

AMENDED IN ASSEMBLY APRIL 26, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2104**

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**Introduced by Assembly Member Dababneh**

February 17, 2016

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An act to amend Section 15432 ~~of~~ *of*, and to add and repeal Section 15438.3 *of*, the Government Code, and to amend Sections 129005, 129010, 129020, 129090, and 129173 ~~of~~ *of*, and to add and repeal Section 129107 *of*, the Health and Safety Code, relating to health facilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2104, as amended, Dababneh. California Health Facilities Financing Authority Act: California Health Facility Construction Loan Insurance Law.

The California Health Facilities Financing Authority Act authorizes the California Health Facilities Financing Authority to, among other things, make loans from the continuously appropriated California Health Facilities Financing Authority Fund to participating health institutions, as defined, for financing or refinancing the acquisition, construction, or remodeling of health facilities.

This bill would expand the program to include for-profit skilled nursing ~~facilities when at least 60% of their patients are Medi-Cal beneficiaries~~ *facilities* by adding those entities to the definition of “participating health institutions.” *The bill would, until January 1, 2024, require the authority to provide funding to skilled nursing facilities in*

*a specified order of priority, including by requiring skilled nursing facilities for which at least 95% of their patients are Medi-Cal beneficiaries to be given first priority.* Because this bill would expand the purposes for which a continuously appropriated fund may be used, it would make an appropriation.

Existing law establishes the California Health Facility Construction Loan Insurance Law to provide, without cost to the state, an insurance program for health facility construction, improvement, and expansion loans in order to stimulate the flow of private capital into health facilities construction, improvement, and expansion and in order to rationally meet the need for new, expanded, and modernized public and nonprofit health facilities necessary to protect the health of all the people of this state. Existing law establishes the Health Facility Construction Loan Insurance Fund in the State Treasury, to be continuously appropriated to carry out the provisions and administrative costs of the insurance program. Under existing law, political subdivisions, as defined, and nonprofit corporations are authorized to apply for state insurance of needed construction, improvement, or expansion loans for construction, remodeling, or acquisition of health facilities, as provided, and applicants are required to pay an application fee not to exceed \$500, which is deposited into the fund.

This bill would expand the program to include for-profit corporations that operate skilled nursing facilities ~~when at least 60% of their patients are Medi-Cal beneficiaries~~ *facilities* by, among other things, adding those entities to the definition of “health facilities” and making those entities eligible to apply for the insurance program. *The bill would, until January 1, 2024, require loan insurance to be granted to skilled nursing facilities in a specified order of priority, including by requiring skilled nursing facilities for which at least 95% of their patients are Medi-Cal beneficiaries to be given first priority.* Because this bill would add a new source of revenue and expand the purposes for which a continuously appropriated fund may be used, it would make 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. Section 15432 of the Government Code is
- 2 amended to read:

1 15432. As used in this part, the following words and terms  
2 shall have the following meanings, unless the context clearly  
3 indicates or requires another or different meaning or intent:

4 (a) “Act” means the California Health Facilities Financing  
5 Authority Act.

6 (b) “Authority” means the California Health Facilities Financing  
7 Authority created by this part or any board, body, commission,  
8 department, or officer succeeding to the principal functions thereof  
9 or to which the powers conferred upon the authority by this part  
10 shall be given by law.

11 (c) “Cost,” as applied to a project or portion of a project financed  
12 under this part, means and includes all or any part of the cost of  
13 construction and acquisition of all lands, structures, real or personal  
14 property, rights, rights-of-way, franchises, easements, and interests  
15 acquired or used for a project, the cost of demolishing or removing  
16 any buildings or structures on land so acquired, including the cost  
17 of acquiring any lands to which those buildings or structures may  
18 be moved, the cost of all machinery and equipment, financing  
19 charges, interest prior to, during, and for a period not to exceed  
20 the later of one year or one year following completion of  
21 construction, as determined by the authority, the cost of insurance  
22 during construction, the cost of funding or financing noncapital  
23 expenses, reserves for principal and interest and for extensions,  
24 enlargements, additions, replacements, renovations and  
25 improvements, the cost of engineering, service contracts,  
26 reasonable financial and legal services, plans, specifications,  
27 studies, surveys, estimates, administrative expenses, and other  
28 expenses of funding or financing, that are necessary or incident to  
29 determining the feasibility of constructing any project, or that are  
30 incident to the construction, acquisition, or financing of any project.

