

AMENDED IN ASSEMBLY APRIL 23, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2045

Introduced by Assembly Member Rendon

February 20, 2014

An act to add Chapter 12.5 (commencing with Section 25987.1) to Division 15 of the Public Resources Code, relating to energy, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2045, as 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 the commission to collect installment payments from owners of eligible real properties whose applications it has approved. The bill would require the 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, 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 provide incentives for private equity managers to invest in clean
16 energy improvements, integrate the smart energy economy, and
17 stimulate the state economy by directly creating jobs for contractors
18 and other persons who complete new energy improvements; and
19 to reinforce the leadership role of the state in the new energy
20 economy, thereby attracting energy manufacturing facilities and
21 related jobs to the state.

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~~
18 *chapter* to establish, develop, finance, implement, and administer
19 a new 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~~ *chapter* shall
 3 do so 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)~~

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

26 ~~(c)~~

27 (b) “Authority” means the California Alternative Energy and
 28 Advanced Transportation Financing Authority established pursuant
 29 to Section 26004.

30 ~~(d)~~

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

40 (1) High-efficiency mechanical equipment.

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

1 (h) “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 ~~(j)~~

5 (i) “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 ~~(k)~~

24 (j) “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 (k) “Energy service provider” means an electrical corporation
 28 as defined in Section 218 of the Public Utilities Code, an electric
 29 service provider as defined in Section 218.3 of the Public Utilities
 30 Code, a gas corporation as defined in Section 222 of the Public
 31 Utilities Code, or a local publicly owned electric utility as defined
 32 in Section 224.3 of the Public Utilities Code.

33 (l) “Energy storage” means a thermal or electrochemical device
 34 capable of storing energy produced by a renewable energy
 35 improvement that is designed to release the stored energy to reduce
 36 the use of electricity or natural gas that would otherwise be
 37 delivered from an energy service provider.

38 ~~(t)~~

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

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

6 (2) Other types of assistance the commission determines are
7 appropriate.

8 ~~(m)~~

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

12 ~~(n)~~

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

15 ~~(o)~~

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

20 ~~(p)~~

21 (q) “Participant” means a person, or an entity or group of
22 entities, engaged in business or operations in the state, whether
23 organized for profit or not for profit, that, as a qualified applicant,
24 is approved for financial assistance pursuant to Article 2
25 (commencing with Section 25987.5) and has entered into an energy
26 remittance repayment agreement with the commission for the
27 purpose of implementing a project in a manner prescribed by the
28 commission. “Participant” includes a subsequent owner taking
29 title to real property subject to an energy remittance repayment
30 agreement lien.

31 ~~(q)~~

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

33 ~~(r)~~

34 (s) “Program” means the Nonresidential Real Property Energy
35 Retrofit Financing Program established by the commission in
36 accordance with Section 25987.7.

37 ~~(s)~~

38 (t) “Program administration cost fee” means a fee imposed for
39 the costs incurred by the commission and the authority to
40 administer the program.

1 (t)
 2 (u) “Project” means an improvement to an eligible real property
 3 that constitutes a water efficiency improvement, renewable energy
 4 improvement, or building energy efficiency improvement.

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

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

18 (2) Timely submits to the commission a complete application,
 19 which notes the existence of any priority mortgage or deed of trust
 20 on the eligible property and the identity of the holder of the
 21 mortgage or deed of trust, to join the program and consents to the
 22 levying of a lien in the amount of the energy remittance repayment
 23 agreement on the real property pursuant to this chapter.

