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By: **The President (Administration)**

Introduced and read first time: January 23, 1998

Assigned to: Economic and Environmental Affairs

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A BILL ENTITLED

1 AN ACT concerning

2                                   **Environment - Linked Deposit - Use in Maryland Water Quality Revolving**  
3                                   **Loan Fund Program**

4 FOR the purpose of authorizing the Water Quality Financing Administration to, in  
5 cooperation with the Treasurer, establish a certain Linked Deposit Program;  
6 defining certain terms; and generally relating to the Water Quality Revolving  
7 Loan Fund Program and a Linked Deposit Program.

8 BY repealing and reenacting, with amendments,  
9 Article - Environment  
10 Section 9-1601, 9-1605, and 9-1605.1  
11 Annotated Code of Maryland  
12 (1996 Replacement Volume and 1997 Supplement)

13 BY repealing and reenacting, without amendments,  
14 Article - Environment  
15 Section 9-1606  
16 Annotated Code of Maryland  
17 (1996 Replacement Volume and 1997 Supplement)

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

20                                   **Article - Environment**

21 9-1601.

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

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

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

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

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

7 (f) "Borrower" means a local government or a person as defined in § 1-101(h)  
8 of this article who has received a loan.

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

10 (h) "Drinking Water Loan Fund" means the Maryland Drinking Water  
11 Revolving Loan Fund.

12 (i) "Facility" means a wastewater facility or all or a portion of a water supply  
13 system as defined in § 9-201(u) of this article.

14 (j) "Federal Safe Drinking Water Act" means Title XIV of the Public Health  
15 Service Act, P.L. 93-523, as amended, 42 U.S.C. § 300, et seq., and the rules and  
16 regulations promulgated thereunder.

17 (k) "Federal Water Pollution Control Act" means the Water Pollution Control  
18 Act of 1972, P.L. 92-500, as amended, 33 U.S.C. § 1251, et seq., and rules and  
19 regulations promulgated thereunder.

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

22 (M) "LENDER" MEANS A FINANCIAL INSTITUTION THAT:

23 (1) IS ELIGIBLE TO MAKE COMMERCIAL LOANS;

24 (2) IS A PUBLIC DEPOSITORY OF STATE FUNDS;

25 (3) AGREES TO RECEIVE LINKED DEPOSITS UNDER THIS TITLE; AND

26 (4) IS INSURED BY:

27 (I) THE FEDERAL DEPOSIT INSURANCE CORPORATION; OR

28 (II) THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION.

29 (N) "LINKED DEPOSIT" MEANS A CERTIFICATE OF DEPOSIT PLACED BY THE  
30 ADMINISTRATION WITH A LENDER AT OR BELOW THE PREVAILING MARKET RATE AT  
31 THE TIME OF THE DEPOSIT.

32 (O) "LINKED DEPOSIT PROGRAM" MEANS A PROGRAM ESTABLISHED BY THE  
33 ADMINISTRATION WHEREBY A CERTIFICATE OF DEPOSIT IS PLACED WITH A  
34 QUALIFYING LENDER AT OR BELOW THE PREVAILING MARKET RATE AT THE TIME OF

1 THE DEPOSIT BASED ON THE AGREEMENT OF THE LENDER TO PROVIDE A LOAN TO A  
2 BORROWER AT A RATE BELOW THE PREVAILING MARKET RATE FOR THE PURPOSES  
3 OF THIS SUBTITLE.

4 [(m)] (P) "Local government" means a county, municipal corporation, sanitary  
5 district, or other State or local public entity which has authority to own or operate a  
6 facility, and includes any combination of 2 or more of the foregoing, acting jointly to  
7 construct or operate a facility.

8 [(n)] (Q) "Loan" means a loan from the Administration to a borrower for the  
9 purpose of financing all or a portion of the cost of a wastewater facility, if the loan is  
10 from the Water Quality Fund, or water supply system, if the loan is from the  
11 Drinking Water Loan Fund.

12 [(o)] (R) "Loan agreement" means a written agreement between the  
13 Administration and a borrower with respect to a loan.

14 [(p)] (S) "Loan obligation" means a bond, note, or other evidence of obligation,  
15 including a mortgage, deed of trust, lien, or other security instrument, issued or  
16 executed by a borrower to evidence its indebtedness under a loan agreement with  
17 respect to a loan.

18 [(q)] (T) "Wastewater facility" means any equipment, plant, treatment works,  
19 structure, machinery, apparatus, interest in land, or any combination of these, which  
20 is acquired, used, constructed, or operated for the storage, collection, treatment,  
21 neutralization, stabilization, reduction, recycling, reclamation, separation, or disposal  
22 of wastewater, or for the final disposal of residues resulting from the treatment of  
23 wastewater, including: treatment or disposal plants; outfall sewers, interceptor  
24 sewers, and collector sewers; pumping and ventilating stations, facilities, and works;  
25 programs and projects for controlling nonpoint sources of water pollution and for  
26 estuarine conservation and management; and other real or personal property and  
27 appurtenances incident to their development, use, or operation.

