

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 65007 of the Government Code, relating to land use.~~ *An act to amend Section 15432 of the Government Code, and to amend Sections 129005, 129010, 129020, 129090, and 129173 of the Health and Safety Code, relating to health facilities, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2104, as amended, Dababneh. ~~Planning and Zoning Law.~~ *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 corporations or associations when at least 60% of their patients are Medi-Cal beneficiaries by adding those entities to the definition of "participating health institutions." 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 when at least 60% of their patients are Medi-Cal beneficiaries by, among other things, adding those entities to the definition of “health facilities” and making those entities eligible to apply for the insurance program. 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.*

~~The Planning and Zoning Law requires a city or county general plan to include specified mandatory elements, including a land use element that designates the proposed general distribution and general location and extent of the uses of the land for various purposes and a conservation element that considers, among other things, the effect of development within the jurisdiction, as described in the land use element, on natural resources located on public lands. The land use element is required to identify areas that are subject to flooding, and the conservation element may also cover, among other things, flood control.~~

~~This bill would make a nonsubstantive change to a provision of the Planning and Zoning Law.~~

Vote: majority. Appropriation: ~~no~~yes. Fiscal committee: ~~no~~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 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 corporation or*  
40 *association when at least 60 percent of its patients are Medi-Cal*

1 *beneficiaries*, and that, pursuant to this part, undertakes the  
2 financing or refinancing of the construction or acquisition of a  
3 project or of working capital as provided in this part. “Participating  
4 health institution” also includes, for purposes of the California  
5 Health Facilities Revenue Bonds (UCSF-Stanford Health Care)  
6 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 129005 of the Health and Safety Code is*  
33 *amended to read:*

34 129005. The purpose of this chapter is to provide, without cost  
35 to the state, an insurance program for health facility construction,  
36 improvement, and expansion loans in order to stimulate the flow  
37 of private capital into health facilities construction, improvement,  
38 and expansion and in order to rationally meet the need for new,  
39 ~~expanded~~ *expanded*, and modernized—~~public~~ *public, eligible*  
40 *for-profit*, and nonprofit health facilities necessary to protect the

1 health of all the people of this state. The provisions of this chapter  
 2 are to be liberally construed to achieve this purpose.

3 *SEC. 3. Section 129010 of the Health and Safety Code is*  
 4 *amended to read:*

5 129010. Unless the context otherwise requires, the definitions  
 6 in this section govern the construction of this chapter and of Section  
 7 32127.2.

8 (a) “Bondholder” means the legal owner of a bond or other  
 9 evidence of indebtedness issued by a political subdivision or a  
 10 nonprofit corporation.

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

14 (c) “Construction, improvement, or expansion” or “construction,  
 15 improvement, and expansion” includes construction of new  
 16 buildings, expansion, modernization, renovation, remodeling and  
 17 alteration of existing buildings, acquisition of existing buildings  
 18 or health facilities, and initial or additional equipping of any of  
 19 these buildings.

20 In connection therewith, “construction, improvement, or  
 21 expansion” or “construction, improvement, and expansion”  
 22 includes the cost of construction or acquisition of all structures,  
 23 including parking facilities, real or personal property, rights,  
 24 rights-of-way, the cost of demolishing or removing any buildings  
 25 or structures on land so acquired, including the cost of acquiring  
 26 any land where the buildings or structures may be moved, the cost  
 27 of all machinery and equipment, financing charges, interest (prior  
 28 to, ~~during~~ *during*, and for a period after completion of the  
 29 construction), provisions for working capital, reserves for principal  
 30 and interest and for extensions, enlargements, additions,  
 31 replacements, renovations and improvements, cost of engineering,  
 32 financial and legal services, plans, specifications, studies, surveys,  
 33 estimates of cost and of revenues, administrative expenses,  
 34 expenses necessary or incident to determining the feasibility or  
 35 practicability of constructing or incident to the construction; or  
 36 the financing of the construction or acquisition.

