
By: Chairman, Appropriations Committee (Departmental - Environment)

Introduced and read first time: January 29, 1997

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Water Quality Revolving Loan Fund and Maryland Drinking Water Revolving**
3 **Loan Fund**

4 FOR the purpose of conforming the Maryland Water Quality Financing Administration
5 Act to the Federal Safe Drinking Water Act Amendments of 1996; providing for the
6 Maryland Water Quality Financing Administration to make loans to persons other
7 than local governments; requiring adequate security for loans to persons other than
8 local governments; permitting the Governor to transfer certain funds between the
9 Drinking Water Loan Fund and the Water Quality Fund; and generally relating to
10 the Water Quality Fund and Drinking Water Loan Fund.

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

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

18 **Article - Environment**

19 9-1601.

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

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

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

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

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

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1 (f) "Borrower" means a local government [which] OR A PERSON AS DEFINED
2 IN § 1-101(H) OF THIS ARTICLE WHO has received a loan.

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

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

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

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

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

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

17 [(k)] (L) "Fund" means a fund established by this subtitle, including the Water
18 Quality Fund and the Drinking Water Loan Fund.

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

23 [(m)] (N) "Loan" means a loan from the Administration to a [local government]
24 BORROWER for the purpose of financing all or a portion of the cost of a wastewater
25 facility, if the loan is from the Water Quality Fund, or water supply system, if the loan is
26 from the Drinking Water Loan Fund.

27 [(n)] (O) "Loan agreement" means a written agreement between the
28 Administration and a [local government] BORROWER with respect to a loan.

29 [(o)] (P) "Loan obligation" means a bond, note, or other evidence of obligation
30 issued by a [local government] BORROWER to evidence its indebtedness under a loan
31 agreement with respect to a loan.

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

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

3 [(r)] (S) "Water supply system" has the meaning stated in § 9-201(u) of this title.
4 9-1605.

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

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

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

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

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

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

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

25 (1) Federal capitalization grants and awards or other federal assistance
26 received by the State pursuant to Title VI of the Federal Water Pollution Control Act
27 AND ANY FUNDS TRANSFERRED TO THE WATER QUALITY FUND PURSUANT TO § 302
28 OF THE FEDERAL SAFE DRINKING WATER ACT;

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

31 (3) Payments received from any [local government] BORROWER in
32 repayment of a loan, including amounts withheld by the State Comptroller and paid to the
33 Administration pursuant to a pledge made by a borrower under § 9-1606(d) of this article
34 OR § 7-222 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

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

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

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

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

6 (1) A federal receipts account;

7 (2) A State receipts account;

8 (3) A management and administration expense account;

9 (4) A bond proceeds account;

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

12 (6) A loan repayment account; and

13 (7) An investment earnings account.

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

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

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

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

21 (iii) The LOCAL GOVERNMENT borrower will establish a dedicated
22 source of revenue for repayment of loans; [and]

23 (iv) IN THE CASE OF A WASTEWATER FACILITY OWNED BY A
24 BORROWER OTHER THAN A LOCAL GOVERNMENT, THE BORROWER WILL
25 DEMONSTRATE THAT THERE IS ADEQUATE SECURITY FOR REPAYMENT OF LOANS;
26 AND

27 (V) The Water Quality Fund will be credited with all payments of
28 principal and interest on all loans;

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

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

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

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

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

4 (7) For any other purpose authorized by Title VI of the Federal Water
5 Pollution Control Act OR § 302 OF THE FEDERAL SAFE DRINKING WATER ACT.

6 (e) The costs of administering the Water Quality Fund shall be paid from federal
7 capitalization grants and awards, from bond sale proceeds, and from amounts received
8 from borrowers pursuant to loan agreements, and not from any State moneys
9 appropriated to the Fund, except general funds of the State used to match federal
10 capitalization grants and awards to the Water Quality Fund.

11 9-1605.1.

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

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

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

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

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

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

34 (7) The Administration shall operate the Drinking Water Loan Fund in
35 accordance with § 9-1616 through § 9-1621, inclusive, of this article.

