

TITLE 8—NEW YORK JOB DEVELOPMENT AUTHORITY

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SUBTITLE I—GENERAL PROVISIONS

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§ 1800. Short title

This title may be cited as the "New York job development authority act."

(Added L.1961, c. 443, § 2.)

Historical and Statutory Notes

L.1961, c. 443 legislation

L.1961, c. 443, § 1, provides:

"The legislature hereby finds, determines and declares:

"(a) that there currently exist labor surplus areas in certain parts of the state and that such areas may exist, from time to time, elsewhere in the state unless remedial measures are taken;

"(b) that involuntary unemployment is a serious menace to the health, safety, morale, security and general welfare not only of the people in labor surplus areas but also of the people of the entire state;

"(c) that the economic burdens resulting from involuntary unemployment fall in part upon the state in the form of public assistance and reduced tax reve-

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nues, and in the event industrial or manufacturing plants are abandoned or the unemployed worker and his family migrate elsewhere to find work, may also fall upon the municipalities and other taxing districts within the areas of unemployment in the form of reduced tax revenues, thereby endangering their financial ability to support necessary governmental services for their remaining inhabitants;

"(d) that a vigorous and growing economy is the basic source of job opportunities and higher incomes;

"(e) that security against involuntary unemployment, its economic burdens and the spread of economic stagnation in the areas affected can best be provided by promoting, attracting, stimulating and revitalizing commerce, industry and manufacturing in such areas;

"(f) that the state has a responsibility to help create a favorable climate for new and improved job opportunities for its citizens by encouraging the construction, acquisition, rehabilitation and improvement of industrial and manufacturing plants within the state;

"(g) that some labor surplus areas have persisted despite determined efforts by state and local authorities and private organizations to attract new industrial and manufacturing plants into such areas;

"(h) that the inability to attract new industrial and manufacturing plants into such areas has resulted in part from the inability of enterprises considering the construction of such plants to raise through conventional means and upon reasonable terms the necessary funds to complete construction thereof;

"(i) that the persistent unemployment experienced by such areas may be repeated in other labor surplus areas of the state if funds upon reasonable terms are not made available to assist the construction of new industrial and manufacturing plants in such areas and the acquisition, rehabilitation and improvement of former industrial and manufacturing plants;

"(j) that the rising population of the state requires even greater efforts than heretofore to create new job opportunities throughout the state;

"(k) that a larger flow of private investment funds from banks, investment hous-

es, insurance companies, other financial institutions, fiduciaries and individuals into job development projects throughout the state, particularly in areas of persistent unemployment, may best be stimulated by making available to such private sources obligations of a public benefit corporation which in turn could make available upon reasonable terms a portion of the funds necessary to construct new industrial or manufacturing plants and to acquire, rehabilitate and improve former industrial or manufacturing plants; and

"(l) that in that best American tradition of encouraging community initiative and enterprise such financial assistance should be made available by such public benefit corporation, as a supplement to private initiative and resources, in the form of mortgage loans to local development corporations which have heretofore successfully marshalled in many areas of the state the local resources available for creating and improving job opportunities in such areas.

"It is hereby declared to be the policy of the state, in the interests of promoting the health, safety, morale, security and general welfare of all the people of the state, to increase job opportunities in labor surplus areas throughout the state, particularly in areas of substantial and persistent labor surplus, by making available through the public benefit corporation hereinafter created, private funds for industrial and manufacturing development."

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which

employment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general

election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1800 was renumbered as Public Authorities Law § 1200.

A prior § 1800, which related to construction of this chapter, is now Public Authorities Law § 3700.

Research References

Cyclopedias

NY Jur. 2d, Condominiums & Co-Operative Apartments § 101, Exceptions.

NY Jur. 2d, Employment Relations § 355, Combating Unemployment; Job Development Authorities.

NY Jur. 2d, Public Authorities § 3, Particular Authorities.

1801. Definitions

Words used or referred to in this title, unless a different meaning clearly appears from the context:

"Assisted project" shall mean any project in respect of which authority has granted a loan or guaranteed a loan.

"Authority" shall mean the New York job development authority created by subdivision one of section eighteen hundred two of this

"Banking organization" when used in this title shall mean (a) any organization defined by subdivision eleven of section two of the banking law, (b) any agency or branch of a foreign banking corporation licensed by the banking department under article five of the banking law, (c) any national bank, federal savings and loan association and federal credit union, (d) any authorized insurer defined by paragraph ten of subsection (a) of section one hundred seven of the insurance law and (e) any public or private pension or investment plan required to file a report with any state or federal regulatory or advisory body.

"Comptroller" shall mean the comptroller of the state.

"Eligible business facility" shall mean any type of business facility to be used or occupied by any person in an enterprise deemed to offer a reasonable likelihood for promoting the creation or retention of job opportunities in the state, and includes, but is not limited to, industrial or manufacturing plants, facilities for research and development purposes, facilities for conducting wholesale, receiving

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and distributing operations, facilities for conducting office operations, warehousing operations, or any other operation dealing in the exchange of goods, wares, services or other types of property of any type or description.

6. "Federal agency" shall mean the United States of America, and any officer, department, board, commissioner, bureau, division, corporation, agency or instrumentality thereof.

7. "Industrial plant" shall include a manufacturing plant and a plant used in connection with extracting, smelting, recovering, developing, preparing, compounding, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature, and shall include facilities related thereto for storage, warehousing or distribution, for research and development or for the discovery of new and the refinement of known substances, processes and products.

8. "Local development corporation" shall mean a non-profit corporation incorporated or reincorporated under the laws of this state, regardless of its particular name, which shall meet the additional requirements of section eighteen hundred twenty-five of this title.

9. "Manufacturing plant" shall include a plant used in connection with making, creating, working, preparing, processing, milling, manufacturing, finishing, fashioning, fabricating, or producing in any manner, goods, wares, merchandise, metals, fabrics, materials, products or substances of any kind or nature.

10. "Municipality" shall mean any county, city, town or village in the state.

11. a. "Loan" shall mean (i) a mortgage loan evidenced by a bond, note or other obligation of a local development corporation secured by a mortgage on a project, defined in subdivision fourteen (i) and (ii) of this section, made by a local development corporation, a project occupant or other person, firm or corporation; (ii) a loan evidenced by a bond, note or other obligation of a local development corporation, a project occupant, or other person, firm or corporation secured by a loan agreement, contract or such other instrument deemed necessary or convenient on a project defined in subdivision fourteen (iii) of this section; (iii) a loan evidenced by a bond, note or other obligation of a local development corporation, a project occupant, or other person, firm or corporation secured by a security interest in machinery and equipment as provided in section eighteen hundred fourteen; and (iv) an employee ownership assistance loan

made pursuant to paragraph (v) of subdivision fourteen of this section.

b. "Loan guarantee" shall mean the guaranteeing by the authority of a loan made by a banking organization on a project as defined in subdivision fourteen of this section.

12. "Pollution control facilities" shall mean real or personal property having to do with, or the end purpose of which, is the control, abatement or prevention of land, sewer, water, air, thermal, radiational, noise or general environmental pollution resulting from the operation of an industrial, manufacturing or research plant.

13. "Plant" shall mean real property, the buildings, improvements and structures thereon and the fixtures thereon other than machinery or equipment used by a project occupant in its operations.

14. "Project" shall mean (i) the construction of a new industrial or manufacturing plant, a new research and development building or other new eligible business facility, (ii) the acquisition, rehabilitation or improvement of a former or existing industrial or manufacturing plant, of a former or existing building to be used for research and development, of a former or existing other eligible business facility, (iii) the construction, acquisition, rehabilitation or improvement of pollution control facilities, (iv) the purchase of machinery and equipment, for which financial assistance from the authority is sought, or (v) assistance to employees under an employee ownership assistance loan agreement made pursuant to subtitle six of this title; provided, however, that any such plant, building, facility or machinery and equipment therefore shall not be primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services, or used primarily as a hotel, apartment house or other place of business which furnishes dwelling space or accommodations to either residents or transients.

15. "Project cost" shall mean the aggregate costs incurred to finance the construction, acquisition, rehabilitation, or improvement of a project, and which are determined by the authority to be or to have been reasonably necessary therefor, including, without intending thereby to limit the generality of such costs: the cost of acquiring real property therefor; the cost of constructing or reconstructing buildings and improvements thereon, including, to the extent such costs are not borne by the municipality or other taxing district within which the project is located, the cost of constructing means of access to and from such project; the cost of constructing extensions to the project site of existing utility systems if such costs are customarily borne by the consumer; insurance premiums, financing charges, interest costs, commitment fees and the like incurred prior to or

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during the period of construction, acquisition, rehabilitation or improvement; any fees or charges imposed by the authority in respect of an application for a mortgage loan; the cost of preparing project specifications, maps, plans, surveys, estimates, applications and other documents, including costs related to determination of the feasibility of the project in the planning stages; and all such other costs, charges, fees, and expenses, including labor costs, overhead costs, the costs of materials and supplies, and engineering, accounting and legal expenses, as may be reasonably incident to the construction, acquisition, rehabilitation or improvement of the project; provided, however, that the term "project cost" except when used in subtitle III of this title shall not include the cost of any machinery or equipment (other than fixtures) or personal property to be used by the project occupant in its operations or any expenses related to the installation, replacement or rehabilitation thereof.

16. "Project-occupant" shall mean the business enterprise which proposes to use a project after construction, acquisition, rehabilitation or improvement.

17. "Real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within the said term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments in every estate, interest or right, legal or equitable.

18. "State" shall mean the state of New York.

19. "State agency" shall mean any officer, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 1; L.1963, c. 412, §§ 1-4; L.1966, c. 355, §§ 1, 2; L.1973, c. 674, §§ 1-5; L.1974, c. 1045, §§ 1, 2; L.1978, c. 631, §§ 1-5; L.1980, c. 348, §§ 1, 2; L.1983, c. 788, §§ 2, 3; L.1984, c. 805, § 50; L.1992, c. 839, § 1.)

Historical and Statutory Notes

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, sub-

division, paragraph, sentence, clause or provision of this act."

L.1966, c. 355 legislation

L.1966, c. 355, § 14, provides:

"This act shall take effect January first, nineteen hundred sixty-seven and then only in the event that the amendment to

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section eight of article seven of the constitution of the state of New York in relation to providing that the legislature's power to authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state shall be extended so as to permit such loan of money to provide improved employment opportunities in any area of the state, rather than only in the areas of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hundred sixty-six and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-six."

The proposed amendment to the Constitution, referred to in the preceding paragraph, was approved by the people at the general election on Nov. 8, 1966.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten

thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1801 was renumbered as Public Authorities Law § 1201.

A prior § 1801, which related to laws repealed by this chapter, is now Public Authorities Law § 3701.

§ 1802. New York job development authority

1. There is hereby created the "New York job development authority." The authority shall be a body corporate and politic constituting a public benefit corporation. Its members shall consist of the commissioner of economic development, the commissioner of labor, the commissioner of agriculture and markets, and the superintendent of banks, serving ex officio, and seven members to be appointed by the governor with the advice and consent of the senate. Each member appointed by the governor shall be a citizen of the United States and a resident of the state.

1-a. The commissioner of economic development, the commissioner of labor, the commissioner of agriculture and markets, and the superintendent of banks each may designate a person from his department to represent him at all meetings of the authority from

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which such member may be absent. Any representative so designated shall have the power to attend and to vote at any meeting of the authority from which the member so designating him is absent, with the same force and effect as if the member designating him were present and voting. Such designation shall be by written notice to the chairman by the member making the designation. Such designation shall not limit the power of the member making the designation to attend and vote in person at any meeting of the authority.

2. Members shall continue in office until the expiration of the terms and until their successors have been appointed and confirmed. Persons appointed for full terms as their successors shall serve for four years each commencing as of January first. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, the governor shall appoint a successor with the advice and consent of the senate to serve for the balance of the unexpired term.

3. The members of the authority shall serve without salary or other compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

4. The members of the authority may engage in private employment, or in a profession or business, subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The authority shall, for the purposes of such sections, be a "state agency", and such members shall be "officers" of the agency for the purposes of said sections. In addition, the authority may adopt such standards and procedures as it considers necessary to ensure compliance with the provisions of sections seventy-three and seventy-four of the public officers law.

5. Notwithstanding any inconsistent provisions of law, general or special or local, no officer or employee of the state, or of any city or division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership in the authority created by this section, provided, however, that a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

6. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him, and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days' notice. If any such member shall be removed, and the governor shall file in the office of

ment of state a complete statement of charges made against member, and his findings thereon, together with a complete l of the proceedings.

The commissioner of economic development shall be the chair- of the authority and shall preside over all meetings of the rity and shall have such other duties as the authority may . A vice-chairman may be elected by the authority from among er members for one or more terms of one year each. The vice- nan shall preside over all meetings of the authority in the ce of the commissioner of economic development and shall such other duties as the authority may direct.

Six members of the authority shall constitute a quorum for the action of any business or the exercise of any power or function e authority. Resolutions authorizing the issuance of bonds or of the authority and resolutions authorizing the granting of age loans shall be approved by not less than six members of the rity at a meeting duly called for such purpose, but for the action of any other business or the performance of any other r or function of the authority, the authority may act by a rity of the members present at any meeting at which a quorum attendance.

1. Determination on mortgage loan applications. The chair- of the authority shall convene meetings for the transaction of less or the exercise of any power or function of the authority at ar intervals, and whenever prudent and practical, the authority r render a determination on an application for a mortgage loan otify the applicant of the determination within four weeks of the pt of such completed application. In the event that a determi- n cannot be reached within the four week period, the authority submit to the applicant a statement of the reasons for such 7 upon or prior to the expiration of such four week period.

The authority may appoint such persons to serve as officers of authority as it may deem advisable, including a president and a sel, and such employees as it deems advisable, and may pre- e their duties and fix their compensation, subject to the civil ice law and the rules and regulations of the civil service commis- of the state.

1. The authority may appoint one or more advisory committees sisting of not more than seven members each to consider and se the authority upon all matters submitted to them by the ority and to recommend to the authority such changes in the inistration of this title and the operations of the authority as the sory committee may deem desirable. Members of advisory com-

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mittees shall serve without salary for such terms, not to exceed four years, as the authority may determine. Each member of an advisory committee shall be entitled to reimbursement for his actual and necessary travel expenses incurred in the performance of his duties.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 2; L.1963, c. 412, § 5; L.1966, c. 355, § 3; L.1966, c. 829, § 1; L.1977, c. 714, § 1; L.1980, c. 348, §§ 3-5; L.1985, c. 482, § 1; L.1986, c. 185, § 1; L.1990, c. 118, § 1; L.1992, c. 55, § 206.)

Historical and Statutory Notes

L.1982, c. 86 legislation

The Industrial Commissioner, referred to in text, was redesignated the Commissioner of Labor pursuant to L.1982, c. 86, § 1, eff. May 11, 1982.

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

L.1966, c. 355 and L.1966, c. 829 legislation

L.1966, c. 355, § 4 and L.1966, c. 829, § 2, both provide:

"The initial terms of the two members added to the New York job development authority by this act shall expire on January first in nineteen hundred seventy and nineteen hundred seventy-one, respectively."

L.1966, c. 355 legislation

L.1966, c. 355, § 14, provides:

"This act shall take effect January first, nineteen hundred sixty-seven and then only in the event that the amendment to section eight of article seven of the constitution of the state of New York in relation to providing that the legislature's power to authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this

state shall be extended so as to permit such loan of money to provide improved employment opportunities in any area of the state, rather than only in the areas of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hundred sixty-six and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-six."