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

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

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

39 (w)

1 (x) “Renewable energy improvement” means one or more
2 fixtures, products, systems, or devices, or an interacting group of
3 fixtures, products, systems, or devices, that ~~use an alternative~~
4 ~~energy source, are permanently affixed to, or located on, the real~~
5 ~~property, and directly benefit an eligible real property or that are~~
6 ~~installed on the customer side of a meter of an eligible real property~~
7 ~~and that produce renewable energy from renewable resources,~~
8 ~~including, but not limited to, photovoltaic, solar thermal, small~~
9 ~~wind, biomass, fuel cells, or geothermal systems, such as ground~~
10 ~~source heat pumps, as may be approved by the commission. *meet*~~
11 ~~*all of the following requirements:*~~

12 (1) *Use renewable energy or energy storage.*

13 (2) *Are all of the following:*

14 (A) *Affixed permanently to, or located on, an eligible real*
15 *property on the customer side of the meter of the property.*

16 (B) *Interconnected and operated in parallel with the energy*
17 *service provider’s electric system.*

18 (C) *Sized to a total capacity of not more than one megawatt.*

19 (D) *Designed and intended primarily to offset all or part of the*
20 *applicant’s own annual energy demand, calculated on the basis*
21 *that all cost-effective energy efficiency measures have been*
22 *installed on the eligible real property, for the permanent fixtures*
23 *that consume energy.*

24 (3) *Meet all applicable safety and performance standards*
25 *established by the National Electrical Code, the Institute of*
26 *Electrical and Electronic Engineers, accredited testing*
27 *laboratories, such as Underwriters Laboratories, and, where*
28 *applicable, rules of the Public Utilities Commission regarding*
29 *safety and reliability.*

30 ~~(x)~~

31 (y) “Repayment installation” means the monthly amount
32 specified pursuant to the agreed schedule for repayment approved
33 by the commission.

34 ~~(y)~~

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

39 ~~(z)~~

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

5
 6
 7
 8

Article 2. Nonresidential Real Property Energy Retrofit
 Financing Program

9 25987.5. The purpose of the Nonresidential Real Property
 10 Energy Retrofit Financing Program is to help provide the special
 11 benefits of water efficiency improvements, renewable energy
 12 improvements, and building energy efficiency improvements to
 13 owners of eligible real properties who voluntarily participate in
 14 the program by establishing, developing, financing, and
 15 administering a program to assist those owners in completing
 16 improvements.

17 25987.6. The commission shall have and exercise all rights
 18 and powers necessary or incidental to or implied from the specific
 19 powers granted to the commission by this chapter. Those specific
 20 powers shall not be considered as a limitation upon any power
 21 necessary or appropriate to carry out the purposes and intent of
 22 this chapter.

23 25987.7. (a) The commission shall establish, develop, finance,
 24 and administer, consistent with Section 25987.9, the Nonresidential
 25 Building Real Property Retrofit Financing Program. The
 26 commission shall provide general direction and oversight to the
 27 authority as they complete duties specified in this chapter. The
 28 program shall be designed to provide financial assistance for an
 29 owner of an eligible real property to use one or more energy
 30 efficiency specialists to retrofit or benefit the property with one
 31 or more renewable energy improvements, building energy
 32 efficiency improvements, or water efficiency improvements, by
 33 applying to the commission for inclusion of the owner’s project
 34 in a portfolio that will be financed through the use of the revenue
 35 bonds issued pursuant to this chapter. These bonds shall be secured
 36 by revenues generated through energy remittance repayment
 37 agreement liens recorded against the real properties benefited by
 38 the projects in the portfolio.

39 (b) The program shall provide financial assistance for projects
 40 when the total energy and water cost savings realized by the real

1 property owner, and any successor or successors to the real property
2 owner, during the useful life of the improvements, as determined
3 by an analysis required pursuant to subdivision (i) of Section
4 25987.13 are expected to equal or exceed the total costs incurred
5 by the owner pursuant to the program.

6 (c) In developing rules to certify an energy efficiency specialist,
7 the commission shall consult with the Public Utilities Commission,
8 the investor-owned utilities, the contractor community, and other
9 entities the commission deems appropriate and consider existing
10 trade certifications or licensing requirements applicable to
11 occupations that perform work contemplated pursuant to this
12 chapter.

13 (d) (1) Within six months after the first two years of
14 implementation of the program established pursuant to subdivision
15 (a) or after the expenditure of the first two hundred fifty million
16 dollars (\$250,000,000) of proceeds authorized pursuant to Section
17 25987.29, whichever occurs earlier, the commission shall prepare
18 and make publicly available a report on the efficacy of the program
19 in achieving the purposes of the program as specified in Section
20 25987.5 and recommendations that would enhance the ability of
21 the program to achieve those purposes.