31 (d) “Health facility” means a facility, place, or building that is  
32 licensed, accredited, or certified and organized, maintained, and  
33 operated for the diagnosis, care, prevention, and treatment of  
34 human illness, or physical, mental, or developmental disability,  
35 including convalescence and rehabilitation and including care  
36 during and after pregnancy, or for any one or more of these  
37 purposes, for one or more persons, and includes, but is not limited  
38 to, all of the following types:

39 (1) A general acute care hospital that is a health facility having  
40 a duly constituted governing body with overall administrative and

1 professional responsibility and an organized medical staff that  
 2 provides 24-hour inpatient care, including the following basic  
 3 services: medical, nursing, surgical, anesthesia, laboratory,  
 4 radiology, pharmacy, and dietary services.

5 (2) An acute psychiatric hospital that is a health facility having  
 6 a duly constituted governing body with overall administrative and  
 7 professional responsibility and an organized medical staff that  
 8 provides 24-hour inpatient care for mentally disordered,  
 9 incompetent, or other patients referred to in Division 5  
 10 (commencing with Section 5000) or Division 6 (commencing with  
 11 Section 6000) of the Welfare and Institutions Code, including the  
 12 following basic services: medical, nursing, rehabilitative,  
 13 pharmacy, and dietary services.

14 (3) A skilled nursing facility that is a health facility that provides  
 15 the following basic services: skilled nursing care and supportive  
 16 care to patients whose primary need is for availability or skilled  
 17 nursing care on an extended basis.

18 (4) An intermediate care facility that is a health facility that  
 19 provides the following basic services: inpatient care to ambulatory  
 20 or semiambulatory patients who have a recurring need for skilled  
 21 nursing supervision and need supportive care, but who do not  
 22 require availability or continuous skilled nursing care.

23 (5) A special health care facility that is a health facility having  
 24 a duly constituted governing body with overall administrative and  
 25 professional responsibility and an organized medical or dental staff  
 26 that provides inpatient or outpatient, acute or nonacute care,  
 27 including, but not limited to, medical, nursing, rehabilitation,  
 28 dental, or maternity.

29 (6) A clinic that is operated by a tax-exempt nonprofit  
 30 corporation that is licensed pursuant to Section 1204 or 1204.1 of  
 31 the Health and Safety Code or a clinic exempt from licensure  
 32 pursuant to subdivision (b) or (c) of Section 1206 of the Health  
 33 and Safety Code.

34 (7) An adult day health center that is a facility, as defined under  
 35 subdivision (b) of Section 1570.7 of the Health and Safety Code,  
 36 that provides adult day health care, as defined under subdivision  
 37 (a) of Section 1570.7 of the Health and Safety Code.

38 (8) A facility owned or operated by a local jurisdiction for the  
 39 provision of county health services.

1 (9) A multilevel facility is an institutional arrangement where  
2 a residential facility for the elderly is operated as a part of, or in  
3 conjunction with, an intermediate care facility, a skilled nursing  
4 facility, or a general acute care hospital. “Elderly,” for the purposes  
5 of this paragraph, means a person 62 years of age or older.

6 (10) A child day care facility operated in conjunction with a  
7 health facility. A child day care facility is a facility, as defined in  
8 Section 1596.750 of the Health and Safety Code. For purposes of  
9 this paragraph, “child” means a minor from birth to 18 years of  
10 age.