The proposed amendment to the Constitution, referred to in the preceding paragraph, was approved by the people at the general election on Nov. 8, 1966.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in principal amount of not to exceed fifty million dollars and notes to such public

ation issued in anticipation of such
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n to be held in the year nineteen
ed sixty-one."

proposed amendment to the Con-
n referred to in the preceding

paragraph, was approved by the people
at the general election on Nov. 7, 1961.

Former Sections

Former § 1802 was renumbered as
Public Authorities Law § 1202.

A prior § 1802, which related to the
effective date of this chapter, is now Pub-
lic Authorities Law § 3702.

Legislative Histories

1992, c. 55: For memorandum of the State Executive Department, see McKin-
ney's 1992 Session Laws of New York, pp. 2518, 2522, 2524, 2530, 2531,
2533, 2536, 2537, 2538, 2539, 2540, 2542, 2545.

1990, c. 118: For memorandum of the Job Development Authority, see McKin-
ney's 1990 Session Laws of New York, p. 2350.

1986, c. 185: For memorandum of the State Executive Department, see McKin-
ney's 1986 Session Laws of New York, p. 2846.

Library References

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J.S. States §§ 254 to 257.

Research References

Encyclopedias

Y Jur. 2d, Business Relationships § 1988, Definitions.

Y Jur. 2d, Business Relationships § 1990, Loan Preference.

Y Jur. 2d, Business Relationships § 1991, Loan Agreements.

Y Jur. 2d, Business Relationships § 1992, Repayment of Loans; Interest.

Y Jur. 2d, Business Relationships § 1993, Rules and Regulations of Authority.

§ 103. Purposes of the authority

The purposes of the authority shall be:

To assist, promote, encourage, develop and advance the gener-
prosperity and economic welfare of the people of the state and to
ove their standard of living.

To improve employment opportunities in any area of the state
sisting in financing of:

the cost of projects for the construction, acquisition, rehabilita-
or improvement of any new, existing or former (i) industrial or
ufacturing plant, (ii) building used for research and develop-
, or (iii) other eligible business facility within the state, including
acquisition of real property therefor; by means of loans to non-
local development corporations not to exceed forty percent of
ost of such project, the repayment of which shall be secured by a

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mortgage which shall not be a junior encumbrance thereon by more than fifty percent of such cost, and by means of the guarantees of the loans made by banking organizations which guaranty shall not exceed eighty percent of the cost of the project, provided, however, that such loans may be in excess of forty percent but shall not exceed sixty percent of the cost of such project for loans in economically distressed areas and to companies in need of special assistance pursuant to the provisions of subdivision seven of section eighteen hundred twenty-three of this chapter.

(b) the purchase of machinery and equipment for use within the state, by means of loans to non-profit local development corporations not to exceed forty percent of the cost of such purchase which shall be secured by a security interest in such project, and by means of the guarantee of loans made by banking organizations which guaranty shall not exceed eighty percent of the cost of the project, provided, however, that such loans may be in excess of forty percent but shall not exceed sixty percent of the cost of such project for loans in economically distressed areas and to companies in need of special assistance pursuant to the provisions of subdivision seven of section eighteen hundred twenty-three of this chapter.

3. To advance the development of industrial, manufacturing, research and development, or other eligible business enterprises throughout the state, including those defined as small business concerns under the act of congress entitled "Small Business Investment Act of 1958".¹

4. To assist in financing the cost of projects for the construction, acquisition, rehabilitation or improvement of pollution control facilities, by means of loans of pollution control funds to non-profit local development corporations not to exceed ninety percent of the cost of any such project.

In carrying out the purposes of this section and in exercising the powers granted under this act, the authority shall be regarded as performing an essential governmental function.

(Added L.1978, c. 631, § 6; amended L.1980, c. 348, § 6; L.1992, c. 839, § 3.)

¹ 15 USCA § 661 et seq.

Historical and Statutory Notes

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act

or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

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§ 1803, added L.1961, c. 443, amended L.1962, c. 502, § 2; 412, § 5; L.1966, c. 355, § 3; 829, § 1; L.1973, c. 674, § 6; 1045, § 3; and repealed by L.1978, c. 631, § 6.

443, § 2; amended L.1962, c. 502, § 2; L.1963, c. 412, § 5; L.1966, c. 355, § 3; L.1966, c. 829, § 1; L.1973, c. 674, § 6; L.1974, c. 1045, § 3; and was repealed by L.1978, c. 631, § 6.

ctions

§ 1803, relating to the purpose authority, was added L.1961, c.

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84.

Topic No. 360.

States §§ 254 to 257.

Research References

dias

r. 2d, Interest and Usury § 23, Contracts to Pay Interest — Construction of Contract.

r. 2d, Public Funds § 10, Duties, Generally — Payment of Interest.

r. 2d, Business Relationships § 1991, Loan Agreements.

r. 2d, Contracts § 215, Necessity of Construction; Plain or Ambiguous Language — Determining Whether Contract is Ambiguous.

r. 2d, Employment Relations § 355, Combating Unemployment; Job Development Authorities.

Notes of Decisions

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ffective cost of funds" in inter-provision of Job Development (JDA) loan agreement was un-s, and included interest JDA y to bondholders, cost of issuing and cost of defaults by borrow-

ers who received loans from bond proceeds; loss engendered by defaulting borrowers was a readily perceivable risk for any lender, which JDA was entitled to consider in calculating interest rate charged to borrower. *R/S Associates v. New York Job Development Authority*, 2002, 98 N.Y.2d 29, 744 N.Y.S.2d 358, 771 N.E.2d 240, reargument denied 98 N.Y.2d 693, 747 N.Y.S.2d 411, 775 N.E.2d 1291. Interest 36(1)

b)-a. Additional duties of the authority

ll be the duty of the authority to make rules and regulations ng the exercise of its corporate powers and the fulfillment of orate purposes under this title, which rules and regulations e promulgated under the state administrative procedure act e assistance of the commissioner of economic development consultation with the department of economic development ll be consistent with the program plan required by subdivi- eteen of section one hundred of the economic development

L.1987, c. 839, § 18.)

Library References

States ⇨84.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257.

§ 1804. General powers and duties of the authority

Subject to the other provisions of this title and the provisions of any contract with bondholders or noteholders, the authority shall have the following powers in addition to the powers specifically conferred upon the authority elsewhere in this title:

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To make and alter by-laws for its organization and internal management;
4. To make rules and regulations governing the exercise of its corporate powers and the fulfillment of its corporate purposes under this title, which rules and regulations shall be filed with the department of state in the manner provided by section one hundred two of the executive law and to maintain its system of internal controls in conformity with the relevant standards specified by authoritative national standard setting bodies;
5. To make loans and loan guaranties secured by loan agreements, mortgages, contracts and all other instruments necessary or convenient for the exercise of its corporate powers and the fulfillment of its corporate purposes under this title; and to require the inclusion in any lease or other agreement in respect of a project (a) such provisions as to the use of the project as the authority may deem necessary or desirable for the fulfillment of its corporate purposes and (b) such provisions as to the reporting to it by the parties to such lease or other agreement of such information as it deems necessary to monitor (i) compliance by such parties with the provisions of this title and with the provisions of any rules and regulations adopted pursuant to this title and (ii) the progress of the project occupant or of the business enterprise described in section eighteen hundred twenty-seven of this title in achieving the representations made in the application submitted pursuant to section eighteen hundred twenty-four of this title;
6. In connection with loans, loan guarantees, or any applications or commitments therefor, to make and collect such fees and charges as the authority shall determine to be reasonable;

To purchase, receive, lease or otherwise acquire, and hold in name of the state or otherwise, or contract to acquire from any individual, firm, corporation, municipality, federal or state agency, by purchase, or otherwise, and to sell, convey, mortgage, lease, or otherwise dispose of, upon such terms and conditions as the authority may deem advisable, real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and to the use thereof, including but not restricted to any real or personal property acquired by the authority from any time upon foreclosure of any mortgage or in the satisfaction of judgments or in the enforcement of obligations; provided, however, that the terms and conditions of any sale or other disposition by the authority of property conveyed to it pursuant to section eighteen and thirty-a of this title including the consideration involved, shall be subject to the approval of the director of the budget, prior to any sale or other disposition;

To sell at public or private sale, or pledge or assign, any loan made by the authority and any mortgage or other obligation securing a loan made by the authority;

To foreclose on any real or personal property in respect of which it has made a loan or issued a loan guarantee or commence or institute any action or proceeding to protect or enforce any right vested in it by law or by contract and to bid for and purchase any such property at any foreclosure or at any other sale or acquire or take possession of any such property; and in such event the authority shall operate, maintain, administer, pay the principal of and interest on any such obligation incurred in connection with such property, and shall otherwise deal with, such property, in such manner as may be deemed necessary or desirable to protect the interest of the authority therein; and in respect of any such loans and loan guarantees made by the authority, it shall have the right to require at the time of the making of any such loan or issuance of the loan guarantee, or at any time thereafter, in a form acceptable to it, a deed to all rights and interest in any real or personal property as a security interest, such deed to be in the form of a "deed in lieu of foreclosure", and shall be empowered to record such deed upon a default in the payment or terms of any such loan made by or guaranteed by the authority, and to thereby release the property to the authority by such recording both title and all rights of ownership in such property in accordance with section eighteen and thirty-a of this article;

To enter into agreements to pay annual sums in lieu of taxes on any real property of a municipality or taxing district of the state in respect of any real property which is owned by the authority and located in such

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municipality or taxing district, provided, however, that the amount so paid for any year upon any such property shall not exceed the sum last paid as taxes on such property to such municipality or taxing district prior to the time of its acquisition by the authority;

11. To procure insurance against any loss in connection with loans or with real and personal property or other assets of the authority of any nature whatsoever in such amounts, and from such insurers, as it deems desirable;

12. To consent to the modification of the time of payment of any installment of principal or interest, the rate of interest (within the limits prescribed by sections eighteen hundred sixteen and eighteen hundred twenty-one), the security, or any other terms of any loan, loan guarantee, loan commitment, contract or agreement of any kind to which the authority is a party whenever it deems it necessary or desirable in the fulfillment of the purposes of this title;

13. To encourage the organization of local development corporations and to cooperate with such corporations in the formation of plans for improving employment opportunities within their areas of operation;

13-a. To develop and annually update a five year strategic plan setting forth the goals and objectives of the authority for each of the next five years and annual operational targets that are designed to ensure the efficient and effective use of the authority's resources in meeting such goals and objectives. Such strategic plan shall also include, but not be limited to, information as to the areas of the state, if any, and the categories of project occupants or business enterprises as described in section eighteen hundred twenty-seven of this title, if any, where, and in regard to which, it will seek to increase its lending activity, and information as to the steps which it plans on taking to so direct its lending activity. In developing and updating such strategic plan the authority shall utilize any area employment opportunity improvement plans formulated in accordance with subdivision thirteen of this section and such other information which it deems appropriate. Such categories shall include but not be limited to minority and women-owned businesses; firms located in economically distressed rural and urban communities; firms employing displaced workers or economically disadvantaged individuals, or participants in job training programs for economically disadvantaged individuals or displaced workers; or firms, including, but not limited to, cooperative corporations, involved in acquiring existing businesses that the current owners have proposed closing or have closed;

- b. To adopt and, as necessary, revise criteria and methods to be used by the authority and by local development corporations in evaluating loan applications in accordance with the provisions of section eighteen hundred twenty-six of this title and with such other standards and procedures which it deems necessary and appropriate.
- c. To adopt and, as necessary, revise criteria to be used in determining the portion of the cost of individual projects which should be financed by the authority. Such criteria shall encourage different levels or degrees of financial assistance by the authority. Details of such criteria and methods shall be provided to all local development corporations;
- d. To require that any new employment opportunities created in connection with industrial or commercial projects financed through loans or loan guarantees from the authority shall be listed with the New York state department of labor job service division and the administrative entity of the service delivery area created pursuant to the federal job training partnership act¹ (P.L. 97-300) in which the project is located and shall first consider for such employment opportunities persons eligible to participate in federal job training partnership act programs who shall be referred to such persons by such administrative entities or by the job service division of the department of labor; provided, however, that nothing contained herein shall be construed to require project occupants or business entities as defined in section eighteen hundred twenty-seven of this title to violate any existing collective bargaining agreement with respect to the hiring of new employees. Such listing shall be in a manner and form prescribed by the authority in consultation with the commissioner of labor and the commissioner of economic development.
- e. To implement, on behalf of any local development corporation so requesting, the responsibilities assigned to such corporation in subdivision four of section eighteen hundred twenty-five of this title.
4. To cooperate and act in conjunction with any organization, public or private, or federal or state agency the objects of which in any area of the state are similar to the purposes of the authority;
 5. To accept gifts, grants or loans from, and enter into contracts or other transactions with, any federal or state agency, any municipality, any private organization or any other source;
 6. To engage the services of bond counsel, accountants or other professional consultants on a contract basis for rendering professional and technical assistance and advice;

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17. To procure insurance to secure the payment of principal and interest on any bonds, notes or other obligations of the corporation.

18. To do any and all things necessary or convenient to carry out its corporate purposes, (b) exercise the powers given and conferred by this title, and (c) further the goals and objectives and accomplish the operational targets set forth in the strategic plan adopted pursuant to subdivision thirteen of this section.

Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 4; L.1963, c. 57; L.1966, c. 355, § 6; L.1973, c. 674, §§ 7-9; L.1974, c. 100; L.1978, c. 631, §§ 7-9; L.1980, c. 348, §§ 7, 9, 10; L.1984, c. 482, § 2; L.1985, c. 482, §§ 2 to 6; L.1990, c. 118, § 2; L.1992, c. 100, § 2.

19 USCA § 1501 et seq.

Historical and Statutory Notes

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

L.1966, c. 355 legislation

L.1966, c. 355, § 14, provides:

"This act shall take effect January first, nineteen hundred sixty-seven and then only in the event that the amendment to section eight of article seven of the constitution of the state of New York in relation to providing that the legislature's power to authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state shall be extended so as to permit such loan of money to provide improved employment opportunities in any area of the state, rather than only in the areas of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hundred sixty-six and approved and ratified by the people at the general election to be

held in the year nineteen hundred sixty-six."

The proposed amendment to the constitution, referred to in the paragraph, was approved by the people at the general election on November 3, 1966.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and only in the event that the amendment to the constitution of the state of New York adding a new paragraph at section eight of article seven and adding a new section seven to article seven thereof, authorizing the loan of money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state, to provide additional employment in those areas of the state where unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on the bonds of such a public corporation in the principal amount of not to exceed one hundred million dollars and notes to be issued by such corporation issued in anticipation of the maturity of such bonds, which was proposed by the legislature in the year nineteen hundred sixty-one, is adopted by the legislature

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hundred sixty-one and approved
ied by the people at the general
to be held in the year nineteen
sixty-one."

roposed amendment to the Con-
ferred to in the preceding

paragraph, was approved by the people
at the general election on Nov. 7, 1961.

Former Sections

Former § 1804 was renumbered as
Public Authorities Law § 1204.

Legislative Histories

190, c. 118: For memorandum of the Job Development Authority, see McKin-
ney's 1990 Session Laws of New York, p. 2350.

1984, c. 508: For memorandum of the State Executive Department, see McKin-
ney's 1984 Session Laws of New York, p. 3327.

Cross References

making, procedure, see State Administrative Procedure Act § 202.

Library References

es 84, 124.

stlaw Topic No. 360.