22 (2) The commission shall post the report on its Internet Web
23 site.

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

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

31 25987.9. By July 1, 2015, the commission shall develop a
32 request for proposal to develop the program by a third-party
33 administrator. The third-party administrator shall administer the
34 program and establish an automated, asset-based underwriting
35 system for all eligible real properties in the state. The third-party
36 administrator shall provide consultation to the commission in
37 developing guidelines for the program. The third-party
38 administrator shall provide an independent energy advisor to assist
39 owners of real properties in evaluating projects. The party selected
40 as the third-party administrator shall only be selected if the program

1 proposal submitted by the party requires all costs, including startup
2 costs of the program, to be covered by the loan recipients, the
3 administrator, the bond purchasers, or some combination thereof.
4 The program selected shall not include General Fund costs or
5 liabilities.

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

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

18 25987.12. (a) An owner of an eligible real property undertaking
19 a project shall submit to the third-party administrator an application
20 to participate in the program.

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

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

28
29 SUBMISSION OF THIS APPLICATION CONSTITUTES THE
30 VOLUNTARY CONSENT OF THE APPLICANT FOR THE
31 RECORDATION OF THE ENERGY REMITTANCE
32 REPAYMENT AGREEMENT LIEN AGAINST THE ELIGIBLE
33 REAL PROPERTY. UPON THE APPROVAL BY THE
34 COMMISSION OF THE APPLICATION AND THE
35 RECORDATION OF THE ENERGY REMITTANCE
36 REPAYMENT AGREEMENT LIEN, A LIEN IN THE AMOUNT
37 SPECIFIED IN THE ENERGY REMITTANCE REPAYMENT
38 AGREEMENT SHALL BE RECORDED ON THE PROPERTY
39 TO SECURE THE AGREEMENT.

40

1 25987.13. The owner of an eligible real property shall include
2 all of the following information in the application:

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

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

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

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

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

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

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

18 (h) Any information that the commission or third-party
19 administrator requires to verify that the owner will complete the
20 project.

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

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

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

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

34 25987.14. In addition to the information required under Section
35 25987.13, an applicant shall provide in the application a detailed
36 description of all of the following:

37 (a) The eligible real property.

38 (b) The transactional activities associated with the project,
39 including the transactional costs.

1 (c) Other information deemed necessary by the commission or
2 the third-party administrator.
3 25987.15. (a) The third-party administrator shall make
4 recommendations to the commission regarding the approval or
5 disapproval of an application.
6 (b) The commission may approve and accept an applicant into
7 the program if both of the following conditions are met:
8 (1) The applicant is a qualified applicant.
9 (2) Prior to receiving funding for renewable energy
10 improvement, the applicant shall show both of the following:
11 (A) Evidence of intent to make feasible energy efficiency
12 upgrades recommended by the analysis required pursuant to
13 subdivision (i) of Section 25987.13.
14 (B) Evidence of intent to enroll in eligible demand response
15 programs, if appropriate.
16 (c) The commission shall determine appropriate guarantees
17 necessary to ensure cost neutrality of the improvements.
18 25987.16. (a) Upon the mutual agreement of the participant
19 and the third-party administrator, the third-party administrator
20 shall establish an annualized schedule for the repayment with
21 monthly repayment installments required by the energy remittance
22 repayment agreement, including the interest charged, administrative
23 cost fee, and loan loss reserve fee.
24 (b) (1) The period for repayment of the energy remittance
25 repayment agreement shall not exceed the effective useful life of
26 the improvements or 20 years, whichever is shorter.
27 (2) The calculated effective useful life of the building energy
28 efficiency and renewable energy improvements, shall be calculated
29 using methodologies adopted by the commission, in consultation
30 with the Public Utilities Commission.
31 (A) The commission shall hold at least one public hearing on
32 the useful life of the improvement to take public and industry
33 comments on the commission's determinations.
34 (B) The commission shall update the useful life of improvements
35 as new information becomes available and when new technologies
36 become available and shall make this information publicly available
37 on its Internet Web site.
38 (C) The commission shall remove any improvements from its
39 information on improvements if the improvement is no longer

1 available or if the commission determines that manufacturer defects
2 disqualify the improvement from loan eligibility.