11 (11) An intermediate care facility/developmentally disabled  
12 habilitative that is a health facility, as defined under subdivision  
13 (e) of Section 1250 of the Health and Safety Code.

14 (12) An intermediate care facility/developmentally  
15 disabled-nursing that is a health facility, as defined under  
16 subdivision (h) of Section 1250 of the Health and Safety Code.

17 (13) A community care facility that is a facility, as defined under  
18 subdivision (a) of Section 1502 of the Health and Safety Code,  
19 that provides care, habilitation, rehabilitation, or treatment services  
20 to developmentally disabled or mentally impaired persons.

21 (14) A nonprofit community care facility, as defined in  
22 subdivision (a) of Section 1502 of the Health and Safety Code,  
23 other than a facility that, as defined in that subdivision, is a  
24 residential facility for the elderly, a foster family agency, a foster  
25 family home, a full service adoption agency, or a noncustodial  
26 adoption agency.

27 (15) A nonprofit accredited community work activity program,  
28 as specified in subdivision (e) of Section 4851 and Section 4856  
29 of the Welfare and Institutions Code.

30 (16) A community mental health center, as defined in paragraph  
31 (3) of subdivision (b) of Section 5667 of the Welfare and  
32 Institutions Code.

33 (17) A nonprofit speech and hearing center, as defined in Section  
34 1201.5 of the Health and Safety Code.

35 (18) A blood bank, as defined in Section 1600.2 of the Health  
36 and Safety Code, licensed pursuant to Section 1602.5 of the Health  
37 and Safety Code, and exempt from federal income taxation  
38 pursuant to Section 501(c)(3) of the Internal Revenue Code.

39 (19) A residential facility for persons with developmental  
40 disabilities, as defined in Sections 4688.5 and 4688.6 of the

1 Welfare and Institutions Code, which includes, but is not limited  
2 to, a community care facility licensed pursuant to Section 1502 of  
3 the Health and Safety Code and a family teaching home as defined  
4 in Section 4689.1 of the Welfare and Institutions Code.

5 (20) A nonpublic school that provides educational services in  
6 conjunction with a health facility, as defined in paragraphs (1) to  
7 (19), inclusive, that otherwise qualifies for financing pursuant to  
8 this part, if the nonpublic school is certified pursuant to Sections  
9 56366 and 56366.1 of the Education Code as meeting standards  
10 relating to the required special education and specified related  
11 services and facilities for individuals with physical, mental, or  
12 developmental disabilities.

13 “Health facility” includes a clinic that is described in subdivision  
14 (I) of Section 1206 of the Health and Safety Code.

15 “Health facility” includes information systems equipment and  
16 the following facilities, if the equipment and facility is operated  
17 in conjunction with or to support the services provided in one or  
18 more of the facilities specified in paragraphs (1) to (20), inclusive,  
19 of this subdivision: a laboratory, laundry, a nurses or interns  
20 residence, housing for staff or employees and their families or  
21 patients or relatives of patients, a physicians’ facility, an  
22 administration building, a research facility, a maintenance, storage,  
23 or utility facility, an information systems facility, all structures or  
24 facilities related to any of the foregoing facilities or required or  
25 useful for the operation of a health facility and the necessary and  
26 usual attendant and related facilities and equipment, and parking  
27 and supportive service facilities or structures required or useful  
28 for the orderly conduct of the health facility.

29 “Health facility” does not include any institution, place, or  
30 building used or to be used primarily for sectarian instruction or  
31 study or as a place for devotional activities or religious worship.

