
By: Delegate Hubbard

Introduced and read first time: January 20, 1997

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Water Quality Revolving Loan Fund and Maryland Drinking Water Revolving**
3 **Loan Fund - Conformance with Federal Safe Drinking Water Act**

4 FOR the purpose of conforming the Maryland Water Quality Financing Administration
5 Act to the Federal Safe Drinking Water Act of 1996; providing for the Water
6 Quality Financing Administration to make loans from the Drinking Water Loan
7 Fund to persons other than local governments; establishing conditions for receiving
8 a loan from the Drinking Water Loan Fund; authorizing the transfer of certain
9 funds between the Drinking Water Loan Fund and the Water Quality Fund; making
10 stylistic changes; and generally relating to the Water Quality Fund and the Drinking
11 Water Loan Fund.

12 BY repealing and reenacting, with amendments,
13 Article - Environment
14 Section 9-1601, 9-1605, 9-1605.1, and 9-1606
15 Annotated Code of Maryland
16 (1996 Replacement Volume and 1996 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - Environment**

20 9-1601.

21 (a) Unless the context clearly requires otherwise, in this subtitle the following
22 words have the meanings indicated.

23 (b) "Administration" means the Maryland Water Quality Financing
24 Administration.

25 (c) "Board" means the Board of Public Works.

26 (d) "Bond" means a bond, note, or other evidence of obligation of the
27 Administration issued under this subtitle, including a bond or revenue anticipation note,
28 notes in the nature of commercial paper, and refunding bonds.

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1 (e) "Bond resolution" means the resolution or resolutions of the Director,
 2 including the trust agreement, if any, authorizing the issuance of and providing for the
 3 terms and conditions applicable to bonds.

4 (f) (1) "Borrower" means a local government which has received a loan.

5 (2) "BORROWER" INCLUDES A PERSON OTHER THAN A LOCAL
 6 GOVERNMENT THAT RECEIVES A LOAN FROM THE DRINKING WATER LOAN FUND.

7 (g) "Director" means the Director of the Administration.

8 [(h) "Federal Water Pollution Control Act" means the Water Pollution Control
 9 Act of 1972, P.L. 92-500, as amended, 33 U.S.C. § 1251 et seq., and rules and regulations
 10 promulgated thereunder.]

11 [(i)] (H) "Drinking Water Loan Fund" means the Maryland Drinking Water
 12 Revolving Loan Fund.

13 [(j)] (I) "Facility" means a wastewater facility or all or a portion of a water
 14 supply system as defined in § 9-201(u) of this [article] TITLE.

15 (J) "FEDERAL SAFE DRINKING WATER ACT" MEANS TITLE XIV OF THE
 16 PUBLIC HEALTH SERVICE ACT, P.L. 93-523, AS AMENDED, 42 U.S.C. 300 ET SEQ., AND
 17 RULES AND REGULATIONS PROMULGATED THEREUNDER.

18 (k) "FEDERAL WATER POLLUTION CONTROL ACT" MEANS THE WATER
 19 POLLUTION CONTROL ACT OF 1972, P.L. 92-500, AS AMENDED, 33 U.S.C. § 1251 ET SEQ.,
 20 AND RULES AND REGULATIONS PROMULGATED THEREUNDER.

21 (L) "Fund" means a fund established by this subtitle, including the Water Quality
 22 Fund and the Drinking Water Loan Fund.

23 [(l)] (M) "Local government" means a county, municipal corporation, sanitary
 24 district, or other State or local public entity which has authority to own or operate a
 25 facility, and includes any combination of 2 or more of the foregoing, acting jointly to
 26 construct or operate a facility.

27 [(m)] (N) "Loan" means a loan from the Administration:

28 (1) [to] TO a local government for the purpose of financing all or a portion
 29 of the cost of a wastewater facility, if the loan is from the Water Quality Fund[.]; or

30 (2) TO A LOCAL GOVERNMENT OR A PERSON OTHER THAN A LOCAL
 31 GOVERNMENT FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COST
 32 OF A water supply system, if the loan is from the Drinking Water Loan Fund.

33 [(n)] (O) "Loan agreement" means a written agreement between the
 34 Administration and a local government OR A PERSON OTHER THAN A LOCAL
 35 GOVERNMENT with respect to a loan.

36 [(o)] (P) "Loan obligation" means a bond, note, or other evidence of obligation
 37 issued by a local government OR A PERSON OTHER THAN A LOCAL GOVERNMENT to
 38 evidence its indebtedness under a loan agreement with respect to a loan.