3 (c) The commission shall collect the repayment installments
4 that become due and payable and repayment installments that are
5 delinquent. A repayment installment is delinquent upon the failure
6 of the participant to pay any installment due and payable pursuant
7 to the schedule for repayment.

8 (d) The commission may prescribe, adopt, and enforce
9 guidelines relating to the collection of the delinquent repayment
10 installments. The guidelines adopted pursuant to this section shall
11 be exempt from the Administrative Procedures Act (Chapter 3.5
12 (commencing with Section 11340) of Part 1 of Division 3 of Title
13 2 of the Government Code).

14 (e) Upon the full repayment of the balance of the energy
15 remittance repayment agreement lien and accrued interest, the
16 commission shall record with the county in which the eligible real
17 property is located a release of the energy remittance repayment
18 agreement lien.

19 25987.18. (a) Prior to approving an application for inclusion
20 into a loan portfolio and the recordation of the energy remittance
21 repayment agreement lien, or a modification of an approved
22 application, the commission shall conduct a public meeting on the
23 proposed application or modification.

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

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

29 (1) The name of the qualified applicant.

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

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

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

35 (5) The schedule for repayment of the contractual energy
36 remittance and associated costs as agreed upon between the
37 qualified applicant and the commission.

38 (6) The interest rate assessed pursuant to the energy remittance
39 repayment agreement.

1 (7) A detailed description of the proposed modification, if
2 applicable.

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

9 25987.19. In evaluating the eligibility of an applicant, the
10 commission shall consider the creditworthiness of the applicant
11 and the effectiveness of the improvements applying the following
12 criteria, which may include, but not be limited to, all of the
13 following:

14 (a) Whether applicants are legal owners of the underlying real
15 property.

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

18 (c) Whether applicants are in default or in bankruptcy
19 proceedings.

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

23 (e) Whether improvements financed by the program follow
24 applicable standards including any guidelines adopted by the
25 commission.

26 25987.20. (a) The commission shall approve an application
27 at a business meeting. Upon approval of an application, the
28 commission shall record the energy remittance repayment
29 agreement lien against the eligible real property.

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

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

36 25987.21. (a) The energy remittance repayment agreement
37 lien recorded pursuant to this section shall have a prominent header
38 on the document that reads “Energy Remittance Repayment
39 Agreement Lien” in 14-point type and contains all of the following
40 information related to the eligible real property:

1 (1) The assessor's parcel number.

2 (2) The owners of record.

3 (3) The legal description.

4 (4) The street address.

5 (5) The amount of the lien.

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

9 25987.22. (a) No later than 30 days after the approval of an
10 application, the commission or the third-party administrator shall
11 record with the county in which the eligible real property is located
12 the energy remittance repayment agreement lien. The third-party
13 administrator shall notify the commission upon the recordation of
14 the energy remittance repayment agreement lien.

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

19 25987.23. (a) The commission shall deposit into the
20 Nonresidential Real Property Energy Retrofit Debt Servicing Fund
21 established pursuant to Section 25987.38, or the accounts within
22 the fund, any moneys collected pursuant to this chapter.

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

27 25987.24. (a) A local government that has issued revenue
28 bonds pursuant to a program providing financial assistance to
29 owners of nonresidential buildings undertaking a renewable energy,
30 water efficiency, or energy efficiency retrofit improvement on the
31 real properties may apply to the commission for participation in
32 the program.

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

36 (c) Upon the purchase of the revenue bonds issued by the local
37 government by the authority, the authority succeeds to all rights
38 conferred upon the bondholder by those revenue bonds and the
39 local government shall remit revenue that is used to secure those
40 revenue bonds to the commission.

1 25987.25. (a) To the extent that the commission determines
2 necessary to effectively complete the duties specified by this
3 chapter, the commission shall do all of the following:

4 (1) (A) Analyze and evaluate standards for nonresidential
5 energy building retrofits previously developed by various national
6 and international organizations to provide uniformity and
7 transparency for financial institutions evaluating loan proposals
8 for energy improvements to nonresidential buildings. To the extent
9 that the commission determines necessary, this evaluation shall
10 be completed not later than January 1, 2016.