32 (e) “Participating health institution” means a city, city and  
33 county, or county, a district hospital, or a private nonprofit  
34 corporation or association, or a limited liability company whose  
35 sole member is a nonprofit corporation or association authorized  
36 by the laws of this state to provide or operate a health facility or  
37 a nonprofit corporation that controls or manages, is controlled or  
38 managed by, is under common control or management with, or is  
39 affiliated with any of the foregoing, or a for-profit skilled nursing  
40 facility ~~when at least 60 percent of its patients are Medi-Cal~~

1 beneficiaries, facility, and that, pursuant to this part, undertakes  
2 the financing or refinancing of the construction or acquisition of  
3 a project or of working capital as provided in this part.  
4 “Participating health institution” also includes, for purposes of the  
5 California Health Facilities Revenue Bonds (UCSF-Stanford Health  
6 Care) 1998 Series A, the Regents of the University of California.

7 (f) “Project” means construction, expansion, remodeling,  
8 renovation, furnishing, or equipping, or funding, financing, or  
9 refinancing of a health facility or acquisition of a health facility  
10 to be financed or refinanced with funds provided in whole or in  
11 part pursuant to this part. “Project” may include reimbursement  
12 for the costs of construction, expansion, remodeling, renovation,  
13 furnishing, or equipping, or funding, financing, or refinancing of  
14 a health facility or acquisition of a health facility. “Project” may  
15 include any combination of one or more of the foregoing  
16 undertaken jointly by any participating health institution with one  
17 or more other participating health institutions.

18 (g) “Revenue bond” or “bond” means a bond, warrant, note,  
19 lease, or installment sale obligation that is evidenced by a  
20 certificate of participation or other evidence of indebtedness issued  
21 by the authority.

22 (h) “Working capital” means moneys to be used by, or on behalf  
23 of, a participating health institution to pay or prepay maintenance  
24 or operation expenses or any other costs that would be treated as  
25 an expense item, under generally accepted accounting principles,  
26 in connection with the ownership or operation of a health facility,  
27 including, but not limited to, reserves for maintenance or operation  
28 expenses, interest for not to exceed one year on any loan for  
29 working capital made pursuant to this part, and reserves for debt  
30 service with respect to, and any costs necessary or incidental to,  
31 that financing.

32 *SEC. 2. Section 15438.3 is added to the Government Code, to*  
33 *read:*

34 *15438.3. (a) When providing funding to for-profit skilled*  
35 *nursing facilities, the authority shall provide funding in the*  
36 *following order of priority:*

37 *(1) To skilled nursing facilities for which at least 95 percent of*  
38 *their patients are Medi-Cal beneficiaries.*

39 *(2) To skilled nursing facilities that will construct a new facility*  
40 *or increase bed capacity at an existing facility.*

1 (3) *If funding is available and all skilled nursing facilities*  
2 *described in paragraphs (1) and (2) have been provided funding,*  
3 *to skilled nursing facilities for which at least 65 percent of their*  
4 *patients are Medi-Cal beneficiaries.*

5 (b) *The authority shall document the number of skilled nursing*  
6 *facilities funded pursuant to subdivision (a) and how access to*  
7 *skilled nursing facility services has increased for Medi-Cal*  
8 *beneficiaries as a result of that funding. The authority shall include*  
9 *this information when complying with its existing data collection*  
10 *and reporting requirements, if any.*

11 (c) *This section shall remain in effect only until January 1, 2024,*  
12 *and as of that date is repealed, unless a later enacted statute, that*  
13 *is enacted before January 1, 2024, deletes or extends that date.*

14 ~~SEC. 2:~~

15 *SEC. 3.* Section 129005 of the Health and Safety Code is  
16 amended to read:

17 129005. The purpose of this chapter is to provide, without cost  
18 to the state, an insurance program for health facility construction,  
19 improvement, and expansion loans in order to stimulate the flow  
20 of private capital into health facilities construction, improvement,  
21 and expansion and in order to rationally meet the need for new,  
22 expanded, and modernized public, eligible for-profit, and nonprofit  
23 health facilities necessary to protect the health of all the people of  
24 this state. The provisions of this chapter are to be liberally  
25 construed to achieve this purpose.