1 [(p)] (Q) "Wastewater facility" means any equipment, plant, treatment works,
2 structure, machinery, apparatus, interest in land, or any combination of these, which is
3 acquired, used, constructed, or operated for the storage, collection, treatment,
4 neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal of
5 wastewater, or for the final disposal of residues resulting from the treatment of
6 wastewater, including: treatment or disposal plants; outfall sewers, interceptor sewers,
7 and collector sewers; pumping and ventilating stations, facilities, and works; programs
8 and projects for controlling nonpoint sources of water pollution and for estuarine
9 conservation and management; and other real or personal property and appurtenances
10 incident to their development, use, or operation.

11 [(q)] (R) "Water Quality Fund" means the Maryland Water Quality Revolving
12 Loan Fund.

13 [(r)] (S) "Water supply system" has the meaning stated in § 9-201(u) of this title.
14 9-1605.

15 (a) (1) There is a Maryland Water Quality Revolving Loan Fund. The Water
16 Quality Fund shall be maintained and administered by the Administration in accordance
17 with the provisions of this subtitle and such rules or program directives as the Secretary or
18 the Board may from time to time prescribe.

19 (2) The Water Quality Fund is a special, continuing, nonlapsing fund which
20 is not subject to § 7-302 of the State Finance and Procurement Article and which shall be
21 available in perpetuity for the purpose of providing financial assistance in accordance
22 with the provisions of this subtitle and Title VI of the Federal Water Pollution Control
23 Act.

24 (3) Subject to the provisions of any applicable bond resolution regarding the
25 holding or application of amounts in the Water Quality Fund, the Treasurer shall
26 separately hold, and the Comptroller shall account for, the Water Quality Fund.

27 (4) Subject to the provisions of any applicable bond resolution governing the
28 investment of amounts in the Water Quality Fund, the Water Quality Fund shall be
29 invested and reinvested in the same manner as other State funds.

30 (5) Any investment earnings shall be retained to the credit of the Water
31 Quality Fund.

32 (6) The Water Quality Fund shall be subject to biennial audit by the Office
33 of Legislative Audits as provided for in § 2-1215 of the State Government Article.

34 (b) There shall be deposited in the Water Quality Fund:

35 (1) Federal capitalization grants and awards or other federal assistance
36 received by the State [pursuant to] IN ACCORDANCE WITH Title VI of the Federal
37 Water Pollution Control Act AND FUNDS TRANSFERRED TO THE WATER QUALITY
38 FUND IN ACCORDANCE WITH § 302 OF THE FEDERAL SAFE DRINKING WATER ACT;

39 (2) Funds appropriated by the General Assembly for deposit to the Water
40 Quality Fund;

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1 (3) Payments received from any local government in repayment of a loan,
2 including amounts withheld by the State Comptroller and paid to the Administration
3 [pursuant to] IN ACCORDANCE WITH a pledge made by a borrower under § 9-1606(d)
4 of this [article] SUBTITLE;

5 (4) Net proceeds of bonds issued by the Administration;

6 (5) Interest or other income earned on the investment of moneys in the
7 Water Quality Fund; and

8 (6) Any additional moneys made available from any sources, public or
9 private, for the purposes for which the Water Quality Fund has been established.

10 (c) The Administration may from time to time establish accounts and subaccounts
11 within the Water Quality Fund as may be deemed desirable to effectuate the purposes of
12 this subtitle, to comply with the provisions of any bond resolution, or to meet any
13 requirement of the Federal Water Pollution Control Act or rules or program directives
14 established by the Secretary or the Board. Such accounts and subaccounts may include:

15 (1) A federal receipts account;

16 (2) A State receipts account;

17 (3) A management and administration expense account;

18 (4) A bond proceeds account;

19 (5) An account to segregate a portion or portions of the revenues or corpus
20 of the Water Quality Fund as security for bonds of the Administration;

21 (6) A loan repayment account; and

22 (7) An investment earnings account.

23 (d) Amounts in the Water Quality Fund may be used only:

24 (1) To make loans, on the condition that:

25 (i) The loans are made at or below market interest rates, including
26 interest free loans, at terms not to exceed 20 years;

27 (ii) Annual principal and interest payments will commence not later
28 than 1 year after completion of any wastewater facility and all loans will be fully
29 amortized not later than 20 years after project completion;

30 (iii) The LOCAL GOVERNMENT borrower will establish a dedicated
31 source of revenue for repayment of loans; and

32 (iv) The Water Quality Fund will be credited with all payments of
33 principal and interest on all loans;

34 (2) To buy or refinance debt obligations of local governments at or below
35 market rates, if such debt obligations were incurred after March 7, 1985;

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1 (3) To guarantee, or purchase insurance for, bonds, notes, or other
2 evidences of obligation issued by a local government for the purpose of financing all or a
3 portion of the cost of a wastewater facility, if such action would improve credit market
4 access or reduce interest rates;

5 (4) As a source of revenue or security for the payment of principal and
6 interest on bonds issued by the Administration if the proceeds of the sale of such bonds
7 will be deposited in the Water Quality Fund;

8 (5) To earn interest on Water Quality Fund accounts;

9 (6) For the reasonable costs of administering the Water Quality Fund and
10 conducting activities under Title VI of the Federal Water Pollution Control Act; and

11 (7) For any other purpose authorized by Title VI of the Federal Water
12 Pollution Control Act.