11 (B) The evaluation shall review existing protocols or a
12 combination of elements of existing measurement protocols and
13 shall be made available in an electronic format to financial
14 institutions and local governments initiating loans pursuant to this
15 chapter.

16 (2) Develop, in consultation with the ~~Department~~ *Bureau* of
17 Real Estate and representatives from the commercial real estate
18 industry, a model energy aligned lease provision that modifies,
19 upon the agreement between the owner and tenants of eligible real
20 property, a commercial lease agreement allowing the owners to
21 recover the costs of the renewable energy, water efficiency, or
22 energy efficiency retrofit improvements that result in operational
23 savings based on the useful life of the retrofit while protecting
24 tenants from underperformance of the building energy efficiency
25 improvements.

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

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

36 (1) Consult with the Public Utilities Commission, representatives
37 from the investor-owned and publicly owned utilities, local
38 governments, real estate licensees, commercial builders,
39 commercial property owners, small businesses, financial

1 institutions, commercial property appraisers, energy rating
2 organizations, and other entities the commission deems appropriate.

3 (2) Hold at least one public hearing.

4 (3) Adopt guidelines and standards for the purposes of
5 implementing this chapter at a publicly noticed meeting offering
6 all interested parties an opportunity to comment. For the initial
7 adoption of the guidelines and standards, the commission shall
8 provide a written public notice at least 30 days prior to the meeting.
9 For the adoption of any substantive change to the guidelines and
10 standards, the commission shall provide a written public notice at
11 least 10 days prior to the meeting. Notwithstanding any other law,
12 guidelines or standards adopted pursuant to this section shall be
13 exempt from the requirements of Chapter 3.5 (commencing with
14 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
15 Code. In implementing the requirements of this chapter, in the
16 interest of promoting consistency across the demand-side
17 management programs statewide, the commission shall seek to
18 harmonize these requirements, to the greatest extent practicable,
19 with the rules and requirements of the Public Utilities Commission
20 for its nonresidential energy efficiency, distributed generation,
21 demand response, and other demand-side management programs.

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

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

27 (6) Establish standard assumptions to be used for estimating the
28 energy benefits of improvements that shall include a reasonable
29 assumption for the cost of kilowatthours and therms and a
30 reasonable assumption of future expectations of the rate these costs
31 will increase.

32 (7) Establish those standards, guidelines, and procedures,
33 through regulation, including, but not limited to, standards of
34 creditworthiness for qualification of program applicants, that are
35 necessary to ensure the financial stability of the program and
36 otherwise prevent fraud and abuse.

37 (8) Establish those measurement and verification standards
38 necessary to ensure that the building energy efficiency
39 improvements financed pursuant to this chapter are realized at a
40 level specified by the commission.

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

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

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

8 (A) Ensure that appropriate and reasonable steps are taken to
9 monitor and verify the quality and longevity of building energy
10 efficiency improvements financed pursuant to this program and
11 measure the total energy savings achieved by the program.

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

26 (i) Personal information as defined in subdivision (e) of Section
27 1798.80 of the Civil Code.

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

30 (iii) Other information excluded from public disclosure pursuant
31 to the California Public Records Act (Chapter 3.5 (commencing
32 with Section 6250) of Division 7 of Title 1 of the Government
33 Code).

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

36 25987.26. Credit issued under the warehouse line of credit
37 shall not be deemed to constitute a debt or liability of the state or
38 of any political subdivision thereof, or a pledge of the full faith
39 and credit of the state or of any political subdivision, but shall be

1 payable solely from the funds provided therefor. All credit
2 instruments shall contain a statement to the following effect:

3
4 “Neither the faith and credit nor the taxing power of the State
5 of California is pledged to the payment of principal and interest
6 on this credit instrument.”