S. States §§ 254 to 257, 374 to 376.

United States Code Annotated

mprehensive employment and training programs, see 29 USCA § 801 et seq.

Notes of Decisions

by or against authority 1

ions by or against authority

omic and financial functions of
velopment Authority were such
isdiction over action brought

against Authority attached to Supreme
Court and not to court of claims. Story
House Corp. v. State of N. Y. Job Deve-
lopment Authority (3 Dept. 1971) 37
A.D.2d 345, 325 N.Y.S.2d 659, affirmed
31 N.Y.2d 942, 340 N.Y.S.2d 929, 293
N.E.2d 97. Courts 472.1

04-a. Deed in lieu of foreclosure

The authority is hereby authorized to require at the time of the
ig of the loan or issuance of the loan guarantee, or at any time
after, in a form acceptable to it, a deed to all rights and interests
: real or personal property, as a security interest, such deed to
med a "deed in lieu of foreclosure", and is empowered hereby
:ord such deed upon a default in the payment or terms of any
made or guaranteed by the authority. By such recording title to
ll rights of ownership in such property shall be thereby trans-
l to the authority notwithstanding the existence of any other
: which are, or may be, recorded after the filing of a notice by
uthority concerning the existence of such deed in lieu of foreclo-
in accordance with subdivision six of this section and such later

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recorded deeds except for the deed in lieu of foreclosure shall be void and unenforceable.

2. Notwithstanding such transfer, all liens upon such property which are duly perfected prior to the recording of such deed in lieu of foreclosure, including any lien of the authority, shall continue in full effect and shall be subject to foreclosure at the suit of any of the lienholders, including the authority, and such lienholders' mortgage or other security interest shall not be deemed merged or unenforceable by such transfer.

3. Such deed given prior to recording shall be fully effective upon passing title and all rights of ownership upon recording thereof by the authority notwithstanding the passage of time or changes in title ownership and officers of the project owner.

4. Notice that such deed in lieu of foreclosure exists shall be recorded in the office of the clerk of the county where such real property is situated and shall be in the form prescribed in subdivision six of this section.

5. After the recording of such deed by the authority, the authority shall commence a foreclosure action upon its lien within one hundred twenty days in accordance with the real property actions and proceedings law. The grantor and former project owner may commence an action to compel the authority to foreclose its lien after such period of time, and is entitled to the excess of funds received from the foreclosure sale over the total liens outstanding on the property.

6. Such notice shall be in the form of a deed, duly acknowledged by the grantor and stating on its face "This is a security interest held by the New York job development authority and shall pass title to the within described property upon the recording of such deed in accordance with section eighteen hundred four-a of the public authorities law".

(Added L.1978, c. 631, § 10.)

Library References

States §84, 124.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 374 to 376.

§ 1805. Issuance of bonds and notes by the authority

1. Subject to the limitations of other provisions of this title, the authority shall have the power and is hereby authorized to borrow

money and to issue its negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amounts as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making of loans, the issuing of loan guarantees, the payment of interest on bonds and notes of the authority, the establishment of reserves to secure such bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

2. Bonds and notes shall be authorized by resolution of the authority, and shall be dated and shall mature as such resolution or resolutions may provide, except that no note or any renewal thereof shall mature more than seven years after the date of issue of the original note and no bond shall mature more than thirty years from the date of its issue. Bonds and notes shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide.

3. Special purpose bonds and notes may be sold by the authority at public or private sale in such manner and on such terms and at such price or prices as the authority, with the approval of the comptroller, shall determine. If special purpose bonds are sold by the authority at public sale, such sale shall take place not less than six nor more than forty days after a notice of such sale has been published at least once in a newspaper published in Albany and in a financial newspaper published and circulating in New York city, which shall state the terms of sale as determined by the authority. Pollution control bonds and notes of the authority may be sold by the authority, at public or private sale, in such manner and on such terms and at such price or prices as the authority shall determine but shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller where such sale is not to the comptroller, or by the director of the budget where such sale is to the comptroller.

4. In the discretion of the authority any bonds or issue of bonds or notes or issue of notes may be secured under resolutions of the authority or by a trust indenture by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company in the state or by a secured loan agreement or other instrument. The authority, in connection with any bonds or issue of bonds or notes or issue of notes and for the

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security or protection thereof and as a part of the contract with the holders thereof, by means of any such resolution, trust indenture, loan agreement or other instrument may (a) make and enter into and all such covenants and agreements with the holders of such bonds or notes as the authority may determine to be necessary and desirable, including without limitation of the foregoing, covenant provisions, limitations and agreements as to the application, use and disposition of the proceeds of any bonds or notes or of sale or other disposition of any mortgage or other property or of any other receipts, moneys or assets of the authority, or in which it has an interest, the exercise by the authority of its powers under this title with respect to loans and the revenues and receipts to be derived by the authority from such loans, the assignment of any right, title or interest in any mortgage in which the authority has an interest, the terms and amount of other bonds or notes to be issued by the authority, and the vesting in a trustee or trustees of funds or other property, rights, powers and duties in trust which may include and all of the rights, powers and duties of a trustee appointed pursuant to section eighteen hundred eighteen of this title and limiting or abrogating the right of the bondholders or noteholders to appoint a trustee under said section or limiting the rights, duties and powers of such trustee, (b) pledge or assign any moneys, mortgages, loan agreements, leases or agreements as to the use of projects or other assets of the authority either presently in hand or to be received in the future, or both, and any right, title and interest in an mortgage or evidence of indebtedness secured thereby or other asset or property, and (c) provide for any other matters of like or different character which in any way affect the security or protection of the bonds or notes, provided, however, that the principal of bonds and notes shall not be declared due and payable prior to maturity under or pursuant to any such resolution, trust indenture, loan agreement or other instrument by any trustee or agent for the bondholders or noteholders, unless the trustee or agent shall first give notice in writing to the governor, to the authority, to the comptroller and to the attorney general of the state, and if when any such notice is given the legislature shall be in session, the trustee or agent shall not declare the principal of bonds or notes due and payable before the legislature adjourns sine die, or if the legislature be not then in session, the trustee or agent shall not declare the principal of such bonds and notes due and payable until the adjournment sine die of the next regular session of the legislature. If at such session the legislature shall take any action as a result of which the past due principal and interest on such bonds and notes, with interest, together with the fees, counsel fees and expenses of the trustee or agent

and all costs and disbursements allowed by a court of competent jurisdiction shall be paid within sixty days of adjournment sine die, default in the payment thereof shall thereby be cured.

5. It is the intention of the legislature that any pledge made in respect of such bonds or notes shall be valid and binding from the time when the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in part, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution, trust indenture nor any other instrument by which a pledge is created need be recorded.

6. Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or subject to any personal liability or accountability by reason of the issuance thereof.

7. Subject to such agreements with bondholders or noteholders as may then exist, the authority shall have power to purchase special purpose bonds or notes of the authority out of any special purpose funds available therefor and to purchase pollution control bonds or notes of the authority out of any pollution control funds available therefor, at a price not exceeding (a) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment due thereon, or (b) if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which the bonds or notes become subject to redemption plus accrued interest to said date. Bonds and notes so purchased shall thereupon be cancelled.

The state does hereby pledge to and agree with the holders of bonds or notes issued under this title and with any federal agency which loans or contributes funds in respect of an assisted project, that the state will not limit or alter the rights and powers conferred in the authority by this title to fulfill the terms of any contract made by the authority with such holders or federal agency, or in any way impair the rights and remedies of such holders until such bonds or notes, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The authority is authorized to include the pledge and agreement of the state, insofar as it refers to holders of any bonds or notes of the authority, in any contract with such

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holders and insofar as it relates to a federal agency, in any contract with such agency.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 5; L.1962, c. 552, § 80; L.1963, c. 412, § 8; L.1969, c. 633, § 2; L.1969, c. 972, §§ 98-100; L.1973, c. 674, § 10; L.1978, c. 631, § 11; L.1980, c. 348, § 8; L.1984, c. 508, § 3.)

Historical and Statutory Notes

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

L.1969, c. 633 legislation

L.1969, c. 633, § 3, provides:

"This act shall take effect January first, nineteen hundred seventy and then only in the event that the amendment to the constitution of the state of New York renumbered section seven of article ten thereof and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of a public corporation created to make secured loans to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or for the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state in a principal amount of not to exceed one hundred fifty million dollars outstanding at any one time and notes of such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty-eight, is adopted by the legislature in the year nineteen hundred sixty-nine and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-nine."

The proposed amendment to the Constitution referred to in the preceding paragraph was approved by the people at the general election on Nov. 4, 1969.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1805 was renumbered as Public Authorities Law § 1205.

Legislative Histories

L.1984, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Cross References

Negotiable instruments, forms, see Uniform Commercial Code § 3-104.
Negotiable securities, see Uniform Commercial Code § 8-105.

Library References

States ⇨84, 118, 148.
Westlaw Topic No. 360.
C.J.S. States §§ 254 to 257, 351, 353 to 354, 437, 443 to 445.

1806. Exemption from taxation of the property and income of the authority

The property of the authority and its income and operations shall be exempt from taxation.

Added L.1961, c. 443, § 2.)

Historical and Statutory Notes**L.1961, c. 443 legislation**

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten hereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1806 was renumbered as Public Authorities Law § 1206.

Library References

Taxation ⇨2315.
Westlaw Topic No. 371.

Research References**Encyclopedias**

NY Jur. 2d, Taxation & Assessment § 112, Public Authorities.

§ 1807. Exemption from taxation of bonds and notes of the authority

The state covenants with the purchasers and with all subsequent holders and transferees of bonds and notes issued by the authority pursuant to this title, in consideration of the acceptance of a payment for the bonds and notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds shall at all times be free from taxation, except for estate and gift taxes and taxes on transfers.

(Added L.1961, c. 443, § 2.)

Historical and Statutory Notes

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest bonds of such a public corporation in principal amount of not to exceed five million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty-one is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1807 was renumbered Public Authorities Law § 1207.

Cross References

Public authorities, public property exemptions, see RPTL § 412.

Library References

Taxation ↯3519.

Westlaw Topic No. 371.

Research References

Encyclopedias

NY Jur. 2d, Taxation & Assessment § 112, Public Authorities.

§ 1808. Bonds and notes of the authority legal investments for fiduciaries

The bonds and notes of the authority are hereby made securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provision of law, the bonds and notes of the authority are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 6.)

Historical and Statutory Notes

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1808 was renumbered as Public Authorities Law § 1208.

Cross References

Banks, trust companies and savings banks, see Banking Law §§ 97, 103, 235.
 Fiduciaries, generally, see EPTL 11-2.2.
 Trustees of religious corporations, see Religious Corporations Law § 5-a.

Library References

- Banks and Banking ⇨195, 302.
 Building and Loan Associations ⇨24.
 Executors and Administrators ⇨102.
 Guardian and Ward ⇨53.
 Insurance ⇨1142.
 Municipal Corporations ⇨884.
 Trusts ⇨217.1.
 Westlaw Topic Nos. 52, 66, 162, 196, 217, 268, 390.
 C.J.S. Banks and Banking §§ 235, 606.
 C.J.S. Building and Loan Associations, Savings and Loan Associations, and Unions §§ 4, 6, 112 to 113, 115 to 118, 120 to 126, 129.
 C.J.S. Executors and Administrators §§ 223 to 225.
 C.J.S. Guardian and Ward §§ 115 to 121.
 C.J.S. Insurance § 104.
 C.J.S. Municipal Corporations § 1624.
 C.J.S. Trusts §§ 482 to 484, 486, 488 to 490, 504 to 505.

§ 1809. Right of state to require redemption of bonds

Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with holders of the bonds, the state may, upon furnishing sufficient therefor, require the authority to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not later than twenty years after the date of the bonds of such issue at one half of five per cent of their face value and accrued interest or at such other price as may be provided in the bonds in case of redemption thereof as a whole on the redemption date. Notice of such redemption shall be published in at least two newspapers published and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption.

(Added L.1961, c. 443, § 2.)

Historical and Statutory Notes

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten

thereof, authorizing the loan of ten per cent of the state to a public corporation to be organized, among other things, for the purpose of making loans, under such conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in the state or the acquisition, rehabilitation and improvement of former industrial plants

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to provide additional employ-
se areas of the state in which
ent is or may become a criti-
n, and authorizing the legisla-
se the state liable for the pay-
e principal of and interest on
ich a public corporation in a
mount of not to exceed fifty
lars and notes to such public
i issued in anticipation of such
ch was proposed by the legis-
e year nineteen hundred sixty,
by the legislature in the year

nineteen hundred sixty-one and approved
and ratified by the people at the general
election to be held in the year nineteen
hundred sixty-one."

The proposed amendment to the Con-
stitution referred to in the preceding
paragraph, was approved by the people
at the general election on Nov. 7, 1961.

Former Sections

Former § 1809 was renumbered as
Public Authorities Law § 1209.

Library References

⇒84, 165.

ow Topic No. 360.

States §§ 254 to 257, 439, 454 to 455.

Moneys of the authority

moneys of the authority, from whatever source derived,
paid to the commissioner of taxation and finance as agent of
rity, who shall not commingle such moneys with any other

Such moneys shall be deposited in a separate bank account
nts. The moneys in such accounts shall be paid out on
gned by the commissioner of taxation and finance on requi-
the president of the authority or of such other officer or
e or officers or employees of the authority as the authority
horize to make such requisition. All deposits of such mon-
if required by the commissioner of taxation and finance or
rity, be secured by obligations of the United States of
or of the state of a market value equal at all times to the
of the deposit and all banks and trust companies are author-
ive such security for such deposits.

withstanding the provisions of subdivision one of this sec-
authority shall have power, subject to the approval of the
ioner of taxation and finance, to contract with the holders of
s bonds or notes, as to the custody, collection, securing,
nt and payment of any moneys of the authority, or of any
eld in trust or otherwise for the payment of bonds or notes,
arry out such contracts. Moneys held in trust or otherwise
ayment of bonds or notes or in any way to secure bonds or
d deposits of such moneys may be secured in the same
as moneys of the authority, and all banks and trust compa-
authorized to give such security for such deposits.

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3. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested by the commissioner of taxation and finance in accordance with all of the otherwise consistent provisions of section ninety-eight-a of the state finance law.

4. Subject to the provisions of any contract with bondholders and noteholders and to the approval of the comptroller, the authority shall prescribe a system of accounts.

(Added L.1961, c. 443, § 2; amended L.1980, c. 348, § 11; L.1982, c. 374, § 1.)

Historical and Statutory Notes

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state

or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961

Former Sections

Former § 1810 was renumbered as Public Authorities Law § 1210.

Library References

Deposits and Escrows ⇨31.
States ⇨84.
Westlaw Topic Nos. 122A, 360.
C.J.S. Depositaries §§ 54 to 61.
C.J.S. States §§ 254 to 257.

Research References

Encyclopedias

NY Jur. 2d, Public Funds § 73, Expenditures.
NY Jur. 2d, Public Funds § 74, Investment of Funds.

SUBTITLE II—FINANCIAL ASSISTANCE FROM SPECIAL PURPOSE FUNDS

Section

- 1811. Application of subtitle.
- 1812. Special purpose bonds and notes.
- 1813. Guaranty by the state.
- 1814. Loans and loan guarantees for machinery and equipment.
- 1815. Special purpose funds.
- 1816. Rate of interest.

Historical and Statutory Notes

Former Sections

Former § 1812-a was renumbered as Public Authorities Law § 1212-a.

