

CHAPTER 168

(House Bill 1417)

AN ACT concerning

Water Quality and Drinking Water Quality Revolving Loan Funds – Use of Funds

FOR the purpose of authorizing the use of the Maryland Water Quality Revolving Loan Fund and the Maryland Drinking Water Revolving Loan Fund to provide assistance in the form of grants, negative interest loans, forgiveness of principal, subsidized interest rates, and any other form of financial assistance as authorized or required by the American Recovery and Reinvestment Act of 2009; making this Act an emergency measure; and generally relating to the use of revolving loan funds in the Department of the Environment.

BY repealing and reenacting, with amendments,
Article – Environment
Section 9–1605, 9–1605.1, and 9–1606
Annotated Code of Maryland
(2007 Replacement Volume and 2008 Supplement)

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

Article – Environment

9–1605.

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

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

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

(4) (i) Except as provided in subparagraph (ii) of this paragraph, and subject to the provisions of any applicable bond resolution governing the investment of amounts in the Water Quality Fund, the Water Quality Fund shall be invested and reinvested in the same manner as other State funds.

(ii) The Administration, in cooperation with the Treasurer, may establish a linked deposit program to carry out the purposes of this subtitle and Title VI of the Federal Water Pollution Control Act.

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

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

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

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

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

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

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

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

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

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

ADMINISTRATION MAY ESTABLISH ACCOUNTS AND SUBACCOUNTS WITHIN THE WATER QUALITY FUND AS MAY BE CONSIDERED DESIRABLE TO:

- (I) EFFECTUATE THE PURPOSES OF THIS SUBTITLE;**
- (II) COMPLY WITH THE PROVISIONS OF ANY BOND RESOLUTION;**
- (III) MEET THE REQUIREMENTS OF ANY FEDERAL LAW, OR OF ANY FEDERAL GRANT OR AWARD TO THE WATER QUALITY FUND; OR**
- (IV) MEET ANY RULES OR PROGRAM DIRECTIVES ESTABLISHED BY THE SECRETARY OR THE BOARD.**

(2) [Such] THE accounts and subaccounts ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION may include:

- [(1)] (I) A federal receipts account;**
- [(2)] (II) A State receipts account;**
- [(3)] (III) A management and administration expense account;**
- [(4)] (IV) A bond proceeds account;**
- [(5)] (V) An account to segregate a portion or portions of the revenues or corpus of the Water Quality Fund as security for bonds of the Administration;**
- [(6)] (VI) A loan repayment account; and**
- [(7)] (VII) An investment earnings account.**

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

- (1) To make loans, on the condition that:**
 - (i) The loans are made at or below market interest rates, including interest free loans, at terms not to exceed 20 years;**
 - (ii) Annual principal and interest payments will commence not later than 1 year after completion of any wastewater facility and all loans will be fully amortized not later than 20 years after project completion;**
 - (iii) The local government borrower will establish a dedicated source of revenue for repayment of loans;**

(iv) In the case of a wastewater facility owned by a borrower other than a local government, the borrower will provide adequate security for repayment of loans; and

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

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

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

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

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

(6) To establish a linked deposit program to promote loans for controlling nonpoint sources of pollution and protecting the quality of the waters of the State;

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

(8) For any other purpose authorized by Title VI of the Federal Water Pollution Control Act or § 302 of the federal Safe Drinking Water Act; **AND**

(9) TO PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF GRANTS, NEGATIVE INTEREST LOANS, FORGIVENESS OF PRINCIPAL, SUBSIDIZED INTEREST RATES, AND ANY OTHER FORM OF FINANCIAL ASSISTANCE AS AUTHORIZED OR REQUIRED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, AS MAY BE AMENDED AND SUPPLEMENTED.

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

9-1605.1.

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

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

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

(4) (i) Except as provided in subparagraph (ii) of this paragraph, and subject to the provisions of any applicable bond resolution governing the investment of amounts in the Drinking Water Loan Fund, the Drinking Water Loan Fund shall be invested and reinvested in the same manner as other State funds.

(ii) The Administration, in cooperation with the Treasurer, may establish a linked deposit program to carry out the purposes of this subtitle and the federal Safe Drinking Water Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) To establish a linked deposit program for loans in accordance with this subtitle and the federal Safe Drinking Water Act;

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

(9) For any other purpose authorized for any federal funds deposited in the Drinking Water Loan Fund including, without limitation, any purpose authorized by the federal Safe Drinking Water Act, including source water protection expenditures eligible for assistance from the Drinking Water Loan Fund; **AND**

(10) TO PROVIDE FINANCIAL ASSISTANCE IN THE FORM OF GRANTS, NEGATIVE INTEREST LOANS, FORGIVENESS OF PRINCIPAL, SUBSIDIZED INTEREST RATES, AND ANY OTHER FORM OF FINANCIAL ASSISTANCE AS AUTHORIZED OR REQUIRED BY THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, AS MAY BE AMENDED AND SUPPLEMENTED.

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

9-1606.

(a) A loan made by the Administration shall be evidenced by a loan agreement. Loans made from the Water Quality Fund, **EXCEPT FOR LOANS MADE IN ACCORDANCE WITH § 9-1605(D)(9) OF THIS SUBTITLE**, shall be subject to the

provisions of § 9-1605(d)(1) of this subtitle. Loans made from the Drinking Water Loan Fund, **EXCEPT FOR LOANS MADE IN ACCORDANCE WITH § 9-1605.1(D)(10) OF THIS SUBTITLE**, shall be subject to the provisions of § 9-1605.1(d)(1) of this subtitle. Subject to the provisions of any applicable bond resolution, the Administration may consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term of any loan agreement or loan obligation. In connection with any security received by or owned by the Administration, including any loan obligations, the Administration may commence any action to protect or enforce the rights conferred upon it by any law or loan agreement or loan obligation.

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

- (1) At private sale, without public bidding;
- (2) Without regard to any limitations on the denomination of such obligations; and
- (3) At any interest rate or cost or at any price that the borrower considers necessary or desirable.

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

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

(e) Each loan agreement shall contain a provision whereby the borrower acknowledges and agrees that the borrower's loan obligation is cancelable only upon repayment in full and that neither the Administration, the Secretary, nor the Board is authorized to forgive the repayment of all or any portion of the loan, except for loans to disadvantaged communities, pursuant to the federal Safe Drinking Water Act, **AND LOANS MADE IN ACCORDANCE WITH §§ 9-1605(D)(9) AND 9-1605.1(D)(10) OF THIS SUBTITLE**.

(f) In the event of a default on a loan obligation by a borrower other than a local government, the Administration may place a lien against property of the

borrower securing the loan which, subject to the tax liens of the federal, State, and local governments, shall have the same priority and status as a lien of the State for unpaid taxes under §§ 14–804 and 14–805 of the Tax – Property Article. The Administration may exercise the same rights and powers in enforcing such lien and collecting funds for the payment of amounts in default under the loan obligation as the State may exercise in collecting unpaid taxes under Title 14, Subtitle 8 of the Tax – Property Article.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three–fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, April 14, 2009.