7
8 25987.27. (a) From the date upon which financial assistance
9 is approved by the commission pursuant to Section 25987.20 and
10 for all subsequent transactions entered into pursuant to this chapter,
11 a seller of real property subject to an energy remittance repayment
12 agreement shall deliver to the buyer an energy remittance
13 repayment agreement notice and disclosure as adopted by the
14 commission pursuant to paragraph (12) of subdivision (b) of
15 Section 25987.25.

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

20 (2) The information in the notice and disclosure form is deemed
21 sufficient to provide notice to the buyer of the existence of the
22 energy improvements and of the energy remittance repayment
23 agreement lien.

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

29 25987.28. No later than June 30, 2016, and no later than June
30 30 of every fifth year thereafter, the California State Auditor shall
31 conduct, or cause to be conducted, a performance audit of the
32 program. Notwithstanding Section 10231.5 of the Government
33 Code, the California State Auditor shall prepare a report and
34 recommendations on each audit conducted and present the report
35 and recommendations to the President pro Tempore of the Senate
36 and the Speaker of the Assembly.

1 Article 3. Nonresidential Real Property Energy Retrofit Bond

2

3 25987.29. The authority, on behalf of the commission, may
4 incur indebtedness and issue and renew negotiable bonds, notes,
5 debentures, or other securities of any kind or class. All
6 indebtedness, however evidenced, shall be payable solely from
7 moneys received pursuant to this chapter and the proceeds of its
8 negotiable bonds, notes, debentures, or other securities and shall
9 not exceed the sum of two billion dollars (\$2,000,000,000).

10 25987.30. The Legislature may, by statute, authorize the
11 authority to issue bonds in excess of the amount provided in
12 Section 25987.29.

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

34 (b) Every issue of its bonds, notes, or other obligations shall be
35 general obligations of the authority payable from revenues or
36 moneys received pursuant to this chapter. Notwithstanding that
37 the bonds, notes, or other obligations may be payable from a special
38 fund, they are for all purposes negotiable instruments, subject only
39 to the provisions of the bonds, notes, or other obligations for
40 registration.

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

23 (d) A resolution or resolutions authorizing bonds or an issue of
24 bonds may contain provisions that shall be a part of the contract
25 with the holders of the bonds to be authorized, as to all of the
26 following:

27 (1) Pledging the moneys collected pursuant to this chapter from
28 the portfolio of approved applications that are funded by the bonds,
29 to secure the payment of the bonds or of any particular issue of
30 bonds, subject to the agreements with bondholders as may then
31 exist.

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

34 (3) Limitations on the right of the authority or the commission
35 or their agent to restrict and regulate the use of the project or
36 projects to be financed out of the proceeds of the bonds or any
37 particular issue of bonds.

38 (4) Limitations on the purpose to which the proceeds of sale of
39 an issue of bonds then or thereafter to be issued may be applied

1 and pledging those proceeds to secure the payment of the bonds
2 or the issue of the bonds.

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

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

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

12 (8) Defining the acts or omissions to act that constitute a default
13 in the duties of the authority or commission to holders of its
14 obligations and providing the rights and remedies of the holders
15 in the event of a default.

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

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

24 (g) The commission and the authority may enter into a
25 memorandum of understanding providing for the transfer of energy
26 remittance payments between the two agencies in furtherance of
27 this chapter.

28 (h) If there is insufficient project valuation or insufficient
29 demand for the revenue bonds authorized by this chapter, the
30 commission shall continue to collect the energy remittance
31 installment payments that become due and payable and service
32 the loans, and the commission shall continue to collect delinquent
33 repayment installments. Failure to sell the revenue bonds shall not
34 create any liability for the state.