37 (d) “Committee” means the Advisory Loan Insurance  
 38 Committee.

39 (e) “Debenture” means any form of written evidence of  
 40 indebtedness issued by the State Treasurer pursuant to this chapter,

1 as authorized by Section 4 of Article XVI of the California  
2 Constitution.

3 (f) “Fund” means the Health Facility Construction Loan  
4 Insurance Fund.

5 (g) “Health facility” means any facility providing or designed  
6 to provide services for the acute, convalescent, and chronically ill  
7 and impaired, including, but not limited to, public health centers,  
8 community mental health centers, facilities for the developmentally  
9 disabled, nonprofit community care facilities that provide care,  
10 habilitation, rehabilitation or treatment to developmentally disabled  
11 persons, facilities for the treatment of chemical dependency,  
12 including a community care facility, licensed pursuant to Chapter  
13 3 (commencing with Section 1500) of Division 2, a clinic, as  
14 defined pursuant to Chapter 1 (commencing with Section 1200)  
15 of Division 2, an alcoholism recovery facility, defined pursuant  
16 to former Section 11834.11, and a structure located adjacent or  
17 attached to another type of health facility and that is used for  
18 storage of materials used in the treatment of chemical dependency,  
19 and general tuberculosis, mental, and other types of hospitals and  
20 related facilities, such as laboratories, outpatient departments,  
21 extended care, nurses’ home and training facilities, offices and  
22 central service facilities operated in connection with hospitals,  
23 diagnostic or treatment centers, extended care facilities, nursing  
24 homes, and rehabilitation facilities. “Health facility” also means  
25 an adult day health center and a multilevel facility. Except for  
26 facilities for the developmentally disabled, facilities for the  
27 treatment of chemical dependency, or a multilevel facility, or as  
28 otherwise provided in this subdivision, “health facility” does not  
29 include any institution furnishing primarily domiciliary care.

30 “Health facility” also means accredited nonprofit work activity  
31 programs as defined in subdivision (e) of Section ~~19352~~ and  
32 ~~Section 19355~~ 4851 of the Welfare and Institutions Code, and  
33 nonprofit community care facilities as defined in Section 1502,  
34 excluding foster family homes, foster family agencies, adoption  
35 agencies, and residential care facilities for the elderly.

36 Unless the context dictates otherwise, “health facility” includes  
37 a political subdivision of the state or nonprofit corporation that  
38 operates a facility included within the definition set forth in this  
39 subdivision.

1 *Unless the context dictates otherwise, “health facility” includes*  
 2 *a for-profit corporation when at least 60 percent of its patients*  
 3 *are Medi-Cal beneficiaries and that operates a facility included*  
 4 *within the definition set forth in this subdivision.*

5 (h) “Office” means the Office of Statewide Health Planning and  
 6 Development.

7 (i) “Lender” means the provider of a loan and its successors and  
 8 assigns.

9 (j) “Loan” means money or credit advanced for the costs of  
 10 construction or expansion of the health facility, and includes both  
 11 initial loans and loans secured upon refinancing and may include  
 12 both interim, or short-term loans, and long-term loans. A duly  
 13 authorized bond or bond issue, or an installment sale agreement,  
 14 may constitute a “loan.”

15 (k) “Maturity date” means the date that the loan indebtedness  
 16 would be extinguished if paid in accordance with periodic  
 17 payments provided for by the terms of the loan.

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

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

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

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

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

33 (q) “Project property” means the real property where the health  
 34 facility is, or is to be, constructed, improved, or expanded, and  
 35 also means the health facility and the initial equipment in that  
 36 health facility.

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

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

4 (t) “Multilevel facility” means an institutional arrangement  
5 where a residential facility for the elderly is operated as a part of,  
6 or in conjunction with, an intermediate care facility, a skilled  
7 nursing facility, or a general acute care hospital. “Elderly,” for the  
8 purposes of this subdivision, means a person 60 years of age or  
9 older.