26 ~~SEC. 3:~~

27 *SEC. 4.* Section 129010 of the Health and Safety Code is  
28 amended to read:

29 129010. Unless the context otherwise requires, the definitions  
30 in this section govern the construction of this chapter and of Section  
31 32127.2.

32 (a) “Bondholder” means the legal owner of a bond or other  
33 evidence of indebtedness issued by a political subdivision or a  
34 nonprofit corporation.

35 (b) “Borrower” means a political subdivision or nonprofit  
36 corporation that has secured or intends to secure a loan for the  
37 construction of a health facility.

38 (c) “Construction, improvement, or expansion” or “construction,  
39 improvement, and expansion” includes construction of new  
40 buildings, expansion, modernization, renovation, remodeling and



1 alteration of existing buildings, acquisition of existing buildings  
2 or health facilities, and initial or additional equipping of any of  
3 these buildings.

4 In connection therewith, “construction, improvement, or  
5 expansion” or “construction, improvement, and expansion”  
6 includes the cost of construction or acquisition of all structures,  
7 including parking facilities, real or personal property, rights,  
8 rights-of-way, the cost of demolishing or removing any buildings  
9 or structures on land so acquired, including the cost of acquiring  
10 any land where the buildings or structures may be moved, the cost  
11 of all machinery and equipment, financing charges, interest (prior  
12 to, during, and for a period after completion of the construction),  
13 provisions for working capital, reserves for principal and interest  
14 and for extensions, enlargements, additions, replacements,  
15 renovations and improvements, cost of engineering, financial and  
16 legal services, plans, specifications, studies, surveys, estimates of  
17 cost and of revenues, administrative expenses, expenses necessary  
18 or incident to determining the feasibility or practicability of  
19 constructing or incident to the construction; or the financing of the  
20 construction or acquisition.

21 (d) “Committee” means the Advisory Loan Insurance  
22 Committee.

23 (e) “Debenture” means any form of written evidence of  
24 indebtedness issued by the State Treasurer pursuant to this chapter,  
25 as authorized by Section 4 of Article XVI of the California  
26 Constitution.

27 (f) “Fund” means the Health Facility Construction Loan  
28 Insurance Fund.

29 (g) “Health facility” means any facility providing or designed  
30 to provide services for the acute, convalescent, and chronically ill  
31 and impaired, including, but not limited to, public health centers,  
32 community mental health centers, facilities for the developmentally  
33 disabled, nonprofit community care facilities that provide care,  
34 habilitation, rehabilitation or treatment to developmentally disabled  
35 persons, facilities for the treatment of chemical dependency,  
36 including a community care facility, licensed pursuant to Chapter  
37 3 (commencing with Section 1500) of Division 2, a clinic, as  
38 defined pursuant to Chapter 1 (commencing with Section 1200)  
39 of Division 2, an alcoholism recovery facility, defined pursuant  
40 to former Section 11834.11, and a structure located adjacent or

1 attached to another type of health facility and that is used for  
2 storage of materials used in the treatment of chemical dependency,  
3 and general tuberculosis, mental, and other types of hospitals and  
4 related facilities, such as laboratories, outpatient departments,  
5 extended care, nurses' home and training facilities, offices and  
6 central service facilities operated in connection with hospitals,  
7 diagnostic or treatment centers, extended care facilities, nursing  
8 homes, and rehabilitation facilities. "Health facility" also means  
9 an adult day health center and a multilevel facility. Except for  
10 facilities for the developmentally disabled, facilities for the  
11 treatment of chemical dependency, or a multilevel facility, or as  
12 otherwise provided in this subdivision, "health facility" does not  
13 include any institution furnishing primarily domiciliary care.

14 "Health facility" also means accredited nonprofit work activity  
15 programs as defined in subdivision (e) of Section 4851 of the  
16 Welfare and Institutions Code, and nonprofit community care  
17 facilities as defined in Section 1502, excluding foster family homes,  
18 foster family agencies, adoption agencies, and residential care  
19 facilities for the elderly.

