subdivision thereof, other than the authority, or a

1 pledge of the faith and credit of the state or of any political  
2 subdivision, but shall be payable solely from the funds provided  
3 by this chapter. All bonds shall contain on the face thereof a  
4 statement to the following effect: “Neither the faith and credit nor  
5 the taxing power of the State of California is pledged to the  
6 payment of the principal of or interest on this bond.” The issuance  
7 of bonds under the provisions of this article shall not directly or  
8 indirectly or contingently obligate the state or any political  
9 subdivision thereof to levy or to pledge any form of taxation or to  
10 make any appropriation for their payment. Nothing contained in  
11 this section shall prevent or be construed to prevent the authority  
12 from pledging its full faith and credit to the payment of bonds or  
13 issue of bonds authorized pursuant to this chapter.

14 25987.34. (a) The authority is hereby authorized to provide  
15 for the issuance of bonds of the authority for the purpose of  
16 refunding any bonds, notes, or other securities of the authority  
17 then outstanding, including the payment of any redemption  
18 premium and any interest accrued or to accrue to the earliest or  
19 subsequent date of redemption, purchase, or maturity of the bonds.

20 (b) The proceeds of any bonds issued for the purpose of  
21 refunding outstanding bonds, notes, or other securities may, in the  
22 discretion of the authority, be applied to the purchase or retirement  
23 at maturity or redemption of outstanding bonds either on their  
24 earliest or any subsequent redemption date or upon the purchase  
25 or retirement at the maturity thereof and may, pending application,  
26 be placed in escrow to be applied to purchase or retirement at  
27 maturity or redemption on a date as may be determined by the  
28 authority.

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

1 on the investments may be returned to the authority for use by it  
2 in any lawful manner.

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

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

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

32 25987.37. (a) Bonds issued pursuant to this division shall be  
33 exempt from all taxation and assessment imposed pursuant to state  
34 law.

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

1 Article 4. Nonresidential Real Property Energy Retrofit Debt  
2 Servicing Fund

3  
4 25987.38. (a) The Nonresidential Real Property Energy  
5 Retrofit Debt Servicing Fund is hereby established in the State  
6 Treasury. Notwithstanding Section 13340 of the Government Code,  
7 the moneys in the fund are hereby continuously appropriated to  
8 the authority without regard to fiscal years for the purposes of  
9 paying the principal and interest on bonds issued by the authority  
10 pursuant to Section 25987.29, servicing the warehouse line of  
11 credit, and defraying any direct and indirect costs incurred by the  
12 Treasurer 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 Real Property Energy Retrofit  
19 Debt Servicing Fund. The commission shall deposit the portion  
20 of the repayment installation 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 years 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 under  
28 the energy remittance repayment agreement, including accrued  
29 interest, ~~liquidated damages~~, and fees. All interest and income  
30 derived from the deposit and investment of moneys in the account  
31 shall be credited to the account, and all unexpended and  
32 unencumbered moneys in the account at the end of any fiscal year  
33 shall remain in the account.

34 25987.40. The Administration Account is hereby established  
35 in the Nonresidential Real Property Energy Retrofit Debt Servicing  
36 Fund. The commission shall deposit into the account the program  
37 administration fee ~~and liquidated damages~~ collected pursuant to  
38 this chapter. Notwithstanding Section 13340 of the Government  
39 Code, moneys in the account shall be continuously appropriated  
40 without regard to fiscal years to the ~~authority, the commission,~~

1 ~~and the board~~ *authority and the commission* for the costs of  
2 implementing this chapter.

3

4

Article 5. Miscellaneous

5

6 25987.41. (a) ~~The commission, the board,~~ *commission* and the  
7 authority shall be authorized to promulgate necessary regulations  
8 to implement and administer this chapter.

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