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

11 *SEC. 4. Section 129020 of the Health and Safety Code is*  
12 *amended to read:*

13 129020. (a) The office shall implement the loan insurance  
14 program for the construction, improvement, and expansion of  
15 ~~public~~ *public, eligible for-profit,* and nonprofit corporation health  
16 facilities so that, in conjunction with all other existing facilities,  
17 the necessary physical facilities for furnishing adequate health  
18 facility services will be available to all the people of the state.

19 ~~Every~~

20 (b) *Every* odd-numbered year the office shall develop a state  
21 plan for use under this chapter. The plan shall include an overview  
22 of the changes in the health care industry, an overview of the  
23 financial status of the fund and the loan insurance program  
24 implemented by the office, a statement of the guiding principles  
25 of the loan insurance program, an evaluation of the program’s  
26 success in meeting its mission as outlined in Section 129005, a  
27 discussion of administrative, procedural, or statutory changes that  
28 may be needed to improve management of program risks or to  
29 ensure the program effectively addresses the health needs of  
30 Californians, and the priority needs to be addressed by the loan  
31 insurance program.

32 ~~The~~

33 (c) *The* health facility construction loan insurance program shall  
34 provide for health facility distribution throughout the state in a  
35 manner that will make all types of health facility services  
36 reasonably accessible to all persons in the state according to the  
37 state plan.

38 *SEC. 5. Section 129090 of the Health and Safety Code is*  
39 *amended to read:*

1 129090. (a) Pursuant to this chapter, ~~political subdivisions~~  
 2 ~~subdivisions, eligible for-profit corporations,~~ and nonprofit  
 3 corporations may apply for state insurance of needed construction,  
 4 improvement, or expansion loans for construction, remodeling, or  
 5 acquisition of health facilities to be or already owned, established,  
 6 and operated by them as provided in this chapter. Applications  
 7 shall be submitted to the office by the ~~nonprofit corporation~~  
 8 ~~corporation, eligible for-profit corporation,~~ or political subdivision  
 9 authorized to construct and operate a health facility. ~~Each~~

10 (b) Each application shall conform to the requirements of the  
 11 office, shall be submitted in the manner and form prescribed by  
 12 the office, and shall be accompanied by an application fee of  
 13 one-half of 1 percent of the amount of the loan applied for, but in  
 14 no case shall the application fee exceed five hundred dollars (\$500).  
 15 The fees shall be deposited by the office in the fund and used to  
 16 defray the office’s expenditures in the administration of this  
 17 chapter.

18 *SEC. 6. Section 129173 of the Health and Safety Code is*  
 19 *amended to read:*

20 129173. (a) In fulfilling the purposes of this article, as set forth  
 21 in Section 129005, and upon making a determination that the  
 22 financial status of a borrower may jeopardize a borrower’s ability  
 23 to fulfill its obligations under any insured loan transaction so as  
 24 to threaten the economic interest of the office in the borrower or  
 25 to jeopardize the borrower’s ability to continue to provide needed  
 26 health care services in its community, including, but not limited to,  
 27 a declaration of default under any contract related to the  
 28 transaction, the borrower missing any payment to its lender, or the  
 29 borrower’s accounts payable exceeding three months, the office  
 30 may assume or direct managerial or financial control of the  
 31 borrower in any or all of the following ways:

32 (1) The office may supervise and prescribe the activities of the  
 33 borrower in the manner and under the terms and conditions as the  
 34 office may stipulate in any contract with the borrower.

35 (2) Notwithstanding the provisions of the articles of  
 36 incorporation or other documents of organization of a nonprofit  
 37 corporation borrower, this control may be exercised through the  
 38 removal and appointment by the office of members of the  
 39 governing body of the borrower sufficient so that the new members  
 40 constitute a voting majority of the governing body.