§ 1811. Application of subtitle

Subject to the provisions of sections eighteen hundred twenty-two and eighteen hundred twenty-three of this title, the authority shall have the power and is hereby authorized to make mortgage loans to local development corporations and loan guarantees to banking organizations with special purpose funds pursuant to this subtitle for costs of projects and to make loans and loan guarantees as provided in section eighteen hundred fourteen to improve employment opportunities in any area of the state.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 7; L.1966, c. 355, § 7; L.1974, c. 1045, § 5; L.1978, c. 631, § 12; L.1980, c. 348, § 12.)

Historical and Statutory Notes

L.1966, c. 355 legislation

L.1966, c. 355, § 14, provides:

“This act shall take effect January first, nineteen hundred sixty-seven and then only in the event that the amendment to section eight of article seven of the constitution of the state of New York in relation to providing that the legislature’s power to authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state shall be extended so as to permit such loan of money to provide improved employment opportunities in any area of

the state, rather than only in the areas of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hundred sixty-six and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-six.”

The proposed amendment to the Constitution, referred to in the preceding paragraph, was approved by the people at the general election on Nov. 8, 1966.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

“This act shall take effect January first, nineteen hundred sixty-two and then only

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in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on

bonds of such a public corporation principal amount of not to exceed million dollars and notes to such corporation issued in anticipation of bonds, which was proposed by the legislature in the year nineteen hundred is adopted by the legislature in the nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1811 was renumbered Public Authorities Law § 1211.

Library References

States 84, 124.
Westlaw Topic No. 360.
C.J.S. States §§ 254 to 257, 374 to 376.

Research References**Encyclopedias**

NY Jur. 2d, Public Funds § 73, Expenditures.

§ 1812. Special purpose bonds and notes

1. The authority shall have the power and is hereby authorized to issue at one time or in series from time to time special purpose bonds in an aggregate principal amount which shall not at any one time exceed seven hundred fifty million dollars, excluding special purpose bonds issued to refund outstanding special purpose bonds, special purpose notes in anticipation of the issuance of such special purpose bonds.

2. The authority shall have power from time to time to reissue special purpose notes or to issue renewal notes for such purpose or to issue special purpose bonds to pay special purpose notes, and whenever it deems refunding expedient, to refund any special purpose bond by the issuance of new special purpose bonds, whether such bonds to be refunded have or have not matured, and may issue special purpose bonds partly to refund special purpose bonds then outstanding and partly for the purposes specified in this subsection. The bonds issued for refunding purposes shall be sold and

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applied to the purchase, redemption or payment of the
be refunded.

.961, c. 443, § 2; amended L.1962, c. 502, § 8; L.1969, c. 633,
1, c. 594, § 1; L.1985, c. 482, § 7; L.1992, c. 839, § 4.)

Historical and Statutory Notes

32 legislation

482, § 13, provides:

shall take effect immediately,
however, that the provisions in
n of this act amending this
ll take effect January first,
ndred eighty-six and then
event that the amendments to
tion of the state of New York
the loan of money of the state
corporation created to make
as to non-profit corporations
re construction of new indus-
ufacturing plants in this state
ision, rehabilitation or im-
of former industrial or manu-
ants or other eligible business
this state to the extent of sixty
of the project cost and autho-
egislature to make the state
e payment of the principal of
on bonds of a public corpo-
ed to make secured loans to
corporations to finance the
of new industrial or manu-
ants in this state or the acqui-
bilitation or improvement of
ustrial or manufacturing
is state in a principal amount
d six hundred million dollars
f such public corporation is-
icipation of such bonds, which
ed by the legislature in the
en hundred eighty-four and
l by the legislature in the year
ndred eighty-five, is approved
y the people at the general
be held in the year nineteen
hty-five."

posed amendment to the Con-
ferred to in the preceding
was approved by the people at
election on Nov. 5, 1985.

94 legislation

594, § 2, provides:

shall take effect January first,
ndred eighty-two and then
event that the amendment to

the constitution of the state of New York
authorizing the legislature to make the
state liable for the payment of the princi-
pal of and interest on bonds of a public
corporation created to make secured
loans to non-profit corporations to fi-
nance the construction of new industrial
or manufacturing plants in this state or
the acquisition, rehabilitation or improve-
ment of former industrial or manufactur-
ing plants in this state in a principal
amount not to exceed three hundred mil-
lion dollars and notes of such public cor-
poration issued in anticipation of such
bonds, which was proposed by the legis-
lature in the year nineteen hundred
eighty and was adopted by the legislature
in the year nineteen hundred eighty-one,
is approved or ratified by the people at
the general election to be held in the year
nineteen hundred eighty-one."

The proposed amendment to the Con-
stitution referred to in the preceding
paragraph was approved by the people at
the general election on Nov. 3, 1981.

L.1979, c. 274 legislation

L.1979, c. 274, § 1, purported to
amend subd. 1 by substituting in cl. (a)
"three hundred million" for "one hun-
dred fifty million" effective Jan. 1, 1980
upon the approval by the people at the
general election in November 1979 of an
amendment to the constitution authoriz-
ing the legislature to make the State li-
able on bonds to finance construction of
new industrial and manufacturing plants
in the State. The proposed amendment
was rejected at the election on Nov. 6,
1979.

L.1969, c. 633 legislation

L.1969, c. 633, § 3, provides:

"This act shall take effect January first
nineteen hundred seventy and then only
in the event that the amendment to the
constitution of the state of New York re-
numbered section seven of article ten
thereof and authorizing the legislature to
make the state liable for the payment of

Title 8

the principal of and interest on bonds of a public corporation created to make secured loans to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or for the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state in a principal amount of not to exceed one hundred fifty million dollars outstanding at any one time and notes of such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty-eight, is adopted by the legislature in the year nineteen hundred sixty-nine and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-nine."

The proposed amendment to the Constitution referred to in the preceding paragraph was approved by the people at the general election on Nov. 4, 1969.

L.1967, c. 745 legislation

Subd. 1 was also amended by L.1966, c. 356 and L.1967, c. 745 contingent upon the approval of proposed amendments to Const. Art. 10 at the general elections on Nov. 8, 1966 and Nov. 7, 1967. The proposed amendments were not approved by the people, hence said amendments did not become effective.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the

constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof adding a new section seven to article seven thereof, authorizing the loan of the principal of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a local problem, and authorizing the legislature to make the state liable for the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed one hundred million dollars and notes to such corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty-one is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1812 was renumbered as Public Authorities Law § 1212.

Library References

- States ¶84, 148.
- Westlaw Topic No. 360.
- C.J.S. States §§ 254 to 257, 437, 443 to 445.

§ 1813. Guaranty by the state

To the extent authorized by the constitution at the time of the issuance of the special purpose bonds or notes of the authority, the punctual payment of such special purpose bonds and notes shall be and the same hereby is, fully and unconditionally guaranteed by the state, both as to principal and interest, according to their terms; and such guaranty shall be expressed upon the face thereof by the signature or facsimile signature of the comptroller or a de

Comptroller. In the event that the authority shall fail to pay when due, the principal of, or interest on, such special purpose bonds or notes, the comptroller shall set apart from the first revenues thereafter received, applicable to the general fund of the state, a sum sufficient to pay such principal or interest, as the case may be, and shall so apply the moneys thus set apart and thereupon the state shall be subrogated to the rights of the bondholders or noteholders so far as they are concerned. The comptroller may be required to set aside and apply such revenues as aforesaid, at the suit of any holder of such bonds or notes.

(Added L.1961, c. 443, § 2.)

Historical and Statutory Notes

1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of paragraph eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the monies of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial manufacturing plants in this state for the acquisition, rehabilitation or improvement of former industrial plants in certain areas of the state in which unemployment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1813 was renumbered as Public Authorities Law § 1213.

Library References

- Am. Jur. 2d, § 84, 160.
- Westlaw Topic No. 360.
- U.S. States §§ 254 to 257, 440.

Research References

Encyclopedias

- Am. Jur. 2d, Interest and Usury § 23, Contracts to Pay Interest — Construction of Contract.
- Am. Jur. 2d, Public Funds § 10, Duties, Generally — Payment of Interest.
- Am. Jur. 2d, Contracts § 215, Necessity of Construction; Plain or Ambiguous Language — Determining Whether Contract is Ambiguous.

NEW YORK JOB DEVELOPMENT

Title 8

Notes of Decisions

Interest 1

1. Interest

Term "effective cost of funds" in interest rate provision of Job Development Authority (JDA) loan agreement was unambiguous, and included interest JDA had to pay to bondholders, cost of issuing the bond, and cost of defaults by borrow-

ers who received loans from proceeds; loss engendered by defaulters was a readily perceivable any lender, which JDA was consider in calculating interest charged to borrower. R/S A: New York Job Development 2002, 98 N.Y.2d 29, 744 N.Y.2d 771 N.E.2d 240, reargument N.Y.2d 693, 747 N.Y.S.2d N.E.2d 1291. Interest ⇌ 36(1

§ 1814. Loans and loan guarantees for machinery and equipment

1. Notwithstanding any other provisions of this title, the authority may make loans to local development corporations to finance the cost of machinery and equipment, provided,

(a) that the amount of such loan shall not exceed forty percent of the cost of such machinery and equipment, except as provided in paragraph (b) of subdivision two of section eighteen hundred and one and paragraph (a) of subdivision seven of section eighteen hundred and twenty-three of this chapter;

(b) that the loan shall be evidenced by a bond, note or other obligation of a local development corporation, a project occupant, other person, firm or corporation and secured by a security instrument, chattel paper, loan agreement, or such other instruments or documents deemed necessary or convenient to perfect a security interest in the machinery and equipment financed and to protect the interests of the authority; and

(c) that such security interest taken by the authority shall be subordinate, but may be a participating interest which, when added to the security interest of other lenders, does not exceed ten percent of the cost of such machinery and equipment.

2. Notwithstanding any other provisions of this title, the authority may issue a loan guarantee to a banking organization to finance the cost of machinery and equipment, provided,

(a) that the amount of the loan guarantee shall not exceed ten percent of the amount of the cost of the machinery and equipment and

(b) that the loan of the banking organization shall be evidenced by a bond, note or other obligation of a project occupant, other person, firm or corporation and secured by a security instrument, chattel paper, loan agreement, or such other instruments or documents deemed necessary or convenient by the authority to

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interest in the machinery and equipment financed and to the interests of the authority.

L.1978, c. 631, § 13; amended L.1980, c. 348, § 13; L.1992, c. 839,

Historical and Statutory Notes

348 legislation

c. 348, § 25, eff. June 19, 1980,

section, subdivision, paragraph, clause or provision of this act application thereof shall be invalid, such judgment shall not invalidate any other section, subparagraph, sentence, clause or of this act."

n

§ 1814, added L.1974, c. 1045, repealed by L.1978, c. 631, § 13.

Former Sections

Former § 1814, relating to loans and guarantees for machinery or equipment, was added L.1974, c. 1045, § 6, and repealed by L.1978, c. 631, § 13.

Former § 1814, added L.1961, c. 443, § 1, and repealed by L.1962, c. 502, § 9, related to pledges of revenue for special purpose bonds.

A prior § 1814 was renumbered as Public Authorities Law § 1214.

Library References

s 84, 124.

law Topic No. 360.

. States §§ 254 to 257, 374 to 376.

Research References

edias

rr. 2d, Public Funds § 73, Expenditures.

5. Special purpose funds

he following shall constitute special purpose funds of the ty and shall, except as provided in paragraph (g) of subdivi- o of this section, be kept separate and apart from all other f the authority: (a) the proceeds of sale of special purpose nd notes, (b) any moneys made available by the state for the s of this subtitle only, (c) any moneys made available to the y for the purposes of this subtitle only from any other source es, including, without limitation, any federal agency, (d) any received by the authority as payments on account of loans n guarantees made by the authority pursuant to this subtitle r moneys now on hand or hereafter received by the authority nents on account of mortgage loans heretofore made by the y pursuant to subtitle three, (e) any fees, charges or other received by the authority in respect of projects assisted by ority pursuant to this subtitle or on account of applications ; (f) any income or interest earned by, or increment to, any

Title 8

special purpose funds due to the investment thereof, and (g) the proceeds of the sale of general purpose bonds or notes heretofore issued; provided, however, amounts received by the authority in respect of loan guarantees, issued or to be issued, shall be kept separate and apart from all other funds of the authority in a special purpose loan guarantee insurance fund as provided in subdivision three of this section.

2. Subject to the terms of any agreement with special purpose bondholders and noteholders, special purpose funds may be used by the authority only (a) to make mortgage loans to local development corporations for costs of projects and loans for machinery and equipment as provided in section eighteen hundred fourteen hereof to improve employment opportunities in any area of the state, (b) to pay the expenses of the authority referred to in clause (i) of subdivision one of section eighteen hundred twenty-eight of this title, (c) to repay advances from the state for use as special purpose funds in accordance with any provision of law or repayment agreement between the authority and the director of the budget, (d) to pay the principal and redemption price of or interest on special purpose bonds or notes, (e) to purchase special purpose bonds or notes, (f) to pay the principal and redemption price of or interest on any general purpose bonds or notes heretofore issued, (g) to make deposits in the special purpose loan guarantee insurance fund created by paragraph a of subdivision three of this section, or (h) in connection with projects financed with special purpose funds to exercise any of the powers conferred in this title.

3. Special purpose loan guarantee insurance fund.

a. There is hereby created a special purpose loan guarantee insurance fund for special purpose funds in respect of loan guarantees which shall be kept separate and apart from all other funds of the authority.

b. The authority is hereby directed and authorized to charge the following expenses against the special purpose loan guarantee insurance fund:

(i) any expenses which are clearly attributable, in the opinion of the authority, to the exercise of any of the authority's powers in respect of loan guarantees issued or reasonably expected to be issued;

(ii) any payments and all expenses attendant thereto which are required to be paid by the authority because of a default in the payment or in the other terms of a loan guaranteed by the authority;

(iii) all expenses and payments for the protection of the authority's interests in connection with defaulted or delinquent loans guaranteed by the authority, or in property possessed in consequences thereof;

(iv) all amounts required in the opinion of the authority to be set aside to provide a reasonable reserve for losses expected to be incurred by the authority as a result of defaults or expected defaults in the terms and payment of loans guaranteed by the authority;

(v) all amounts required to repay advances from the state for use as special purpose funds in respect of loan guarantees in accordance with any provision of law or repayment agreement between the authority and the director of the budget;

(vi) all amounts required to pay the principal and redemption price of or interest on special purpose bonds and notes specially issued for the purpose of providing funds to the special purpose loan guarantee insurance fund; and

(vii) all amounts required to purchase special purpose bonds or notes issued for the purpose of providing funds to the special purpose loan guarantee insurance fund.

c. The following shall constitute special purpose funds in respect of a loan guarantee:

(i) the proceeds of the issuance and sale of special purpose bonds and notes issued for the purpose of providing funds to the special purpose loan guarantee insurance fund;

(ii) any moneys made available by the state for the purposes of providing funds to the special purpose loan guarantee insurance fund and any other moneys made available for the purpose of providing funds to the special purpose loan guarantee insurance fund from any other source or sources, including, without limitation, any federal agency;

(iii) any moneys received in respect of loan guarantees including amounts received as loan guarantee insurance premiums or fees, or assets or property of any kind or nature received by the authority as a result of a default or delinquency with respect to loans guaranteed by the authority including the proceeds from the sale, disposal, lease or rental of real or personal property which the authority may receive in respect of a loan guarantee;

(iv) any moneys deposited in the special purpose loan guarantee insurance fund pursuant to paragraph (g) of subdivision two of this section.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 10; L.1966, c. 355, § 8; L.1966, c. 438, § 1; L.1974, c. 1045, § 7; L.1978, c. 631, §§ 14, 15; L.1980, c. 348, §§ 14-16; L.1984, c. 508, §§ 4, 5.)