28 [(r)] (U) "Water Quality Fund" means the Maryland Water Quality Revolving  
29 Loan Fund.

30 [(s)] (V) "Water supply system" has the meaning stated in § 9-201(u) of this  
31 title.

32 9-1605.

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

37 (2) The Water Quality Fund is a special, continuing, nonlapsing fund  
38 which is not subject to § 7-302 of the State Finance and Procurement Article and  
39 which shall be available in perpetuity for the purpose of providing financial

1 assistance in accordance with the provisions of this subtitle and Title VI of the  
2 Federal Water Pollution Control Act.

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

6           (4)       Subject to the provisions of any applicable bond resolution governing  
7 the investment of amounts in the Water Quality Fund, the Water Quality Fund shall  
8 be invested and reinvested in the same manner as other State funds, EXCEPT THAT  
9 THE ADMINISTRATION, IN COOPERATION WITH THE TREASURER, MAY ESTABLISH A  
10 LINKED DEPOSIT PROGRAM TO CARRY OUT THE PURPOSES OF THIS SUBTITLE AND  
11 TITLE VI OF THE FEDERAL WATER POLLUTION CONTROL ACT.

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

14           (6)       The Water Quality Fund shall be subject to biennial audit by the  
15 Office of Legislative Audits as provided for in § 2-1220 of the State Government  
16 Article.

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

18           (1)       Federal capitalization grants and awards or other federal assistance  
19 received by the State pursuant to Title VI of the Federal Water Pollution Control Act  
20 and any funds transferred to the Water Quality Fund pursuant to § 302 of the federal  
21 Safe Drinking Water Act;

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

24           (3)       Payments received from any borrower in repayment of a loan,  
25 including amounts withheld by the State Comptroller and paid to the Administration  
26 pursuant to a pledge made by a borrower under § 9-1606(d) of this article or § 7-222  
27 of the State Finance and Procurement Article;

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

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

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

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

- 1 (1) A federal receipts account;
- 2 (2) A State receipts account;
- 3 (3) A management and administration expense account;
- 4 (4) A bond proceeds account;
- 5 (5) An account to segregate a portion or portions of the revenues or  
6 corpus of the Water Quality Fund as security for bonds of the Administration;
- 7 (6) A loan repayment account; and
- 8 (7) An investment earnings account.
- 9 (d) Amounts in the Water Quality Fund may be used only:
  - 10 (1) To make loans, on the condition that:
    - 11 (i) The loans are made at or below market interest rates, including  
12 interest free loans, at terms not to exceed 20 years;
    - 13 (ii) Annual principal and interest payments will commence not  
14 later than 1 year after completion of any wastewater facility and all loans will be fully  
15 amortized not later than 20 years after project completion;
    - 16 (iii) The local government borrower will establish a dedicated source  
17 of revenue for repayment of loans;
    - 18 (iv) In the case of a wastewater facility owned by a borrower other  
19 than a local government, the borrower will provide adequate security for repayment  
20 of loans; and
    - 21 (v) The Water Quality Fund will be credited with all payments of  
22 principal and interest on all loans;
  - 23 (2) To buy or refinance debt obligations of local governments at or below  
24 market rates, if such debt obligations were incurred after March 7, 1985;
  - 25 (3) To guarantee, or purchase insurance for, bonds, notes, or other  
26 evidences of obligation issued by a local government for the purpose of financing all or  
27 a portion of the cost of a wastewater facility, if such action would improve credit  
28 market access or reduce interest rates;
  - 29 (4) As a source of revenue or security for the payment of principal and  
30 interest on bonds issued by the Administration if the proceeds of the sale of such  
31 bonds will be deposited in the Water Quality Fund;
  - 32 (5) To earn interest on Water Quality Fund accounts;

1 (6) TO ESTABLISH A LINKED DEPOSIT PROGRAM TO CONTROL NONPOINT  
2 SOURCES OF POLLUTION AND TO PROTECT THE QUALITY OF THE WATERS OF THE  
3 STATE;

4 [(6)] (7) For the reasonable costs of administering the Water Quality  
5 Fund and conducting activities under Title VI of the Federal Water Pollution Control  
6 Act; and

7 [(7)] (8) For any other purpose authorized by Title VI of the Federal  
8 Water Pollution Control Act or § 302 of the federal Safe Drinking Water Act.

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

14 9-1605.1.