13 (e) The costs of administering the Water Quality Fund shall be paid from federal
14 capitalization grants and awards, from bond sale proceeds, and from amounts received
15 from borrowers [pursuant to] IN ACCORDANCE WITH loan agreements, and not from
16 any State moneys appropriated to the Fund, except general funds of the State used to
17 match federal capitalization grants and awards to the Water Quality Fund.

18 9-1605.1.

19 (a) (1) There is a Maryland Drinking Water Revolving Loan Fund. The
20 Drinking Water Loan Fund shall be maintained and administered by the Administration
21 in accordance with the provisions of this subtitle and such rules or program directives as
22 the Secretary or the Board may from time to time prescribe.

23 (2) The Drinking Water Loan Fund is a special, continuing, nonlapsing fund
24 which is not subject to § 7-302 of the State Finance and Procurement Article and which
25 shall be available in perpetuity for the purpose of providing financial assistance [to local
26 governments for water supply systems and costs related thereto, including studies,
27 surveys, tests, insurance, architectural, engineering and legal services, other special
28 services, administrative costs, and other miscellaneous expenses] IN ACCORDANCE
29 WITH THIS SUBTITLE AND THE FEDERAL SAFE DRINKING WATER ACT.

30 (3) Subject to the provisions of any applicable bond resolution regarding the
31 holding or application of amounts in the Drinking Water Loan Fund, the Treasurer shall
32 separately hold, and the Comptroller shall account for, the Drinking Water Loan Fund.

33 (4) Subject to the provisions of any applicable bond resolution governing the
34 investment of amounts in the Drinking Water Loan Fund, the Drinking Water Loan Fund
35 shall be invested and reinvested in the same manner as other State funds.

36 (5) Any investment earnings shall be retained to the credit of the Drinking
37 Water Loan Fund.

38 (6) The Drinking Water Loan Fund shall be subject to biennial audit by the
39 Office of Legislative Audits as provided for in § 2-1215 of the State Government Article.

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1 (7) The Administration shall operate the Drinking Water Loan Fund in
2 accordance with [§ 9-1616 through § 9-1621, inclusive,] §§ 9-1616 THROUGH 9-1621 of
3 this [article] SUBTITLE.

4 (b) There shall be deposited in the Drinking Water Loan Fund:

5 (1) Federal grants and awards or other federal assistance received by the
6 State for the purpose of making loans to [local governments] BORROWERS for water
7 supply systems AND FUNDS TRANSFERRED FROM THE WATER QUALITY FUND IN
8 ACCORDANCE WITH § 302 OF THE FEDERAL SAFE DRINKING WATER ACT;

9 (2) Funds appropriated by the General Assembly for deposit to the
10 Drinking Water Loan Fund;

11 (3) Payments received from [local governments] BORROWERS for deposit
12 to the Drinking Water Loan Fund in repayment of a loan, including amounts withheld by
13 the State Comptroller and paid to the Administration [pursuant to] IN ACCORDANCE
14 WITH a pledge made by a borrower under § 9-1606(d) of this [article] SUBTITLE;

15 (4) Net proceeds of bonds issued by the Administration;

16 (5) Interest or other income earned on the investment of moneys in the
17 Drinking Water Loan Fund; and

18 (6) Any additional moneys made available from any sources, public or
19 private, for the purposes for which the Drinking Water Loan Fund has been established.

20 (c) The Administration may from time to time establish accounts and subaccounts
21 within the Drinking Water Loan Fund as may be deemed desirable to effectuate the
22 purposes of this subtitle, to comply with the provisions of any bond resolution, to meet the
23 requirements of any federal law, or of any federal grant or award to the Drinking Water
24 Loan Fund, or to meet any rules or program directives established by the Secretary or the
25 Board.