Historical and Statutory Notes

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

L.1966, c. 355 legislation

L.1966, c. 355, § 14, provides:

"This act shall take effect January first, nineteen hundred sixty-seven and then only in the event that the amendment to section eight of article seven of the constitution of the state of New York in relation to providing that the legislature's power to authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state shall be extended so as to permit such loan of money to provide improved employment opportunities in any area of the state, rather than only in the areas of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hundred sixty-six and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-six."

The proposed amendment to the Constitution, referred to in the preceding paragraph, was approved by the people at the general election on Nov. 8, 1966.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1815 was renumbered as Public Authorities Law § 1215.

Legislative Histories

L.1984, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Library References

States ¶84, 127, 129.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 386 to 387, 390 to 417.

Research References

Encyclopedias

NY Jur. 2d, Public Funds § 73, Expenditures.

§ 1816. Rate of interest

Any loan made by the authority with special purpose funds shall bear interest at such rate as the authority may determine but such rate shall not be less than a rate which is one percent below the average annual net interest cost to the authority, as determined by the authority, on special purpose bonds the proceeds of which, in the opinion of the authority, are available to make such loan, or if no such proceeds are then available in a sufficient amount to make such loan, the average annual net interest cost to the authority, as determined by the authority not more than six months previous to the making of such loan, which would have been incurred by the authority on special purpose bonds having an average maturity of twenty years if such bonds had been issued on a date within thirty days of such determination. The rental or other amount required to be paid by a project occupant or by a business enterprise described in section eighteen hundred twenty-seven to a local development corporation under a lease or other agreement for use of the said project shall include an interest element computed at such rate as the authority shall determine but such rate shall not be less than the interest rate charged by the authority to the local development corporation in accordance with the preceding sentence of this section.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 11; L.1963, c. 412, § 9; L.1966, c. 355, § 9; L.1970, c. 937, § 2; L.1974, c. 1045, § 8.)

Historical and Statutory Notes

L.1966, c. 355 legislation

L.1966, c. 355, § 14, provides:

"This act shall take effect January first, nineteen hundred sixty-seven and then only in the event that the amendment to section eight of article seven of the constitution of the state of New York in relation to providing that the legislature's power to authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state shall be extended so as to permit such loan of money to provide improved

employment opportunities in any area of the state, rather than only in the areas of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hundred sixty-six and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-six."

The proposed amendment to the Constitution, referred to in the preceding paragraph, was approved by the people at the general election on Nov. 8, 1966.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

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"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the pay-

ment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1816 was renumbered as Public Authorities Law § 1216.

Library References

Interest ⇨31.

States ⇨84, 124.

Westlaw Topic Nos. 219, 360.

C.J.S. Interest and Usury; Consumer Credit § 37.

C.J.S. States §§ 254 to 257, 374 to 376.

SUBTITLE III—FINANCIAL ASSISTANCE FROM POLLUTION CONTROL FUNDS

Section

- 1817. Application of subtitle.
- 1818. Pollution control bonds and notes.
- 1819. State not liable on pollution control bonds and notes.
- 1820. Pollution control funds.
- 1821. Rate of interest to project occupant.

§ 1817. Application of subtitle

Subject to the provisions of sections eighteen hundred twenty-two and eighteen hundred twenty-three of this title, the authority shall have the power and is hereby authorized to make loans with pollution control funds pursuant to this subtitle to local development corporations for costs of projects located in any area of the state for the acquisition, construction, rehabilitation or improvement of pollution control facilities.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 12; L.1966, c. 355, § 10; L.1968, c. 744, § 1; L.1973, c. 674, § 12.)

Historical and Statutory Notes

1966, c. 355 legislation

1966, c. 355, § 14, provides:

"This act shall take effect January first, nineteen hundred sixty-seven and then only in the event that the amendment to section eight of article seven of the constitution of the state of New York in relation providing that the legislature's power authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state shall be extended so as to permit the loan of money to provide improved employment opportunities in any area of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hundred sixty-six and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-

one proposed amendment to the Constitution, referred to in the preceding paragraph, was approved by the people at the general election on Nov. 8, 1966.

1961, c. 443 legislation

1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the

constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1817 was renumbered as Public Authorities Law § 1217.

Library References

States ¶84, 124.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 374 to 376.

Research References

Encyclopedias

NY Jur. 2d, Public Funds § 73, Expenditures.

818. Pollution control bonds and notes

The authority shall have the power and is hereby authorized to issue bonds in series from time to time (a) pollution control

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bonds in the aggregate principal amount of not exceeding seventy-five million dollars, excluding pollution control bonds issued to refund outstanding pollution control bonds, and (b) pollution control notes in anticipation of the issuance of such pollution control bonds.

2. The authority shall have power from time to time to renew pollution control notes or to issue pollution control renewal notes for such purpose, to issue pollution control bonds to pay pollution control notes, and whenever it deems refunding expedient, to refund any pollution control bonds by the issuance of new pollution control bonds, whether the bonds to be refunded have or have not matured, and may issue pollution control bonds partly to refund pollution control bonds then outstanding and partly for the purposes specified in this subtitle. The bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

3. The holders of pollution control bonds and notes shall have the following rights and remedies, subject to the terms of the resolution authorizing such bonds and notes or any trust indenture, secured loan agreement or other instrument related thereto.

a. In the event that the authority shall default in the payment of principal of or interest on any issue of pollution control bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any contract made with the holders of any issue of pollution control bonds or notes, the holders of twenty-five per cent in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk in the county of Albany and approved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided

b. Such trustee may, and upon written request of the holders of twenty-five per cent in principal amount of such bonds or notes then outstanding shall, in his or its own name:

(i) by mandamus or other suit, action or proceeding at law or in equity enforce all rights of the pollution control bondholders or noteholders, including any right to require the authority to collect revenues adequate to carry out the provisions of any agreement with the holders of such bonds or notes and to perform its duties under this title;

(ii) bring suit upon such bonds or notes;

(iii) by action or suit in equity, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(iv) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(v) subject to the provisions of subdivision four of section eighteen hundred five of this title, declare all such bonds or notes due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per cent of the principal amount of such bonds or notes then outstanding, to annul such declaration and its consequences.

c. Such trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the pollution control bondholders or noteholders in the enforcement and protection of their rights.

d. The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of such bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county of Albany.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, §§ 13, 14; L.1965, c. 409; L.1973, c. 674, § 13.)

Historical and Statutory Notes

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1818 was renumbered as Public Authorities Law § 1218.

Library References

es ⇨84, 144, 148, 168.
 tlaw Topic No. 360.
 S. States §§ 254 to 257, 434 to 435, 437, 443 to 445.

9. State not liable on pollution control bonds and notes

state shall not be liable on pollution control bonds and notes of
 thority, and such bonds and notes shall contain on the face
 f a statement to that effect.

L.1961, c. 443, § 2; amended L.1973, c. 674, § 14.)

Historical and Statutory Notes

c. 443 legislation

L. 1961, c. 443, § 5, provides:

act shall take effect January first,
 1962, and then only after the
 event that the amendment to the
 tion of the state of New York
 a new paragraph at the end of
 eight of article seven thereof and
 a new section seven to article ten
 authorizing the loan of the mon-
 ie state to a public corporation to
 nized, among other things, for the
 e of making loans, under certain
 ons, to non-profit corporations to
 the construction of new industri-
 anufacturing plants in this state
 acquisition, rehabilitation or im-
 ent of former industrial plants in
 te, to provide additional employ-
 1 those areas of the state in which
 loyment is or may become a criti-
 blem, and authorizing the legisla-

ture to make the state liable for the pay-
 ment of the principal of and interest on
 bonds of such a public corporation in a
 principal amount of not to exceed fifty
 million dollars and notes to such public
 corporation issued in anticipation of such
 bonds, which was proposed by the legis-
 lature in the year nineteen hundred sixty,
 is adopted by the legislature in the year
 nineteen hundred sixty-one and approved
 and ratified by the people at the general
 election to be held in the year nineteen
 hundred sixty-one."

The proposed amendment to the Con-
 stitution referred to in the preceding
 paragraph, was approved by the people
 at the general election on Nov. 7, 1961.

Former Sections

Former § 1819 was renumbered as
 Public Authorities Law § 1219.

Library References

ates ⇨84, 144, 147.
 estlaw Topic No. 360.
 U.S. States §§ 254 to 257, 434 to 435, 437, 443 to 445.

20. Pollution control funds

The following shall constitute pollution control funds of the
 uthority and shall be kept separate and apart from all other funds of
 uthority: (a) the proceeds of sale of pollution control bonds and
 (b) any moneys appropriated and made available by the state
 ie purposes of this subtitle only, (c) any moneys made available
 e authority for the purposes of this subtitle only from any other
 e or sources, (d) any moneys received by the authority as

yments on account of loans made by the authority pursuant to this subtitle, (e) any fees, charges or other moneys received by the authority in respect of projects assisted by the authority pursuant to this subtitle or on account of applications therefor, and (f) any income or interest earned by, or any increment added to, any pollution control funds due to the investment thereof.

2. The authority shall further create and establish a separate fund to be known as the "pollution control capital reserve fund" and shall contribute into such capital reserve fund (1) any moneys apportioned and provided by the state for the purposes of such fund pursuant to subdivision two of section eighteen hundred twenty-eight of this title, (2) any proceeds of sale of pollution control bonds or notes to the extent provided in the resolution of the authority authorizing the issuance thereof, (3) any pollution control funds directed to be transferred by the authority to such capital reserve fund, and (4) any other moneys which may be made available to the authority for the purposes of such fund from any other source or sources.

The moneys credited to such pollution control capital reserve fund shall be used, except as hereinafter provided, solely for the payment of the principal of pollution control bonds of the authority, as the same mature, the purchase of pollution control bonds, the payment of interest on pollution control bonds, and the payment of principal and any redemption premium required to be paid upon a redemption of such bonds prior to maturity; provided, however, that moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all pollution control bonds of the authority then outstanding, except for the purpose of paying the principal of and interest on the pollution control bonds of the authority maturing and becoming due for the payment of which other moneys of the authority are not available.

Moneys in the pollution control capital reserve fund not required for immediate use or disbursement may be invested in accordance with all the otherwise consistent provisions of section ninety-eight-a of the state finance law. In computing the amount of the pollution control capital reserve fund for the purposes of this section, securities in which all or a portion of such fund are invested shall be valued at par or, if purchased at less than par, at their cost to the authority. The authority shall not issue pollution control bonds at any time secured by the pollution control capital reserve fund if the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the pollution control bonds then to be

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and on all other pollution control bonds of the authority then outstanding will exceed the amount of the pollution control capital reserve fund at the time of issuance unless the authority, at the time of issuance of such pollution control bonds, shall deposit in such form from the proceeds of the pollution control bonds to be issued, or otherwise, an amount which, together with the amount then in such form, will be not less than the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all pollution control bonds then to be issued and on all other pollution control bonds of the authority then outstanding.

Any excess in the pollution control capital reserve fund at the close of any fiscal year of the authority over the maximum amount of the principal and interest maturing and becoming due in any succeeding calendar year on all pollution control bonds of the authority then outstanding shall be withdrawn by the authority from said capital reserve fund and, subject to the provisions of subdivision four of section eighteen hundred twenty-eight of this title, used as pollution control funds.

Subject to the terms of any agreement with pollution control bondholders and noteholders, pollution control funds may be used by the authority (a) to make loans to local development corporations for the construction of projects specified in section eighteen hundred seventeen in any area of the state, (b) to pay the expenses of the authority referred to in any of the clauses of subdivision one of section eighteen hundred twenty-eight of this title, (c) to make payments to the pollution control capital reserve fund, (d) to repay advances from the reserve fund for use as pollution control funds in accordance with any provision of law or repayment agreement between the authority and the director of the budget, (e) to pay the principal and redemption interest of or interest on pollution control bonds or notes, (f) to purchase pollution control bonds or notes, or (g) in connection with projects financed with pollution control funds to exercise any of the powers conferred in this title. Investment proceeds and repayments on borrowings credited to the pollution control fund may, to the extent that they are not required pursuant to the preceding sentence of this subdivision, be used for other purposes of the authority. (Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 15; L.1966, c. 355, § 1; L.1966, c. 438, § 2; L.1968, c. 744, § 2; L.1973, c. 674, § 15; L.1976, c. 88, § 16; L.1982, c. 374, § 2.)

Historical and Statutory Notes

1966, c. 355 legislation
L.1966, c. 355, § 14, provides:

"This act shall take effect January first, nineteen hundred sixty-seven and then

only in the event that the amendment to section eight of article seven of the constitution of the state of New York in relation to providing that the legislature's power to authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state shall be extended so as to permit such loan of money to provide improved employment opportunities in any area of the state, rather than only in the areas of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hundred sixty-six and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-six."

The proposed amendment to the Constitution, referred to in the preceding paragraph, was approved by the people at the general election on Nov. 8, 1966.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of

section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1820 was renumbered as Public Authorities Law § 1220.

Library References

- States 84, 127.
- Westlaw Topic No. 360.
- C.J.S. States §§ 254 to 257, 386 to 387.

Research References

Encyclopedias

- NY Jur. 2d, Public Funds § 73, Expenditures.

§ 1821. Rate of interest to project occupant

Any loan made by the authority pursuant to this subtitle to a local development corporation for a project shall bear interest at such rate as the authority may determine but such rate shall not be less than the average annual net interest cost to the authority, as determined

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e authority, on pollution control bonds the proceeds of which
inion of the authority, are available to make such loan, or i
proceeds are then available in a sufficient amount to make s
the average annual net interest cost to the authority, as d
d by the authority not more than six months previous to
ng of such loan, which would have been incurred by the auth
pollution control bonds having an average maturity of tw
if such bonds had been issued on a date within thirty day
determination. The rental or other amount required to be j
project occupant to a local development corporation und
or other agreement for use of the said project shall includ
est element computed at such rate as the authority shall d
but such rate shall not be less than the interest rate charge
authority to the local development corporation in accord
the preceding sentence of this section.

ed L.1961, c. 443, § 2; amended L.1962, c. 502, § 16; L.1963, c.
L.1973, c. 674, § 16.)

Historical and Statutory Notes

1, c. 443 legislation

1961, c. 443, § 5, provides:

his act shall take effect January first,
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ie acquisition, rehabilitation or im-
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state, to provide additional employ-
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employment is or may become a criti-
problem, and authorizing the legisla-

ture to make the state liable for the
ment of the principal of and intere
bonds of such a public corporation
principal amount of not to exceed
million dollars and notes to such
corporation issued in anticipation of
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is adopted by the legislature in the
nineteen hundred sixty-one and app
and ratified by the people at the ge
election to be held in the year nin
hundred sixty-one."

The proposed amendment to the
stitution referred to in the prec
paragraph, was approved by the p
at the general election on Nov. 7,

Former Sections

Former § 1821 was renumbered
Public Authorities Law § 1221.

Library References

Interest ⇨31.

States ⇨84, 124.

Westlaw Topic Nos. 219, 360.

C.J.S. Interest and Usury; Consumer Credit § 37.

C.J.S. States §§ 254 to 257, 374 to 376.