35 25987.32. In the discretion of the authority, any bonds issued
36 under the provisions of this article may be secured by a trust
37 agreement by and between the authority and a corporate trustee
38 or trustees, which may be the authority or any trust company or
39 bank having the powers of a trust company within or without the
40 state. The trust agreement or the resolution providing for the

1 issuance of the bonds may pledge or assign the revenues to be
2 received pursuant to this chapter, to be financed out of the proceeds
3 of the bonds. The trust agreement or resolution providing for the
4 issuance of the bonds may contain provisions for protecting and
5 enforcing the rights and remedies of the bondholders as may be
6 reasonable and proper and not in violation of law, including
7 particularly provisions specifically authorized by this chapter to
8 be included in any resolution or resolutions of the commission
9 authorizing bonds. Any bank or trust company doing business
10 under the laws of this state which may act as depository of the
11 proceeds of bonds or of revenues or other moneys may furnish
12 indemnifying bonds or pledge securities as may be required by the
13 authority. Any trust agreement may set forth the rights and
14 remedies of the bondholders and of the trustee or trustees, and may
15 restrict the individual right of action by bondholders. In addition
16 to the foregoing, any trust agreement or resolution may contain
17 other provisions as the authority may deem reasonable and proper
18 for the security of the bondholders. Notwithstanding any other
19 law, the authority shall not be deemed to have a conflict of interest
20 by reason of acting as trustee pursuant to this chapter.

21 25987.33. Bonds issued under the provisions of this article
22 shall not be deemed to constitute a debt or liability of the state or
23 of any political subdivision thereof, other than the authority, or a
24 pledge of the faith and credit of the state or of any political
25 subdivision, but shall be payable solely from the funds provided
26 by this chapter. All bonds shall contain on the face thereof a
27 statement to the following effect: "Neither the faith and credit nor
28 the taxing power of the State of California is pledged to the
29 payment of the principal of or interest on this bond." The issuance
30 of bonds under the provisions of this article shall not directly or
31 indirectly or contingently obligate the state or any political
32 subdivision thereof to levy or to pledge any form of taxation or to
33 make any appropriation for their payment. Nothing contained in
34 this section shall prevent or be construed to prevent the authority
35 from pledging its full faith and credit to the payment of bonds or
36 issue of bonds authorized pursuant to this chapter.

37 25987.34. (a) The authority is hereby authorized to provide
38 for the issuance of bonds of the authority for the purpose of
39 refunding any bonds, notes, or other securities of the authority
40 then outstanding, including the payment of any redemption

1 premium and any interest accrued or to accrue to the earliest or
 2 subsequent date of redemption, purchase, or maturity of the bonds.

3 (b) The proceeds of any bonds issued for the purpose of
 4 refunding outstanding bonds, notes, or other securities may, in the
 5 discretion of the authority, be applied to the purchase or retirement
 6 at maturity or redemption of outstanding bonds either on their
 7 earliest or any subsequent redemption date or upon the purchase
 8 or retirement at the maturity thereof and may, pending application,
 9 be placed in escrow to be applied to purchase or retirement at
 10 maturity or redemption on a date as may be determined by the
 11 authority.

12 (c) Pending use, any escrowed proceeds may be invested and
 13 reinvested by the authority in obligations of, or guaranteed by, the
 14 United States of America, or in certificates of deposit or time
 15 deposits secured by obligations of, or guaranteed by, the United
 16 States of America, maturing at the time or times as shall be
 17 appropriate to ensure the prompt payment, as to principal, interest,
 18 and redemption premium, if any, of the outstanding bonds to be
 19 so refunded. The interest, income, and profits, if any, earned or
 20 realized on any investment may also be applied to the payment of
 21 the outstanding bonds to be so refunded. After the terms of the
 22 escrow have been fully satisfied and carried out, any balance of
 23 proceeds and interest, income, and profits, if any, earned or realized
 24 on the investments may be returned to the authority for use by it
 25 in any lawful manner.

26 (d) These bonds shall be subject to the provisions of this ~~division~~
 27 *chapter* in the same manner and to the same extent as other bonds
 28 issued pursuant to this chapter.

29 25987.35. Bonds issued by the authority are legal investments
 30 for all trust funds, the funds of all insurance companies, banks,
 31 both commercial and savings, trust companies, savings and loan
 32 associations, and investment companies, for executors,
 33 administrators, trustees, and other fiduciaries, for state school
 34 funds, and for any funds which may be invested in county,
 35 municipal, or school district bonds, and the bonds are securities
 36 which may properly and legally be deposited with, and received
 37 by, any state or municipal officer or agency or political subdivision
 38 of the state for any purpose for which the deposit of bonds or
 39 obligations of the state, is now, or may hereafter be, authorized by
 40 law, including deposits to secure public funds if, and only to the

1 extent that, evidence of indebtedness or debt securities of the
2 participating party receiving financing through the issuance of
3 bonds qualify or are eligible for those purposes and uses.