20 Unless the context dictates otherwise, "health facility" includes  
21 a political subdivision of the state or nonprofit corporation that  
22 operates a facility included within the definition set forth in this  
23 subdivision.

24 Unless the context dictates otherwise, "health facility" includes  
25 a for-profit corporation that operates a skilled nursing facility when  
26 at least 60 percent of its patients are Medi-Cal beneficiaries.  
27 *facility.*

28 (h) "Office" means the Office of Statewide Health Planning and  
29 Development.

30 (i) "Lender" means the provider of a loan and its successors and  
31 assigns.

32 (j) "Loan" means money or credit advanced for the costs of  
33 construction or expansion of the health facility, and includes both  
34 initial loans and loans secured upon refinancing and may include  
35 both interim, or short-term loans, and long-term loans. A duly  
36 authorized bond or bond issue, or an installment sale agreement,  
37 may constitute a "loan."

38 (k) "Maturity date" means the date that the loan indebtedness  
39 would be extinguished if paid in accordance with periodic  
40 payments provided for by the terms of the loan.

1 (l) “Mortgage” means a first mortgage on real estate. “Mortgage”  
2 includes a first deed of trust.

3 (m) “Mortgagee” includes a lender whose loan is secured by a  
4 mortgage. “Mortgagee” includes a beneficiary of a deed of trust.

5 (n) “Mortgagor” includes a borrower, a loan to whom is secured  
6 by a mortgage, and the trustor of a deed of trust.

7 (o) “Nonprofit corporation” means any corporation formed  
8 under or subject to the Nonprofit Public Benefit Corporation Law  
9 (Part 2 (commencing with Section 5110) of Division 2 of Title 1  
10 of the Corporations Code) that is organized for the purpose of  
11 owning and operating a health facility and that also meets the  
12 requirements of Section 501(c)(3) of the Internal Revenue Code.

13 (p) “Political subdivision” means any city, county, joint powers  
14 entity, local hospital district, or the California Health Facilities  
15 Authority.

16 (q) “Project property” means the real property where the health  
17 facility is, or is to be, constructed, improved, or expanded, and  
18 also means the health facility and the initial equipment in that  
19 health facility.

20 (r) “Public health facility” means any health facility that is or  
21 will be constructed for and operated and maintained by any city,  
22 county, or local hospital district.

23 (s) “Adult day health center” means a facility defined under  
24 subdivision (b) of Section 1570.7, that provides adult day health  
25 care, as defined under subdivision (a) of Section 1570.7.

26 (t) “Multilevel facility” means an institutional arrangement  
27 where a residential facility for the elderly is operated as a part of,  
28 or in conjunction with, an intermediate care facility, a skilled  
29 nursing facility, or a general acute care hospital. “Elderly,” for the  
30 purposes of this subdivision, means a person 60 years of age or  
31 older.

32 (u) “State plan” means the plan described in Section 129020.

33 ~~SEC. 4.~~

34 *SEC. 5.* Section 129020 of the Health and Safety Code is  
35 amended to read:

36 129020. (a) The office shall implement the loan insurance  
37 program for the construction, improvement, and expansion of  
38 public, eligible for-profit, and nonprofit corporation health facilities  
39 so that, in conjunction with all other existing facilities, the

1 necessary physical facilities for furnishing adequate health facility  
2 services will be available to all the people of the state.

3 (b) Every odd-numbered year the office shall develop a state  
4 plan for use under this chapter. The plan shall include an overview  
5 of the changes in the health care industry, an overview of the  
6 financial status of the fund and the loan insurance program  
7 implemented by the office, a statement of the guiding principles  
8 of the loan insurance program, an evaluation of the program's  
9 success in meeting its mission as outlined in Section 129005, a  
10 discussion of administrative, procedural, or statutory changes that  
11 may be needed to improve management of program risks or to  
12 ensure the program effectively addresses the health needs of  
13 Californians, and the priority needs to be addressed by the loan  
14 insurance program.