SUBTITLE III-A—FINANCIAL ASSISTANCE FROM
LIMITED OBLIGATION [REPEALED]

§§ 1821-a, 1821-b. Repealed. L.1984, c. 508, § 7, eff. July
23, 1984]

Historical and Statutory Notes

Section 1821-a, added L.1980, c. 348,
§ 17; amended L.1980, c. 350, § 1, au-
thorized limited obligation bonds and
notes of the authority. See Public Au-
thorities Law § 1835-d.

Section 1821-b, added L.1980, c. 348,
§ 17, exempted the state from liability on
limited obligation bonds and notes of the
authority. See Public Authorities Law
§ 1835-e.

SUBTITLE IV—FINANCIAL ASSISTANCE GENERALLY

Section

- 822. Loans to local development corporations.
- 823. Further restrictions on loans and loan guarantees.
- 824. Applications for loans and for loan guarantees.
- 825. Local development corporations.
- 826. The project occupant.
- 827. Loans for multi-tenant facilities.

§ 1822. Loans to local development corporations

a. No mortgage loan shall be made by the authority under the provisions of subtitle II with respect to a project unless: (1) the local development corporation has obtained firm commitments satisfactory to the authority from responsible financial sources, which may but need not include a federal agency or the project occupant, for the total project cost exclusive of any loan requested from the authority, (2) the local development corporation has obtained a firm commitment satisfactory to the authority from the project occupant or from a business enterprise described in section eighteen hundred twenty-seven to lease or use the project after construction, acquisition, rehabilitation or improvement is completed, (3) the authority approves the terms of such lease or use and is satisfied that the project occupant or a business enterprise described in section eighteen hundred twenty-seven may reasonably be expected to comply with the terms thereof, (4) the principal amount of such loan is forty percent or less of the project cost, except as set forth in paragraphs (a) and (b) of subdivision two of section eighteen hundred three and paragraph (a) of subdivision seven of section eighteen hundred twenty-three of this chapter, (5) such loan is secured by a mortgage on the project, and (6) such mortgage is not a junior encumbrance on the project by more than fifty percent of the project cost.

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b. No loan shall be made by the authority under the provisions of subtitle III with respect to a project unless: (1) the local development corporation has obtained firm commitments satisfactory to the authority from responsible financial sources, which may but need not include a federal agency or the project occupant, for the total project cost exclusive of any loan requested from the authority, (2) the local development corporation has obtained a firm commitment satisfactory to the authority from the project occupant to lease or use the project after construction, acquisition, rehabilitation or improvement is completed, (3) the authority approves the terms of such lease or use and is satisfied that the project occupant may reasonably be expected to comply with the terms thereof, (4) the amount of such loan is ninety per cent or less of the project cost and the term of such loan is twenty years or less, (5) the authority finds that the facilities to be financed through the loan are intended to meet or exceed applicable state or federal requirements to abate, prevent or control a pollution, and the commissioner of environmental conservation approves the construction plans for any such facilities.

c. No loan shall be guaranteed by the authority with respect to a project unless: (1) the project occupant has obtained firm commitments satisfactory to the authority from banking organizations for the financing of the project cost exclusive of the amount to be provided by the project occupant, (2) the authority is satisfied that the project occupant may be reasonably expected to comply with the terms of any loan for which a guarantee is sought, (3) the amount of the guarantee is eighty percent or less of the project cost, (4) the loan is secured by a mortgage or security instrument which is not a junior encumbrance on the project.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 17; L.1970, c. 937, § 3; L.1973, c. 674, § 17; L.1974, c. 1045, § 9; L.1978, c. 631, § 16; L.1980, c. 348, §§ 18, 19; L.1992, c. 839, § 7.)

Historical and Statutory Notes

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the

purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a

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principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding

paragraph, was approved by the people at the general election on Nov. 7, 1961.

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

Library References

States Ⓒ84, 124.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 374 to 376.

Research References

Forms

McKinney's Forms, Not-For-Profit Corp. Law § 1411 Form 1. Certificate of Incorporation of Local Development Corporation.

Notes of Decisions

Prior encumbrances 1

1. Prior encumbrances

Obligation to pay rent under lease constitutes prior encumbrance upon project

to which Authority's encumbrance would be junior and must be included in computation of amount of such prior encumbrances. 1965, Op.Atty.Gen. 53.

§ 1823. Further restrictions on loans and loan guarantees

In addition to other provisions of this title limiting the power of the authority to make loans to local development corporations in respect of a particular project, and to guarantee loans made by banking organizations, the following restrictions shall also apply:

1. No funds of the authority shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant or research and development facility or other eligible business facility of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the authority shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

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2. No funds of the authority shall be used in respect of any project if the authority would be required to operate, service or maintain the project pursuant to any lease or other agreement except upon foreclosure or except upon the occurrence of a default in the payment terms of any loan guaranteed by the authority, provided, however notwithstanding any other provision of this subtitle, the authority may take title to a project under a financing lease which does not require the authority to operate, service or maintain the project itself and which provides for payments in lieu of property taxes as approved by the local taxing jurisdiction which are equal to or less than any property taxes which would have been due had the authority taken title to the property. Nothing shall prevent the authority from transferring such property to the project occupant or its designee at the end of the term of such financing.

3. No funds of the authority shall be used for a project unless the applicant shows to the satisfaction of the authority that funds equal to the amount of the proposed loan from the authority are reasonably available from other sources at a comparable cost of borrowing.

4. No funds of the authority shall be used in violation of any further restrictions imposed by general rule or regulation of the authority in relation to assisted projects and the authority is hereby authorized to adopt rules and regulations containing such restrictions as it may deem necessary or appropriate to effectuate its corporate purposes.

5. No provision of this title shall prevent the inclusion in a mortgage, lease or other agreement relating to an assisted project of a provision granting the project occupant the right to purchase such project upon such terms and conditions as the authority may approve.

6. No funds of the authority shall be loaned or used for a project unless the applicant demonstrates to the authority that such project has a valid permit or permits for the following, when such permits are required pursuant to applicable federal, state or local law: the generation, treatment, storage and disposal of hazardous wastes; the discharge of pollutants into the waters of the state, or such a plant or facility is in violation thereof, that the project contemplated includes the elimination of any such violation or violations.

7. Loans in economically distressed areas and to companies in need of special assistance. (a) Loans by the authority pursuant to paragraphs (a) and (b) of subdivision two of section eighteen hundred

three of this chapter may exceed forty percent but shall not exceed sixty percent of the cost of the project for:

(i) projects which are or will be located in empire zones designated pursuant to article eighteen-b of the general municipal law or in areas that meet, in accordance with the most recent census data available, the following criteria:

(A) the area must have a poverty rate of at least twenty percent for the year to which the data relate; and

(B) the area must have an unemployment rate of at least one hundred twenty-five percent of the statewide unemployment rate for the year to which the data relate;

(ii) projects involving companies in need of special assistance as determined by the findings of the members of the authority that such companies are unable to obtain a sufficient amount of financing at prevailing market rates of interest for businesses of similar size in the same industry in New York state.

(b) In determining eligibility for loans involving companies in need of special assistance pursuant to subparagraph (ii) of paragraph (a) of this subdivision, the members of the authority shall consider:

(i) the applicant's potential for creating jobs in New York state;

(ii) the benefits derived from the project in the community in which the project is or will be located;

(iii) the interaction of a project with economic development programs administered by the department of economic development, the New York state urban development corporation and the New York state science and technology foundation;

(iv) the meaningful participation of minority and women-owned business enterprises and minority group members and women in a project;

(v) the degree to which the project will support apprenticeship training;

(vi) compliance with the provisions of section eighteen hundred twenty-six of this chapter with regard to the project occupant; and

(vii) in consultation with the department of economic development, the eligibility of the applicant for assistance under the industrial effectiveness program pursuant to article seven of the economic development law.

(c) In addition to the rules and regulations promulgated with regard to loans made by the authority under other provisions of this title, the members of the authority shall also promulgate rules and

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regulations pertaining to the loans made under subparagraphs (i) and (ii) of paragraph (a) of this subdivision by December first, nineteen hundred ninety-two.

(d) On an annual basis, the authority shall compile and publish:

(i) in consultation with the department of economic development, a listing of economically distressed areas as defined in subparagraph (i) of paragraph (a) of this subdivision.

(ii) the criteria for determining the eligibility of a project that is in need of special assistance under subparagraph (ii) of paragraph (a) of this subdivision.

(e) All otherwise applicable requirements and restrictions of this title shall apply to projects that are described in paragraph (a) of this subdivision, provided, however, that in the case of projects which involve the relocation of economic activity from another municipality within New York state, the authority shall also find that the project occupant has made reasonable efforts to carry out the project within the municipality from which the project occupant intends to move an industrial, or manufacturing plant, or research and development facility, or other eligible business facility.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 18; L.1966, c. 355, § 12; L.1973, c. 674, § 18; L.1974, c. 1045, § 10; L.1978, c. 631, § 17; L.1980, c. 348, §§ 20, 21; L.1983, c. 807, § 1; L.1991, c. 550, § 1; L.1992, c. 839, § 5.)

Historical and Statutory Notes

L.2000, c. 63 legislation

Pursuant to L.2000, c. 63, pt. GG, § 15, eff. May 15, 2000, the Legislative Bill Drafting Commission was directed to change the term "economic development zone", wherever appearing, to "empire zone".

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

L.1966, c. 355 legislation

L.1966, c. 355, § 14, provides:

"This act shall take effect January first, nineteen hundred sixty-seven and then only in the event that the amendment to section eight of article seven of the constitution of the state of New York in relation to providing that the legislature's power to authorize the loan of money of the state to a public corporation for the purpose of making secured loans to non-profit corporations to finance construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial or manufacturing plants in this state shall be extended so as to permit such loan of money to provide improved employment opportunities in any area of the state, rather than only in the areas of the state where unemployment is or may become a critical problem, which was proposed by the legislature in the year nineteen hundred sixty-five, is adopted by the legislature in the year nineteen hun-

ired sixty-six and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-six."

The proposed amendment to the Constitution, referred to in the preceding paragraph, was approved by the people at the general election on Nov. 8, 1966.

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industri-

al or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Library References

States ⇄84, 124.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 374 to 376.

Research References

Encyclopedias

NY Jur. 2d, Business Relationships § 1991, Loan Agreements.

§ 1824. Applications for loans and for loan guarantees

a. A local development corporation may request a loan from the authority pursuant to the provisions of this title by filing an application therefor, which shall be verified by an officer of the corporation duly authorized so to do, in such form and with such exhibits and supporting data as the authority may prescribe and by paying the fees or charges, if any, established by the authority to defray the cost of investigating and processing applications for loans and to the extent that the application contains information or representations provided to or made to the corporation by the project occupant or by a business enterprise described in section eighteen hundred twenty-seven of this title, such officer, in such application, shall, in a form to be prescribed by the authority, certify the nature of the corporation's review of such information and representations.

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1. A banking organization may request a loan guarantee from the authority pursuant to the provisions of this title by filing an application therefor, which shall be verified by an officer of the banking organization duly authorized to do so, in such form and with such exhibits and supporting data as the authority may prescribe and paying the fees or charges, if any, established by the authority. The authority may also pay the cost of investigating and processing applications for loan guarantees.

(Added L.1961, c. 443, § 2; amended L.1973, c. 674, § 19; L.1978, c. 48; L.1980, c. 348, § 22; L.1985, c. 482, § 8.)

Historical and Statutory Notes

1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York providing a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the monies of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to

finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a local problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in the principal amount of not to exceed one million dollars and notes to such corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred and one and adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7,

Library References

- States ⇨84, 124.
- Westlaw Topic No. 360.
- C.J.S. States §§ 254 to 257, 374 to 376.

1825. Local development corporations

To be eligible for loans from the authority, a local development corporation shall meet the following requirements in addition to those imposed by the provisions of this title:

1. The corporation shall (a) be incorporated or reincorporated under article nineteen of the membership corporations law

under section fourteen hundred eleven of the not-for-profit corporation law, or (b) be incorporated under article two of the membership corporations law,² or under article four of the not-for-profit corporation law, in addition to other purposes, to construct new industrial or manufacturing plants or new research and development buildings and acquire machinery and equipment deemed related thereto or acquire, rehabilitate, and improve for use by others, industrial or manufacturing plants in the area of the state in which an assisted project is to be located, to assist financially in such construction, acquisition, rehabilitation and improvement and to maintain such plants, buildings and equipment for others, and may also be authorized to study and promote, alone or in concert with local officials and interested local groups, the economic growth and business prosperity of the area and the solution of other civic problems of the region which includes such areas, and (c) if incorporated or reincorporated under the membership corporations law, have complied with the requirements of section one hundred thirteen of the not-for-profit corporation law.

2. The corporation shall have no member or employee thereof who owns beneficially more than five per cent of the capital stock of the project occupant, or of the business enterprise described in section eighteen hundred twenty-seven and if any member or employee of the corporation has any material financial interest in, is employed by, or is a consultant to any such project occupant or business enterprise or any other business enterprise including a bank or other lending institution having a material financial relationship with such project occupant or business enterprise, such member or employee shall fully disclose any such interest or involvement to the corporation and to the authority in such form and manner as the authority board shall prescribe and such member or employee shall not participate in any evaluation of, or decision concerning, an application pursuant to section eighteen hundred twenty-four of this title regarding such project applicant or business enterprise.

3. The corporation shall agree to be bound by the rules and regulations of the authority relating to assisted projects and the operations of local development corporations, including the use of the loan evaluation criteria and methods established by the authority pursuant to subdivision thirteen-b of section eighteen hundred four of this title and the criteria established by the authority pursuant to subdivision thirteen-c of section eighteen hundred four of this title, and shall submit to examination of its books of account and corporate records by the authority at such times as the authority may require during the term of any loan made to it by the authority.

corporation shall develop, promote and ensure that, where minority groups which traditionally have been disadvantaged women, are afforded equal opportunity for loans from the corporation and for contracts in connection with the construction of the projects financed by loans from the corporation; provided, however, that the corporation may request that the authority implement the provisions of this section.

(L.1961, c. 443, § 2; amended L.1963, c. 412, § 11; L.1970, c. 937, § 3, c. 674, § 20; L.1974, c. 1045, § 11; L.1985, c. 482, §§ 9, 10.)
 ; see, now, N-PCL § 1411.
 ; see, now, N-PCL §§ 201, 301, 302, 401 to 404.

Historical and Statutory Notes

2013 legislation

Amended to L.1963, c. 412,

and section three of section eighteen of the public authorities law repealed since it is applicable to public authorities corporations. Other references to public authorities corporations are being deleted since under existing law public authorities may not be incorporated on a non-profit basis."

2013 legislation

Section 443, § 5, provides:
 This section shall take effect January first, nineteen hundred sixty-two and then only if that the amendment to the constitution of the state of New York in the paragraph at the end of section seven thereof and in section seven to article ten authorizing the loan of the monies to a public corporation to be made, among other things, for the making loans, under certain conditions, to non-profit corporations for the construction of new industrial manufacturing plants in this state

or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1825 was renumbered as Public Authorities Law § 1350.

Library References

§ 124.
 New York Topic No. 360.
 New York States §§ 374 to 376.

The project occupant

The project occupant must be found by the authority to be financially responsible and presumptively able to comply with the terms

and conditions of any lease, mortgage or other agreement made by it with the authority or a local development corporation in respect of the project. In making this finding, the authority shall consider all information reasonably available to it, including information as to the business reputation of the project occupant, the character and ability of its management, the adequacy of its financial resources, the market demand for its products, the adequacy of its distribution methods, its past earnings and the likelihood that it can successfully meet any required payments under such lease, mortgage or other agreement out of current income.