1 (3) In the event the borrower is a nonprofit—~~corporation~~  
2 *corporation, an eligible for-profit corporation,* or a political  
3 subdivision, the office may request the Secretary of the California  
4 Health and Human Services Agency to appoint a trustee. The  
5 trustee shall have full and complete authority of the borrower over  
6 the insured project, including all property on which the office holds  
7 a security interest. ~~No~~ A trustee shall *not* be appointed unless  
8 approved by the office. A trustee appointed by the secretary  
9 pursuant to this subdivision may exercise all the powers of the  
10 officers and directors of the borrower, including the filing of a  
11 petition for bankruptcy. ~~No~~ An action at law or in equity ~~may~~ *shall*  
12 *not* be maintained by any party against the office or a trustee by  
13 reason of their exercising the powers of the officers and directors  
14 of a borrower pursuant to the direction of, or with the approval of,  
15 the secretary.

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

35 A receiver may be appointed pursuant to Chapter 5 (commencing  
36 with Section 564) of Title 7 of Part 2 of the Code of Civil  
37 Procedure. In cooperation with the Attorney General, the office  
38 shall develop and maintain a list of receivers who have  
39 demonstrated experience both in the health care field and as a  
40 receiver. Upon a proper showing, the court shall grant the relief

1 provided by law and requested by the office or the Attorney  
 2 General. No receiver shall be appointed unless approved by the  
 3 office. The office shall establish reporting requirements for  
 4 receivers to ensure that the office is fully apprised of all costs  
 5 incurred and progress made by the receiver. A receiver appointed  
 6 by the superior court pursuant to this subdivision and Section 564  
 7 of the Code of Civil Procedure may, with the approval of the court,  
 8 exercise all of the powers of the officers and directors of the  
 9 borrower, including the filing of a petition for bankruptcy. ~~No An~~  
 10 ~~action at law or in equity may shall not~~ be maintained by any party  
 11 against the office, the Attorney General, or a receiver by reason  
 12 of their exercising the powers of the officers and directors of a  
 13 borrower pursuant to the order of, or with the approval of, the  
 14 superior court.

15 (5) The borrower shall inform the office in advance of all  
 16 meetings of its governing body. The borrower shall not exclude  
 17 the office from attending any meeting of the borrower’s governing  
 18 body.

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

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

28 ~~SECTION 1. Section 65007 of the Government Code is~~  
 29 ~~amended to read:~~

30 ~~65007. As used in this title, the following terms have the~~  
 31 ~~following meanings, unless the context requires otherwise:~~

32 (a) ~~“Adequate progress” means all of the following:~~

33 (1) ~~The total project scope, schedule, and cost of the completed~~  
 34 ~~flood protection system have been developed to meet the~~  
 35 ~~appropriate standard of protection.~~

36 (2) ~~(A) Revenues that are sufficient to fund each year of the~~  
 37 ~~project schedule developed in paragraph (1) have been identified~~  
 38 ~~and, in any given year and consistent with that schedule, at least~~  
 39 ~~90 percent of the revenues scheduled to be received by that year~~  
 40 ~~have been appropriated and are currently being expended.~~

1 ~~(B) Notwithstanding subparagraph (A), for any year in which~~  
2 ~~state funding is not appropriated consistent with an agreement~~  
3 ~~between a state agency and a local flood management agency, the~~  
4 ~~Central Valley Flood Protection Board may find that the local~~  
5 ~~flood management agency is making adequate progress in working~~  
6 ~~toward the completion of the flood protection system.~~

7 ~~(3) Critical features of the flood protection system are under~~  
8 ~~construction, and each critical feature is progressing as indicated~~  
9 ~~by the actual expenditure of the construction budget funds.~~

10 ~~(4) The city or county has not been responsible for a significant~~  
11 ~~delay in the completion of the system.~~

12 ~~(5) The local flood management agency shall provide the~~  
13 ~~Department of Water Resources and the Central Valley Flood~~  
14 ~~Protection Board with the information specified in this subdivision~~  
15 ~~sufficient to determine substantial completion of the required flood~~  
16 ~~protection. The local flood management agency shall annually~~  
17 ~~report to the Central Valley Flood Protection Board on the efforts~~  
18 ~~in working toward completion of the flood protection system.~~