15 (c) The health facility construction loan insurance program shall  
16 provide for health facility distribution throughout the state in a  
17 manner that will make all types of health facility services  
18 reasonably accessible to all persons in the state according to the  
19 state plan.

20 ~~SEC. 5:~~

21 *SEC. 6.* Section 129090 of the Health and Safety Code is  
22 amended to read:

23 129090. (a) Pursuant to this chapter, political subdivisions,  
24 eligible for-profit corporations, and nonprofit corporations may  
25 apply for state insurance of needed construction, improvement, or  
26 expansion loans for construction, remodeling, or acquisition of  
27 health facilities to be or already owned, established, and operated  
28 by them as provided in this chapter. Applications shall be submitted  
29 to the office by the nonprofit corporation, eligible for-profit  
30 corporation, or political subdivision authorized to construct and  
31 operate a health facility.

32 (b) Each application shall conform to the requirements of the  
33 office, shall be submitted in the manner and form prescribed by  
34 the office, and shall be accompanied by an application fee of  
35 one-half of 1 percent of the amount of the loan applied for, but in  
36 no case shall the application fee exceed five hundred dollars (\$500).  
37 The fees shall be deposited by the office in the fund and used to  
38 defray the office's expenditures in the administration of this  
39 chapter.

1     *SEC. 7. Section 129107 is added to the Health and Safety Code,*  
2 *to read:*

3     *129107. (a) When insuring loans for for-profit skilled nursing*  
4 *facilities, the office shall grant loan insurance in the following*  
5 *order of priority:*

6     *(1) To skilled nursing facilities for which at least 95 percent of*  
7 *their patients are Medi-Cal beneficiaries.*

8     *(2) To skilled nursing facilities that will construct a new facility*  
9 *or increase bed capacity at an existing facility.*

10    *(3) If funding is available and all skilled nursing facilities*  
11 *described in paragraphs (1) and (2) have been granted loan*  
12 *insurance, to skilled nursing facilities for which at least 65 percent*  
13 *of their patients are Medi-Cal beneficiaries.*

14    *(b) The office shall document the number of skilled nursing*  
15 *facilities granted insurance pursuant to subdivision (a) and how*  
16 *access to skilled nursing facility services has increased for*  
17 *Medi-Cal beneficiaries as a result of those grants. The office shall*  
18 *include this information in the annual reports required pursuant*  
19 *to Section 129045.*

20    *(c) This section shall remain in effect only until January 1, 2024,*  
21 *and as of that date is repealed, unless a later enacted statute, that*  
22 *is enacted before January 1, 2024, deletes or extends that date.*

23    ~~SEC. 6.~~

24    *SEC. 8. Section 129173 of the Health and Safety Code is*  
25 *amended to read:*

26    *129173. (a) In fulfilling the purposes of this article, as set forth*  
27 *in Section 129005, and upon making a determination that the*  
28 *financial status of a borrower may jeopardize a borrower's ability*  
29 *to fulfill its obligations under any insured loan transaction so as*  
30 *to threaten the economic interest of the office in the borrower or*  
31 *to jeopardize the borrower's ability to continue to provide needed*  
32 *health care services in its community, including, but not limited*  
33 *to, a declaration of default under any contract related to the*  
34 *transaction, the borrower missing any payment to its lender, or the*  
35 *borrower's accounts payable exceeding three months, the office*  
36 *may assume or direct managerial or financial control of the*  
37 *borrower in any or all of the following ways:*

38    *(1) The office may supervise and prescribe the activities of the*  
39 *borrower in the manner and under the terms and conditions as the*  
40 *office may stipulate in any contract with the borrower.*

1 (2) Notwithstanding the provisions of the articles of  
2 incorporation or other documents of organization of a nonprofit  
3 corporation borrower, this control may be exercised through the  
4 removal and appointment by the office of members of the  
5 governing body of the borrower sufficient so that the new members  
6 constitute a voting majority of the governing body.