Added L.1961, c. 443, § 2.)

Historical and Statutory Notes

..1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1826 was renumbered as Public Authorities Law § 1351.

Library References

States ¶84, 87.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 260.

§ 1827. Loans for multi-tenant facilities

When in the judgment of the authority a need exists for additional space for industrial, manufacturing, research and development use or other eligible business facilities in an area of the state, it may make a loan to a local development corporation or issue a loan guarantee to a banking organization to assist in financing a project for a business enterprise which proposes to lease the project to two

to be used for manufacturing, industrial or research purposes, or to be used as an eligible business and that the authority shall make a finding in lieu of the finding in section eighteen hundred twenty-six, that such enterprise is financially responsible and presumptively able to meet any lease, mortgage or other agreement made by it in connection with the project.

(L.1974, c. 937, § 1; amended L.1974, c. 1045, § 12; L.1978, c. 631, § 23.)

Historical and Statutory Notes

<p>Amendments § 25, eff. June 19, 1980, subdivision, paragraph, or provision of this act or thereof shall be ad- dressed judgment shall not be any other section, sub- paragraph, sentence, clause or section.</p>	<p>Former Sections Former § 1827, added L.1961, c. 443, § 2, and repealed by L.1966, c. 355, § 13, related to the limited power of condem- nation in critical economic areas. A prior § 1827 was renumbered as Public Authorities Law § 1352.</p>
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Library References

Public Law No. 360.
 §§ 374 to 376.

Research References

Forms, Not-For-Profit Corp. Law § 1411 Form 1. Certificate of Incorporation of Local Development Corporation.

SUBTITLE V—MISCELLANEOUS PROVISIONS

expenses and reserve funds.
 general trust fund administration.
 transmission of certain financial information.
 transmission of certain program information.
 cooperation and assistance from other state agencies.
 conveyance of state land.
 authority subject to certain other provisions of law.
 provisions.
 termination of the authority.
 not affected if in part unconstitutional or ineffective.
 inconsistent provisions of other acts superseded.

1828. Expenses and reserve funds

1. There shall be included in the financial information to be submitted annually by the authority pursuant to the provisions of section eighteen hundred twenty-nine of the public authorities law, and in the annual report referred to in said section, items separately showing the respective totals during the last completed fiscal year of the authority, of (i) all expenses of the authority clearly attributable to its operations under subtitle II of this title, (ii) all expenses of the authority clearly attributable to its operations under subtitle III of this title, and (iii) expenses of the authority not clearly attributable to any category set forth in clauses (i) and (ii) of this subdivision.

2. To assure the continued operation and solvency of the authority for the fulfillment of its corporate purposes with pollution control bonds, provision is made in subdivision two of section eighteen hundred twenty of this title for the accumulation in the pollution control capital reserve fund of an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on all pollution control bonds of the authority then outstanding. In order further to secure such maintenance of the pollution control capital reserve fund, there shall be annually apportioned and paid to the authority for deposit in the pollution control capital reserve fund such sum, if any, as shall be certified by the chairman of the authority to the governor and director of the budget as necessary to restore the pollution control capital reserve fund to an amount equal to the maximum amount of principal and interest maturing and becoming due in any succeeding calendar year on the pollution control bonds of the authority then outstanding. The chairman of the authority shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore the pollution control capital reserve fund to the amount aforesaid and the amount so stated in said certificate, if any, shall be apportioned and paid to the authority during the then current state fiscal year. No amount or amounts shall be apportioned and paid to the authority pursuant to this subdivision two until the authority has entered into a written agreement with the director of the budget providing for the repayment thereof to the state. Any such agreement shall provide, in lieu of any other provisions required by law regarding such repayment, that the authority will repay the state in full from pollution control funds the amount or amounts so apportioned and paid on the date one year after all pollution control bonds and notes of the authority outstanding at the date of such agreement or thereafter issued, together with the interest thereon, with interest

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unpaid installments of interest, and all costs and expenses incurred in connection with any action or proceeding by or on behalf of the authority, are fully met and discharged. The principal amount of bonds so secured by the pollution control capital reserve fund shall be paid from state funds are apportionable pursuant to this subdivision in proportion to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes issued after the effective date of this act to finance projects on the effective date of this act, as determined by the authority. The authority shall have the same powers and duties as the state public authorities control board created pursuant to section 10-101 of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes contained in this subdivision, but in no event shall the amount of bonds so secured by such a capital reserve fund exceed five million dollars, excluding bonds issued to refund outstanding bonds until the date of redemption of such bonds. As outstanding bonds so secured are paid, the amount of bonds so secured shall be reduced accordingly but the redemption of outstanding bonds from the proceeds of refunding shall not reduce the amount so secured.

The authority may make and enter into all such covenants and agreements with respect to accounting for or paying its expenses in connection with any of its bonds and notes, or of any issue thereon, as it deems to be necessary and desirable.

To assure the continued operation and solvency of the authority in the fulfillment of its corporate purposes, there shall be an annual appropriation to the authority such sum as shall have been appropriated by the legislature. The chairman of the authority shall annually report to the governor and director of the budget the amount of the appropriation and deliver to the governor and director of the budget on or before December first, nineteen hundred sixty-six and on or before the same day in each year thereafter, a certificate stating the amount of the appropriation estimated to be required for payment of or provision for the expenses of the authority for the next ensuing state fiscal year. The amount of the appropriation so stated for any such ensuing state fiscal year shall be sufficient to cover the amounts, if any, estimated for such fiscal year, by the authority for the payment of or provision for the expenses of the authority which special purpose expenses exceed pollution control available to the authority, and which special purpose expenses in respect of loans and guarantees exceed special purpose expenses in respect of loan guarantees exceed special purpose available revenues. The entire amount appropriated to the authority for each fiscal year for the expenses of the authority shall be paid to the authority not later than the tenth day of each such fiscal year. In this subdivision, (i) the term "expenses" for the fiscal year shall mean ordinary expenditures for operation and administration of the authority, including interest paid by the authority on its bonds.

es, and, in addition, such amounts as the authority may determine to be reasonable and necessary as a reserve against defaults on its bonds and as a reserve against defaults in the payment or terms of bonds guaranteed by the authority, but shall not include amounts required to be paid to the state under or pursuant to any written agreement entered into pursuant to subdivision two of this section, and (ii) the term "available revenues" for the fiscal year means all amounts received on account of loans (exclusive of principal repayments), and loan guarantees and applications therefor, and income interest earned or added to funds of the authority due to investment thereof, and not required under the terms or provisions of any covenant or agreement with holders of any bonds or notes of the authority to be applied to any purposes other than payment of expenses of the authority.

5. The members of the authority shall formulate a plan and policy and provide an expedited financial assistance process for fixed asset financing and other financing assistance programs provided by the authority for new businesses and expansions of existing businesses within areas designated as empire zones pursuant to article eighteen of the general municipal law.

(Added L.1961, c. 443, § 2; amended L.1962, c. 502, § 19; L.1966, c. 438, § 3-5; L.1968, c. 506, § 1; L.1968, c. 744, § 3; L.1973, c. 674, § 21; L.1976, c. 38, § 9; L.1978, c. 631, § 20; L.1980, c. 348, § 24; L.1984, c. 8, § 6; L.1986, c. 686, § 3.)

Historical and Statutory Notes

2000, c. 63 legislation

Pursuant to L.2000, c. 63, pt. GG, § 15, effective May 15, 2000, the Legislative Bill Drafting Commission was directed to change the term "economic development zone", wherever appearing, to "empire zone".

1986, c. 686 legislation

L.1986, c. 686, §§ 32, 33, provide:

"§ 32. If any provision of any section of this act or the application thereof to any person or circumstance shall be adjudged invalid by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of any section of this act or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this act are hereby declared to be severable.

"§ 33. This act shall take effect immediately [July 30, 1986], provided, however, that the amendment to the executive law made by section two of this act shall not affect the expiration of certain provisions contained therein as enacted by chapter seven hundred seventy of the laws of nineteen hundred seventy-eight, as last extended by chapter six hundred ninety-six [c. 698] of the laws of nineteen hundred eighty-four; sections six through twenty-two and twenty-five through thirty-two shall apply to taxable years beginning on or after January first, nineteen hundred eighty-six, provided, however, that the provisions contained in sections seven and fourteen of this act with respect to eighteen-year real property shall apply to taxable years ending after March fifteenth, nineteen hundred eighty-four, and the provisions contained in sections seven and fourteen of this act with respect to nineteen-year real property shall

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apply to taxable years ending after May eighth, nineteen hundred eighty-five; section twenty-three shall take effect on the first day of March, June, September or December first following the date on which this act shall have become a law [eff. July 30, 1986]."

L.1980, c. 348 legislation

L.1980, c. 348, § 25, eff. June 19, 1980, provides:

"If any section, subdivision, paragraph, sentence, clause or provision of this act or the application thereof shall be adjudged invalid, such judgment shall not affect or invalidate any other section, subdivision, paragraph, sentence, clause or provision of this act."

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the

purpose of making loans, under conditions, to non-profit corporations finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a local problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in the principal amount of not to exceed one million dollars and notes to such corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty-one and adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1828 was renumbered as Public Authorities Law § 1353.

Legislative Histories

L.1984, c. 508: For memorandum of the State Executive Department, see New York State Executive Department's 1984 Session Laws of New York, p. 3327.

Cross References

New York State Empire Zones, see General Municipal Law §§ 955 et. seq.

Library References

States 84, 127.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 386 to 387.

Research References

Encyclopedias

NY Jur. 2d, Public Funds § 73, Expenditures.

§ 1828-a. Federal trust fund administration

1. (a) Where the authority, in its capacity as a trustee or administrator of the Altech trust fund established pursuant to a grant

ment with the federal economic development agency, has, on or before March thirty-first, nineteen hundred ninety-five, entered into an agreement or agreements with any local development corporation, banking organization or public benefit corporation, or combination thereof, which obligates the authority to make payments from such trust fund for the purpose of paying or guaranteeing, in whole or in part, the cost of financing the construction of any facility the object of which is to promote economic development within the counties of Albany and Chautauqua, the authority, for the purpose of refinancing its payment obligations under such agreement or agreements, shall:

(i) pursuant to a memorandum of understanding executed with the subject county, purchase, lease or otherwise acquire such facility, including the site thereof, and sell, convey, lease, mortgage, pledge or otherwise dispose of such facility, together with the site thereof, upon such terms and conditions as the authority deems advisable, and in connection therewith, may borrow money from any banking organization and issue its notes or other obligations in evidence thereof and may pledge to the repayments of such obligations any funds of the authority legally available for such purposes;

(ii) pursuant to a repayment agreement executed with the federal economic development agency, replace Altech trust fund monies expended on activities deemed to be ineligible by the United States department of commerce; and

(iii) enter into any and all agreements as the authority shall deem necessary, convenient or desirable to carry out the powers conferred by subparagraph (a) of this subdivision.

(b)(i) Prior to the execution of a repayment agreement by the authority pursuant to paragraph (a) of this subdivision, the authority shall submit a plan to the federal economic development agency and to the director of the budget, and the chairs of the senate finance committee and the assembly ways and means committee, which provides for:

(A) the replacement by the authority of cash or other assets of the trust fund for the purposes of promoting economic development within the counties of Albany and Chautauqua;

(B) the development of a new revolving loan fund plan to provide for the investment of the trust fund for the promotion of economic development within such counties; and

(C) a schedule and strategy for the implementation of any federal administrative requirements governing the administration of the fund by the authority.

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a report submitted to the director of the budget, the senate finance committee and the assembly ways and means committee detailing the disposition by the authority of a fac payment of any funds and any amendments to the plan paragraph (a) of this subdivision.

Subject to the terms of any special purpose bondholder holders, the special purpose funds described in clause (g) of subdivision one of section eighteen hundred fifty title, to the extent that they are not required pursuant to subdivision two of such section, may also be used to pay or discharge any other obligation of the authority imposed thereon by the provisions of this section or by the provision of any contract executed in accordance with this section.

The authority shall annually submit to the director of the budget, and the chairs of the senate finance committee and the assembly ways and means committee for approval a resolution setting forth its responsibilities as a fiduciary agent and trustee of the fund. The authority administers on behalf of the federal government the authority administering on behalf of the federal government the authority administering on behalf of the federal government describing the terms and conditions of any financial assistance provided from such fund.

(added L.1994, c. 517, § 1.)

Library References

States 84, 118, 121.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 322 to 323, 351, 353 to 354, 372.

829. Submission of certain financial information

The authority shall submit to the governor, the chairman of the senate finance committee, the chairman of the assembly ways and means committee and the director of the budget, annually six months prior to the commencement of its fiscal year, (a) a copy of its strategic plan, for its next five fiscal years, adopted in accordance with the requirements of subdivision thirteen-a of section eighteen hundred four of this title; and (b) in such form or forms as prescribed by the director of the budget, financial information regarding its operations and loans setting forth its estimated income and expenditures and its loan activity for the current fiscal year and the current fiscal year of the authority, the previous fiscal year, income, expenditures and loan activity for the last fiscal year of the authority, (c) proposed changes, if any, in charges and fees in respect of project applications and loans and information regarding the manner in which, and the extent to

the authority's activities during the last completed fiscal year and during the first half of the current fiscal year have served to further the goals and objectives and achieve the operational targets set forth in the strategic plan adopted pursuant to subdivision thirteen-a of section eighteen hundred four of this title.

2. The annual report submitted by the authority pursuant to the provisions of section twenty-eight hundred of this chapter shall set forth, in addition to the items enumerated in such section, (a) a schedule of its loans which shall indicate the local development corporation through which financial assistance has been granted by the authority and the project occupant or business enterprise described in section eighteen hundred twenty-seven of this chapter for each assisted project, and information on the number of jobs projected to be created and the number projected to be retained by each of such assisted projects; and ¹, based on the latest information available to the authority, the number of jobs actually created to date and the number actually retained to date by each of such assisted projects; and

(b) a listing of all bond counsel, accountants and other private consultants engaged by the authority on a contract basis and a statement of the total amount paid and yet to be paid under each such contract; and

(c) a schedule of all disbursements and commitments provided by the authority from funds the authority administers on behalf of the federal government including:

(i) grants, loans and loan guarantees for all projects undertaken by the fund;

(ii) administrative and operating expenses charged to the fund;

(iii) transfers of moneys from the fund to other fund accounts of the authority; and

(iv) any and all other information that may be requested by the director of the budget, chair of the senate finance committee and chair of the assembly ways and means committee; and

(d) a schedule of all receipts and receivables received by the authority into the funds the authority administers on behalf of the federal government including:

(i) transfer of moneys to the fund from other fund accounts of the authority;

(ii) income received by the fund from loans, loan guarantees, charges and all other sources; and

y and all other information that may be requested by the of the budget, chair of the senate finance committee and he assembly ways and means committee.

1961, c. 443, § 2; amended L.1970, c. 937, § 5; L.1973, c. 674, 983, c. 838, § 11; L.1985, c. 482, § 11; L.1994, c. 517, § 2.)
 iginal. Text inadvertently omitted.

Historical and Statutory Notes

43 legislation

. 443, § 5, provides:

shall take effect January first, indred sixty-two and then only it that the amendment to the 1 of the state of New York ew paragraph at the end of ht of article seven thereof and ew section seven to article ten thorizing the loan of the mon- tate to a public corporation to ed, among other things, for the : making loans, under certain to non-profit corporations to : construction of new industri- ufacturing plants in this state uisition, rehabilitation or im- of former industrial plants in to provide additional employ- ose areas of the state in which nent is or may become a criti- m, and authorizing the legisla-

ture to make the state liable for the pay- ment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legis- lature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the genera- election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Con- stitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961

Former Sections

Former § 1829 was renumbered as Public Authorities Law § 1354.