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

37 (1) Federal grants and awards or other federal assistance received by the
38 State for the purpose of making loans to [local governments] BORROWERS for water
39 supply systems AND ANY FUNDS TRANSFERRED FROM THE WATER QUALITY FUND
40 PURSUANT TO § 302 OF THE FEDERAL SAFE DRINKING WATER ACT;

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

3 (3) Payments received from [local governments] BORROWERS for deposit
4 to the Drinking Water Loan Fund in repayment of a loan, including amounts withheld by
5 the State Comptroller and paid to the Administration pursuant to a pledge made by a
6 borrower under § 9-1606(d) of this article OR § 7-222 OF THE STATE FINANCE AND
7 PROCUREMENT ARTICLE;

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

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

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

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

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

20 (1) To make loans at or below market rates ON THE CONDITION THAT:

21 (I) THE LOCAL GOVERNMENT BORROWER WILL ESTABLISH A
22 DEDICATED SOURCE OF REVENUE; OR

23 (II) IN THE CASE OF A WATER SUPPLY SYSTEM OWNED BY A
24 BORROWER OTHER THAN A LOCAL GOVERNMENT, THE BORROWER SHALL
25 DEMONSTRATE THAT THERE IS ADEQUATE SECURITY FOR THE REPAYMENT OF THE
26 LOAN;

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

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

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

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

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

4 (7) For any other purpose authorized for any federal funds deposited in the
5 Drinking Water Loan Fund INCLUDING, WITHOUT LIMITATION, ANY PURPOSE
6 AUTHORIZED BY THE FEDERAL SAFE DRINKING WATER ACT.

7 (e) The costs of administering the Drinking Water Loan Fund shall be paid from
8 federal grants and awards, from bond sale proceeds, and from amounts received from
9 borrowers pursuant to loan agreements, and may not be paid from any State moneys
10 appropriated to the Drinking Water Loan Fund, except general funds of the State used to
11 match federal grants and awards to the Drinking Water Loan Fund.

12 9-1606.

13 (a) A loan made by the Administration shall be evidenced by a loan agreement.
14 Loans made from the Water Quality Fund shall be subject to the provisions of §
15 9-1605(d)(1) of this article. Subject to the provisions of any applicable bond resolution,
16 the Administration may consent to the modification, with respect to rate of interest, time
17 of payment of any installment of principal or interest, security, or any other term of any
18 loan agreement or loan obligation. In connection with any security received by or owned
19 by the Administration, including any loan obligations, the Administration may commence
20 any action to protect or enforce the rights conferred upon it by any law or loan agreement
21 or loan obligation.

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

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

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

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

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

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

40 (e) Each loan agreement shall contain a provision whereby the borrower
41 acknowledges and agrees that the borrower's loan obligation is cancelable only upon

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1 repayment in full and that neither the Administration, the Secretary, nor the Board is
2 authorized to forgive the repayment of all or any portion of the loan.

3 (F) IN THE EVENT OF A DEFAULT ON A LOAN OBLIGATION BY A BORROWER
4 OTHER THAN A LOCAL GOVERNMENT, THE ADMINISTRATION MAY PLACE A LIEN
5 AGAINST ALL PROPERTY OF THE BORROWER WHICH, SUBJECT TO THE TAX LIENS OF
6 THE FEDERAL, STATE, AND LOCAL GOVERNMENTS, SHALL HAVE THE SAME
7 PRIORITY AND STATUS AS A LIEN OF THE STATE FOR UNPAID TAXES UNDER §§
8 14-804 AND 14-805 OF THE TAX - PROPERTY ARTICLE. THE ADMINISTRATION MAY
9 EXERCISE THE SAME RIGHTS AND POWERS IN ENFORCING SUCH LIEN AND
10 COLLECTING FUNDS FOR THE PAYMENT OF AMOUNTS IN DEFAULT UNDER THE
11 LOAN OBLIGATION AS THE STATE MAY EXERCISE IN COLLECTING UNPAID TAXES
12 UNDER SUBTITLE 8 OF THE TAX - PROPERTY ARTICLE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 June 1, 1997.