4 25987.36. The state hereby pledges and agrees with the holders
5 of the bonds and with a participant with an approved application
6 that the state will not limit, alter, restrict, or impair the rights vested
7 in the authority or the commission or the rights or obligations of
8 a person or entity with which the commission contracts to fulfill
9 the terms of an agreement made pursuant to this chapter. The state
10 further agrees that it will not in any way impair the rights or
11 remedies of the holder of the bonds until the bonds have been paid
12 or until adequate provision for payment has been made. The
13 authority may include this provision and undertaking for the
14 authority in its bonds.

15 25987.37. (a) Bonds issued pursuant to this ~~division~~ *chapter*
16 shall be exempt from all taxation and assessment imposed pursuant
17 to state law.

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

24
25 Article 4. Nonresidential Real Property Energy Retrofit Debt
26 Servicing Fund
27

28 25987.38. (a) The Nonresidential Real Property Energy
29 Retrofit Debt Servicing Fund is hereby established in the State
30 Treasury. Notwithstanding Section 13340 of the Government Code,
31 the moneys in the fund are hereby continuously appropriated to
32 the authority without regard to fiscal years for the purposes of
33 paying the principal and interest on bonds issued by the authority
34 pursuant to Section 25987.29, servicing the warehouse line of
35 credit, and defraying any direct and indirect costs incurred by the
36 Treasurer in executing duties required by this chapter.

37 (b) All interest and income derived from the deposit and
38 investment of moneys in the fund shall be credited to the fund,
39 and all unexpended and unencumbered moneys in the fund at the
40 end of any fiscal year shall remain in the fund.

1 25987.39. The Loan Loss Reserve Account is hereby
2 established in the Nonresidential Real Property Energy Retrofit
3 Debt Servicing Fund. The commission shall deposit the portion
4 of the repayment installation that is the loan loss reserve fee into
5 the account. Notwithstanding Section 13340 of the Government
6 Code, the moneys in the account are hereby continuously
7 appropriated to the authority without regard to fiscal years for the
8 purposes of paying outstanding balances due under an energy
9 remittance repayment agreement on a building that has been
10 foreclosed upon if the proceeds generated from the foreclosure
11 proceedings are insufficient to pay any past due payments under
12 the energy remittance repayment agreement, including accrued
13 interest and fees. All interest and income derived from the deposit
14 and investment of moneys in the account shall be credited to the
15 account, and all unexpended and unencumbered moneys in the
16 account at the end of any fiscal year shall remain in the account.

17 25987.40. The Administration Account is hereby established
18 in the Nonresidential Real Property Energy Retrofit Debt Servicing
19 Fund. The commission shall deposit into the account the program
20 administration fee collected pursuant to this chapter.
21 Notwithstanding Section 13340 of the Government Code, moneys
22 in the account shall be continuously appropriated without regard
23 to fiscal years to the authority and the commission for the costs of
24 implementing this chapter.

25
26
27

Article 5. Miscellaneous

28 25987.41. (a) The commission and the authority shall be
29 authorized to promulgate necessary regulations to implement and
30 administer this chapter.

31 (b) Guidelines for the purposes of implementing this chapter
32 shall be adopted by the commission or authority at a publicly
33 noticed meeting offering all interested parties an opportunity to
34 comment. For the initial adoption of the guidelines and standards,
35 the commission or authority shall provide a written public notice
36 at least 30 days prior to the meeting. For the adoption of any
37 substantive change to the guidelines and standards, the commission
38 or authority shall provide a written public notice at least 10 days
39 prior to the meeting. Notwithstanding any other law, guidelines
40 or standards adopted pursuant to this section shall be exempt from

- 1 the requirements of Chapter 3.5 (commencing with Section 11340)
- 2 of Part 1 of Division 3 of Title 2 of the Government Code.

O