26 (d) Amounts in the Drinking Water Loan Fund may be used only:

27 (1) To make loans ON THE CONDITION THAT:

28 (I) THE LOANS ARE MADE at or below market INTEREST rates,
29 INCLUDING INTEREST FREE LOANS;

30 (II) ANNUAL PRINCIPAL AND INTEREST PAYMENTS WILL BEGIN
31 NOT LATER THAN 1 YEAR AFTER COMPLETION OF ANY WASTEWATER FACILITY
32 AND, EXCEPT AS PROVIDED IN § 130 OF THE FEDERAL SAFE DRINKING WATER ACT,
33 ALL LOANS WILL BE FULLY AMORTIZED NOT LATER THAN 20 YEARS AFTER
34 PROJECT COMPLETION;

35 (III) THE LOCAL GOVERNMENT BORROWER WILL ESTABLISH A
36 DEDICATED SOURCE OF REVENUE FOR REPAYMENT OF LOANS;

37 (IV) IN THE CASE OF A LOAN TO A BORROWER OTHER THAN A
38 LOCAL GOVERNMENT, THE BORROWER WILL DEMONSTRATE THAT THERE IS
39 ADEQUATE SECURITY FOR REPAYMENT OF LOANS; AND

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1 (V) THE DRINKING WATER LOAN FUND WILL BE CREDITED WITH
 2 ALL PAYMENTS OF PRINCIPAL AND INTEREST ON ALL LOANS;

3 (2) To buy or refinance debt obligations of local governments issued by a
 4 local government for the purposes of financing all or a portion of the cost of a water
 5 supply system at or below market INTEREST rates;

6 (3) To guarantee or purchase insurance for bonds, notes, or other evidences
 7 of indebtedness issued by a local government for the purposes of financing all or a portion
 8 of the cost of a water supply system, if such action would improve credit market access or
 9 reduce interest rates;

10 (4) As a source of revenue or security for the payment of principal and
 11 interest on bonds issued by the Administration if the proceeds of the sale of such bonds
 12 will be deposited in the Drinking Water Loan Fund;

13 (5) To earn interest on Drinking Water Loan Fund accounts;

14 (6) For the reasonable costs of administering the Drinking Water Loan
 15 Fund and conducting activities under any federal law that may apply to federal deposits to
 16 the Drinking Water Loan Fund; and

17 (7) For any other purpose authorized for any federal funds deposited in the
 18 Drinking Water Loan Fund INCLUDING A PURPOSE AUTHORIZED BY THE FEDERAL
 19 SAFE DRINKING WATER ACT.

20 (e) The costs of administering the Drinking Water Loan Fund shall be paid from
 21 federal grants and awards, from bond sale proceeds, and from amounts received from
 22 borrowers [pursuant to] IN ACCORDANCE WITH loan agreements, and may not be paid
 23 from any State moneys appropriated to the Drinking Water Loan Fund, except general
 24 funds of the State used to match federal grants and awards to the Drinking Water Loan
 25 Fund.

26 9-1606.

27 (a) A loan made by the Administration shall be evidenced by a loan agreement.
 28 Loans made from the Water Quality Fund shall be subject to the provisions of §
 29 9-1605(d)(1) of this [article] SUBTITLE. LOANS MADE FROM THE DRINKING WATER
 30 LOAN FUND SHALL BE MADE SUBJECT TO THE PROVISIONS OF § 9-1605.1(D)(1) OF
 31 THIS SUBTITLE. Subject to the provisions of any applicable bond resolution, the
 32 Administration may consent to the modification, with respect to rate of interest, time of
 33 payment of any installment of principal or interest, security, or any other term of any loan
 34 agreement or loan obligation. In connection with any security received by or owned by the
 35 Administration, including any loan obligations, the Administration may commence any
 36 action to protect or enforce the rights conferred upon it by any law or loan agreement or
 37 loan obligation.

38 (b) Notwithstanding any other provision of public general or public local law,
 39 charter, or ordinance, a borrower may issue and sell loan obligations to the
 40 Administration:

41 (1) At private sale, without public bidding;

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1 (2) Without regard to any limitations on the denomination of such
2 obligations; and

3 (3) At any interest rate or cost or at any price that the borrower considers
4 necessary or desirable.

5 (c) A borrower may pay any fees or charges necessary to enable the
6 Administration to sell its bonds, including any fees for the insurance of its loan
7 obligations or bonds of the Administration, or to provide any other guarantee, credit
8 enhancement, or additional security for any such loan obligations or bonds.

9 (d) Notwithstanding any other provision of public general or public local law,
10 charter, or ordinance, a borrower may agree with the Administration to pledge any
11 moneys that the borrower is entitled to receive from the State, including the borrower's
12 share of the State income tax, to secure its obligations under a loan agreement. The State
13 Comptroller and the State Treasurer shall cause any moneys withheld under such a
14 pledge to be paid to, or applied at the direction of, the Administration.

15 (e) Each loan agreement shall contain a provision whereby the borrower
16 acknowledges and agrees that the borrower's loan obligation is cancelable only upon
17 repayment in full and that neither the Administration, the Secretary, nor the Board is
18 authorized to forgive the repayment of all or any portion of the loan.

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 October 1, 1997.