7 (3) In the event the borrower is a nonprofit corporation, an  
8 eligible for-profit corporation, or a political subdivision, the office  
9 may request the Secretary of the California Health and Human  
10 Services Agency to appoint a trustee. The trustee shall have full  
11 and complete authority of the borrower over the insured project,  
12 including all property on which the office holds a security interest.  
13 A trustee shall not be appointed unless approved by the office. A  
14 trustee appointed by the secretary pursuant to this subdivision may  
15 exercise all the powers of the officers and directors of the borrower,  
16 including the filing of a petition for bankruptcy. An action at law  
17 or in equity shall not be maintained by any party against the office  
18 or a trustee by reason of their exercising the powers of the officers  
19 and directors of a borrower pursuant to the direction of, or with  
20 the approval of, the secretary.

21 (4) The office may institute any action or proceeding, or the  
22 office may request the Attorney General to institute any action or  
23 proceeding against any borrower, to obtain injunctive or other  
24 equitable relief, including the appointment of a receiver for the  
25 borrower or the borrower's assets, in the superior court in and for  
26 the county in which the assets or a substantial portion of the assets  
27 are located. The proceeding under this section for injunctive relief  
28 shall conform with the requirements of Chapter 3 (commencing  
29 with Section 525) of Title 7 of Part 2 of the Code of Civil  
30 Procedure, except that the office shall not be required to allege  
31 facts necessary to show lack of adequate remedy at law, or to show  
32 irreparable loss or damage. Injunctive relief may compel the  
33 borrower, its officers, agents, or employees to perform each and  
34 every provision contained in any regulatory agreement, contract  
35 of insurance, or any other loan closing document to which the  
36 borrower is a party, or any obligation imposed on the borrower by  
37 law, and require the carrying out of any and all covenants and  
38 agreements and the fulfillment of all duties imposed on the  
39 borrower by law or those documents.

1 A receiver may be appointed pursuant to Chapter 5 (commencing  
2 with Section 564) of Title 7 of Part 2 of the Code of Civil  
3 Procedure. In cooperation with the Attorney General, the office  
4 shall develop and maintain a list of receivers who have  
5 demonstrated experience both in the health care field and as a  
6 receiver. Upon a proper showing, the court shall grant the relief  
7 provided by law and requested by the office or the Attorney  
8 General. No receiver shall be appointed unless approved by the  
9 office. The office shall establish reporting requirements for  
10 receivers to ensure that the office is fully apprised of all costs  
11 incurred and progress made by the receiver. A receiver appointed  
12 by the superior court pursuant to this subdivision and Section 564  
13 of the Code of Civil Procedure may, with the approval of the court,  
14 exercise all of the powers of the officers and directors of the  
15 borrower, including the filing of a petition for bankruptcy. An  
16 action at law or in equity shall not be maintained by any party  
17 against the office, the Attorney General, or a receiver by reason  
18 of their exercising the powers of the officers and directors of a  
19 borrower pursuant to the order of, or with the approval of, the  
20 superior court.

21 (5) The borrower shall inform the office in advance of all  
22 meetings of its governing body. The borrower shall not exclude  
23 the office from attending any meeting of the borrower's governing  
24 body.

25 (b) Other than the loan insured under this chapter, the office  
26 shall not be liable for any debt of a borrower, or to a borrower, as  
27 a result of the office asserting its legal remedies against a borrower  
28 insured under this chapter.

29 (c) It is the intent of the Legislature that this section is remedial  
30 in nature, and is applicable retroactively to any health facility  
31 construction loans in existence at the time of its enactment, to the  
32 extent that the application of this section does not unlawfully impair  
33 existing contract rights.

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