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

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

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

28 (4) Subject to the provisions of any applicable bond resolution governing  
29 the investment of amounts in the Drinking Water Loan Fund, the Drinking Water  
30 Loan Fund shall be invested and reinvested in the same manner as other State funds,  
31 EXCEPT THAT THE ADMINISTRATION, IN COOPERATION WITH THE TREASURER, MAY  
32 ESTABLISH A LINKED DEPOSIT PROGRAM TO CARRY OUT THE PURPOSES OF THIS  
33 SUBTITLE AND THE FEDERAL SAFE DRINKING WATER ACT.

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

36 (6) The Drinking Water Loan Fund shall be subject to biennial audit by  
37 the Office of Legislative Audits as provided for in § 2-1220 of the State Government  
38 Article.

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

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

4           (1)     Federal grants and awards or other federal assistance received by the  
5 State for the purpose of making loans to borrowers for water supply systems and any  
6 funds transferred from the Water Quality Fund pursuant to § 302 of the federal Safe  
7 Drinking Water Act;

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

10          (3)     Payments received from borrowers for deposit to the Drinking Water  
11 Loan Fund in repayment of a loan, including amounts withheld by the State  
12 Comptroller and paid to the Administration pursuant to a pledge made by a borrower  
13 under § 9-1606(d) of this article or § 7-222 of the State Finance and Procurement  
14 Article;

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  
20 established.

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

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

28           (1)     To make loans at or below market rates on the condition that:

29                   (i)     The local government borrower will establish a dedicated source  
30 of revenue;

31                   (ii)     In the case of a water supply system owned by a borrower other  
32 than a local government, the borrower shall provide adequate security for the  
33 repayment of the loan;

34                   (iii)    The Drinking Water Loan Fund will be credited with all  
35 payments of principal and interest on all loans; and

1 (iv) Annual principal and interest payments will commence not  
2 later than 1 year after completion of any drinking water facility and, except as  
3 provided in § 130 of the federal Safe Drinking Water Act, all loans will be fully  
4 amortized not later than 20 years after project completion;

5 (2) To buy or refinance debt obligations of local governments issued by a  
6 local government for the purposes of financing all or a portion of the cost of a water  
7 supply system at or below market rates, if such debt obligations were incurred after  
8 July 1, 1993;

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

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

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

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

20 (7) TO ESTABLISH A LINKED DEPOSIT PROGRAM FOR LOANS IN  
21 ACCORDANCE WITH THIS SUBTITLE AND THE FEDERAL SAFE DRINKING WATER ACT;

22 [(7)] (8) For loan subsidies for disadvantaged communities as provided  
23 by the federal Safe Drinking Water Act, including but not limited to loan forgiveness,  
24 provided that such loan subsidies shall not exceed 30% of the annual federal  
25 capitalization grant received by the Administration; and

26 [(8)] (9) For any other purpose authorized for any federal funds  
27 deposited in the Drinking Water Loan Fund including, without limitation, any  
28 purpose authorized by the federal Safe Drinking Water Act, including source water  
29 protection expenditures eligible for assistance from the Drinking Water Loan Fund.

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

35 9-1606.

36 (a) A loan made by the Administration shall be evidenced by a loan agreement.  
37 Loans made from the Water Quality Fund shall be subject to the provisions of §  
38 9-1605(d)(1) of this article. Loans made from the Drinking Water Loan Fund shall be  
39 subject to the provisions of § 9-1605.1(d)(1) of this subtitle. Subject to the provisions



1 of any applicable bond resolution, the Administration may consent to the  
2 modification, with respect to rate of interest, time of payment of any installment of  
3 principal or interest, security, or any other term of any loan agreement or loan  
4 obligation. In connection with any security received by or owned by the  
5 Administration, including any loan obligations, the Administration may commence  
6 any action to protect or enforce the rights conferred upon it by any law or loan  
7 agreement or loan obligation.

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

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

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

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

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

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

27 (e) Each loan agreement shall contain a provision whereby the borrower  
28 acknowledges and agrees that the borrower's loan obligation is cancelable only upon  
29 repayment in full and that neither the Administration, the Secretary, nor the Board is  
30 authorized to forgive the repayment of all or any portion of the loan, except for loans  
31 to disadvantaged communities, pursuant to the federal Safe Drinking Water Act.

32 (f) In the event of a default on a loan obligation by a borrower other than a  
33 local government, the Administration may place a lien against property of the  
34 borrower securing the loan which, subject to the tax liens of the federal, State, and  
35 local governments, shall have the same priority and status as a lien of the State for  
36 unpaid taxes under §§ 14-804 and 14-805 of the Tax - Property Article. The  
37 Administration may exercise the same rights and powers in enforcing such lien and  
38 collecting funds for the payment of amounts in default under the loan obligation as  
39 the State may exercise in collecting unpaid taxes under Subtitle 8 of the Tax -  
40 Property Article.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
2 effect October 1, 1998.