19 ~~(b) “Central Valley Flood Protection Plan” has the same~~  
20 ~~meaning as that set forth in Section 9612 of the Water Code.~~

21 ~~(c) “Developed area” has the same meaning as that set forth in~~  
22 ~~Section 59.1 of Title 44 of the Code of Federal Regulations.~~

23 ~~(d) “Flood hazard zone” means an area subject to flooding that~~  
24 ~~is delineated as either a special hazard area or an area of moderate~~  
25 ~~hazard on an official flood insurance rate map issued by the Federal~~  
26 ~~Emergency Management Agency. The identification of flood~~  
27 ~~hazard zones does not imply that areas outside the flood hazard~~  
28 ~~zones, or uses permitted within flood hazard zones, will be free~~  
29 ~~from flooding or flood damage.~~

30 ~~(e) “National Federal Emergency Management Agency standard~~  
31 ~~of flood protection” means the level of flood protection that is~~  
32 ~~necessary to withstand flooding that has a 1-in-100 chance of~~  
33 ~~occurring in any given year using criteria developed by the Federal~~  
34 ~~Emergency Management Agency for application in the National~~  
35 ~~Flood Insurance Program.~~

36 ~~(f) “Nonurbanized area” means a developed area or an area~~  
37 ~~outside a developed area in which there are fewer than 10,000~~  
38 ~~residents that is not an urbanizing area.~~

39 ~~(g) “Project levee” means a levee that is part of the facilities of~~  
40 ~~the State Plan of Flood Control.~~

- 1     (h) ~~“Sacramento-San Joaquin Valley” means lands in the bed~~
- 2     ~~or along or near the banks of the Sacramento River or San Joaquin~~
- 3     ~~River, or their tributaries or connected therewith, or upon any land~~
- 4     ~~adjacent thereto, or within the overflow basins thereof, or upon~~
- 5     ~~land susceptible to overflow therefrom. The Sacramento-San~~
- 6     ~~Joaquin Valley does not include lands lying within the Tulare Lake~~
- 7     ~~basin, including the Kings River.~~
- 8     (i) ~~“State Plan of Flood Control” has the same meaning as that~~
- 9     ~~set forth in subdivision (j) of Section 5096.805 of the Public~~
- 10    ~~Resources Code.~~
- 11    (j) ~~“Tulare Lake basin” means the Tulare Lake Hydrologic~~
- 12    ~~Region as defined in the California Water Plan Update 2009,~~
- 13    ~~prepared by the Department of Water Resources pursuant to~~
- 14    ~~Chapter 1 (commencing with Section 10004) of Part 1.5 of Division~~
- 15    ~~6 of the Water Code.~~
- 16    (k) ~~“Undetermined risk area” means an urban or urbanizing area~~
- 17    ~~within a moderate flood hazard zone, as delineated on an official~~
- 18    ~~flood insurance rate map issued by the Federal Emergency~~
- 19    ~~Management Agency, which has not been determined to have an~~
- 20    ~~urban level of protection.~~
- 21    (l) ~~“Urban area” means a developed area in which there are~~
- 22    ~~10,000 residents or more.~~
- 23    (m) ~~“Urbanizing area” means a developed area or an area outside~~
- 24    ~~a developed area that is planned or anticipated to have 10,000~~
- 25    ~~residents or more within the next 10 years.~~
- 26    (n) ~~“Urban level of flood protection” means the level of~~
- 27    ~~protection that is necessary to withstand flooding that has a~~
- 28    ~~1-in-200 chance of occurring in any given year using criteria~~
- 29    ~~consistent with, or developed by, the Department of Water~~
- 30    ~~Resources. “Urban level of flood protection” shall not mean~~
- 31    ~~shallow flooding or flooding from local drainage that meets the~~
- 32    ~~criteria of the national Federal Emergency Management Agency~~
- 33    ~~standard of flood protection.~~