Legislative Histories

§, c. 838: For memorandum of the State Executive Department, see McKin- ney's 1983 Session Laws of New York, p. 2695.

Library References

↻84, 121.
 aw Topic No. 360.
 States §§ 254 to 257, 322 to 323, 372.

)-a. Submission of certain program information

annual program report. The authority shall report on a basis beginning December thirty-first, nineteen hundred nine , and on each December thirty-first thereafter, to the gover- : speaker of the assembly and the temporary president of th- on each of the financial assistance programs, and for eac- n, each category of assistance administered by the authority ing each proposal for assistance through such program fo

h the authority has received a formal application or otherwise begun to undertake an analysis.

For those requests which are currently being evaluated but which have not yet been approved such description shall include, but not be limited to, the name and location of the applicant, the amount of assistance requested, the date of receipt of such request, and the results of such request.

(c) In providing such report, where necessary to promote the development of proposed projects, the authority may delete references to the specific names of the participants, instead making references to them in some other form so as to make it possible to identify the progress of specific proposals.

(d) Such report shall provide a breakdown, for each of the regions established pursuant to section two hundred thirty of the economic development law, of proposals for assistance through each program. In addition, such report shall summarize, by program, the data reported pursuant to this paragraph.

(e) For those requests which have been evaluated and for which no further action has been recommended, the corporation shall submit summary data indicating why no further action was taken.

(f) Such report shall include a description of the efforts and activities of the authority to meet the financing needs of economically distressed areas as described in paragraph (a) of subdivision seven of section eighteen hundred twenty-three of this chapter, and a description of the authority's efforts and activities with regard to companies in need of special assistance as described in such paragraph (a).

2. Evaluations. (a) In addition to any other requirements imposed by this chapter or otherwise regarding evaluations of programs administered by the authority, each evaluation shall include an analysis of the job creation effect of such program, the number of small businesses that received assistance, the number of minority and women-owned firms that received assistance, the number of projects undertaken in economically distressed areas as described in paragraph (a) of subdivision seven of section eighteen hundred twenty-two of this chapter, the number of projects involving companies in need of special assistance as described in such paragraph (a) and, if applicable, the repayment experience of borrowers of funds from the authority.

(b) The authority shall submit to the governor, the speaker of the assembly, and the temporary president of the senate an evaluation of each program prepared by an entity independent of the authority. Such evaluations shall be submitted by September first, nineteen

inety-four and by September first every four years thereaf-

1992, c. 839, § 8.)

Library References

1984, 121.

Topic No. 360.

Statutes §§ 254 to 257, 322 to 323, 372.

Cooperation and assistance from other state agencies

Department of economic development, the department of labor, the department of banking department, the department of state and all other agencies shall cooperate with and assist the authority in the attainment of its corporate purposes and in the exercise of its corporate powers under this title and may render such services to the authority within their respective functions as may be requested by the authority.

1961, c. 443, § 2; amended L.1975, c. 464, § 41; L.1990, c. 118,

Historical and Statutory Notes

1964 legislation

Transfer of functions, preservation of records, pending matters, rules and regulations, appropriations, and separability, Historical and Statutory Notes under Law § 152.

L. 464, § 57, provides:

It shall take effect immediately [1975] and shall have retroactive effect to April first, nineteen hundred and seventy-five with respect to all actions taken by the office for local government, the office of planning services, department of state, division of the budget, department of civil service in connection with the transfer of functions, termination of employees, transfer of employment, execution of payrolls, execution of and such other actions relating

section eight of article seven thereof and adding a new section seven to article ten thereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legislature to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

1961 legislation

L. 443, § 5, provides:

It shall take effect January first, nineteen hundred sixty-two and then only in that the amendment to the constitution of the state of New York shall contain a new paragraph at the end of

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1830 was renumbered as Public Authorities Law § 1355.

Legislative Histories

L.1990, c. 118: For memorandum of the Job Development Authority, see McKinney's 1990 Session Laws of New York, p. 2350.

Library References

States ⇄84.
Westlaw Topic No. 360.
C.J.S. States §§ 254 to 257.

§ 1830-a. Conveyance of state land

Notwithstanding section thirty-three of the public lands law the commissioner of general services shall have power, in his discretion, from time to time to grant and convey to the authority, upon such terms and conditions including consideration as the commissioner of general services may fix and determine, unappropriated state lands, lands under water, abandoned canal lands and salt springs lands which the authority shall certify to be in conformity with its corporate purposes. Certification shall be evidenced by a formal request from the authority and shall be subject to the approval of the director of the budget.

(Added L.1985, c. 482, § 12.)

Library References

States ⇄84, 89.
Westlaw Topic No. 360.
C.J.S. States §§ 254 to 257, 263 to 264.

§ 1831. Authority subject to certain other provisions of law

Nothing contained in any provision of this title shall be construed to relieve the authority of the obligation on its part to comply with the provisions of article nine of the public authorities law in force on the effective date of this title.¹

(Added L.1961, c. 443, § 2.)

¹ Jan. 1, 1962.

Historical and Statutory Notes

L.1961, c. 443 legislation
L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only

ment that the amendment to the
 ion of the state of New York
 a new paragraph at the end of
 ight of article seven thereof and
 new section seven to article ten
 authorizing the loan of the mon-
 e state to a public corporation to
 ized, among other things, for the
 of making loans, under certain
 ns, to non-profit corporations to
 the construction of new industri-
 anufacturing plants in this state
 acquisition, rehabilitation or im-
 ent of former industrial plants in
 e, to provide additional employ-
 those areas of the state in which
 oyment is or may become a criti-
 lem, and authorizing the legisla-
 make the state liable for the pay-
 i the principal of and interest on

bonds of such a public corporation in a
 principal amount of not to exceed fifty
 million dollars and notes to such public
 corporation issued in anticipation of such
 bonds, which was proposed by the legis-
 lature in the year nineteen hundred sixty,
 is adopted by the legislature in the year
 nineteen hundred sixty-one and approved
 and ratified by the people at the general
 election to be held in the year nineteen
 hundred sixty-one."

The proposed amendment to the Con-
 stitution referred to in the preceding
 paragraph, was approved by the people
 at the general election on Nov. 7, 1961.

Former Sections

Former § 1831 was renumbered as
 Public Authorities Law § 1356.

Library References

tes ⇨84.
 stlaw Topic No. 360.
 .S. States §§ 254 to 257.

31-a. Actions

cept in an action for wrongful death, an action against the
 rity founded on tort shall not be commenced more than one
 and ninety days after the cause of action therefor shall have
 ed, nor unless a notice of claim shall have been served on the
 rity within the time limited by, and in compliance with all the
 rements of section fifty-e of the general municipal law. An
 n against the authority for wrongful death shall be commenced
 cordance with the notice of claim and time limitation provisions
 e eleven of article nine of this chapter.

(Ad L.1990, c. 804, § 67.)

Cross References

notice of claim against public employee, see General Municipal Law § 50-e.
 wrongful death actions, see Public Authorities Law § 2980 et seq.

Library References

tates ⇨84, 201.
 Vestlaw Topic No. 360.
 .J.S. States §§ 254 to 257, 568.

832. Termination of the authority

ie authority and its corporate existence shall continue until
 inated by law, provided, however, that no such law shall take

effect so long as the authority shall have bonds, notes or other obligations outstanding. Upon termination of the existence of the authority all its rights, property, assets and funds shall pass to and be vested in the state. For the purposes of this section, any appropriation or advance made to the authority by the state, which has not been repaid, shall not be deemed to be an outstanding obligation of the authority.

(Added L.1961, c. 443, § 2.)

Historical and Statutory Notes

L.1961, c. 443 legislation

L.1961, c. 443, § 5, provides:

"This act shall take effect January first, nineteen hundred sixty-two and then only in the event that the amendment to the constitution of the state of New York adding a new paragraph at the end of section eight of article seven thereof and adding a new section seven to article ten hereof, authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to finance the construction of new industrial or manufacturing plants in this state or the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which unemployment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty, is adopted by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1832 was renumbered as Public Authorities Law § 1357.

Library References

States ⇄84.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257.

§ 1833. Title not affected if in part unconstitutional or ineffective

If any subtitle, section, subdivision, paragraph, sentence, clause or provision of this title shall be unconstitutional or be ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid or effective and no other subtitle, section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

Added L.1961, c. 443, § 2.)

Historical and Statutory Notes

§ 443 legislation

§ 443, § 5, provides:

act shall take effect January first, 1961, and then only if the amendment to the constitution of the state of New York adding a new paragraph at the end of article seven thereof and a new section seven to article ten authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to be used for the construction of new industrial manufacturing plants in this state for the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which employment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty-one and approved by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1833 was renumbered as Public Authorities Law § 1358.

34. Inconsistent provisions of other acts superseded

Where the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

(L.1961, c. 443, § 2.)

Historical and Statutory Notes

§ 443 legislation

§ 443, § 5, provides:

act shall take effect January first, 1961, and then only if the amendment to the constitution of the state of New York adding a new paragraph at the end of article seven thereof and a new section seven to article ten authorizing the loan of the money of the state to a public corporation to be organized, among other things, for the purpose of making loans, under certain conditions, to non-profit corporations to be used for the construction of new industrial manufacturing plants in this state for the acquisition, rehabilitation or improvement of former industrial plants in this state, to provide additional employment in those areas of the state in which employment is or may become a critical problem, and authorizing the legisla-

ture to make the state liable for the payment of the principal of and interest on bonds of such a public corporation in a principal amount of not to exceed fifty million dollars and notes to such public corporation issued in anticipation of such bonds, which was proposed by the legislature in the year nineteen hundred sixty-one and approved by the legislature in the year nineteen hundred sixty-one and approved and ratified by the people at the general election to be held in the year nineteen hundred sixty-one."

The proposed amendment to the Constitution referred to in the preceding paragraph, was approved by the people at the general election on Nov. 7, 1961.

Former Sections

Former § 1834 was renumbered as Public Authorities Law § 1359.

SUBTITLE V-A—LOANS TO LENDERS PROGRAM

Section

1835. Statement of legislative findings.
1835-a. Definitions.
1835-b. Additional powers of the authority.
1835-c. Loans to lenders.
1835-d. Loans to lenders bonds and notes.
1835-e. State not liable on loans to lenders bonds and notes.
1835-f. Loans to lenders funds.

§ 1835. Statement of legislative findings

The legislature hereby finds that agriculture is one of the largest industries in the state. The legislature has continuously acknowledged the importance of farming by establishing a variety of programs to promote a strong agricultural economy. Of particular importance to farmers and the rural economy is the health of businesses that serve farmers. Such businesses provide processing and storage facilities for agricultural commodities, equipment and material for use in farming and other products and services for farmers.

The legislature further declares that these businesses are confronted by the need to adapt to rapidly changing economic circumstances and market demands for the goods and services they produce. Their ability to adapt to and meet the challenges of emerging economic conditions and market opportunities is often impaired by high interest rates, an uncertain economic climate and their inability to attract investment capital upon reasonable terms. This problem is particularly acute in rural communities which neither possess nor are able to attract sufficient capital resources to meet their needs.

Significant strides in assisting and promoting certain business sectors have been made in this state. In this effort, the legislature has provided tax exempt financing to reduce interest rates for a wide variety of economic development programs as well as housing production programs. The legislature hereby finds that such financing of rural agricultural businesses would encourage rural economic activity, provide employment opportunities and enhance the quality of rural life. It is therefore the purpose of this subtitle to authorize the job development authority to issue bonds and notes to the investment community in order to make loans to lenders which will, in turn, provide financing to businesses that serve farmers and which would otherwise face difficulties in obtaining capital at a reasonable cost for establishing or expanding their enterprises and businesses.

The legislature further declares that it is the policy of the state, in authorizing the New York job development authority to create a

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to lenders program, to promote the economic well-being of minority communities, expand opportunities for minority and women-owned businesses and enterprises and enlarge the employment opportunities available to residents of the state.

(added L.1984, c. 508, § 1.)

Historical and Statutory Notes

Former Sections

Former § 1835 was renumbered as Public Authorities Law § 1360.

Legislative Histories

L.1984, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Library References

Agriculture ¶3.6.
Westlaw Topic No. 23.
C.J.S. Agriculture §§ 1, 72 to 79.

1835-a. Definitions

As used or referred to in this subtitle, unless a different meaning appears from the context:

1. "Borrower" means the person, firm, partnership, corporation or other entity which receives a loan from a lender to pay the cost of a business project.

2. "Agricultural business project" means any land, any building or other improvement and any real and personal properties located within the state, including but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be used for manufacturing, warehousing, research, commercial, industrial or other business purposes in support of the state's agricultural industry.

3. "Lender" means (a) any organization defined by subdivision eleven of section two of the banking law, (b) any agency or branch of a foreign banking corporation licensed by the banking department under article five of the banking law, (c) any national bank, federal savings and loan association and federal credit union, (d) any authorized insurer defined by subdivision six of section four of the insurance law and (e) any other institution within the state authorized to originate and service loans including, but not limited to, credit unions, mortgage loan companies and the New York business devel-

ent corporation established under article five-A of the banking which shall be treated as a lender for all purposes of this title.

“Loan for agricultural business project” means a loan received by a borrower from a lender to pay the cost of an agricultural business project.

“Loan to lender” means a loan made by the authority to a lender and evidenced by a bond, note, certificate of deposit or other instrument of such lender, secured or unsecured, as provided in this title.

(added L.1984, c. 508, § 1.)

Legislative Histories

1984, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Cross References

New York Business Development Corporation, see Banking Law §§ 210 et. seq.

Library References

Agriculture § 3.6.

Legislation Topic No. 23.

J.S. Agriculture §§ 1, 72 to 79.

§ 35-b. Additional powers of the authority

The authority shall have the following additional powers only with respect to making loans to lenders for the purpose of financing loans for agricultural business projects pursuant to this subtitle:

To prescribe standards and criteria for the granting of applications for loans to lenders and for the making of loans for agricultural business projects, which standards and criteria shall implement the intent and purposes of this subtitle. In developing such standards and criteria the authority shall consult with the superintendent of banks and superintendent of insurance regarding the qualifications of lenders and with the commissioner of agriculture and markets and the commissioner of economic development regarding the standards and criteria for the making of loans for business projects.

To make, and undertake commitments to make, loans to lenders under such terms and conditions as shall require the proceeds of such loans to lenders to be used by lenders to make loans for agricultural business projects;

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3. To make and execute contracts for the administration or servicing of any loan to lender made by the authority and to pay the reasonable value of services rendered to the authority pursuant to such contracts;

4. To borrow money and issue bonds and notes as provided in section one thousand eight hundred thirty-five-d of this subtitle; and

5. To do any and all things necessary or convenient to carry out its corporate purposes and exercise the powers given and granted in this subtitle.

(Added L.1984, c. 508, § 1; amended L.1990, c. 118, § 4.)

Legislative Histories

L.1990, c. 118: For memorandum of the Job Development Authority, see McKinney's 1990 Session Laws of New York, p. 2350.

L.1984, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Cross References

Foreign banking corporations, national banks, see Banking Law §§ 200 et. seq.

Library References

Agriculture ¶3.6.

States ¶84.

Westlaw Topic Nos. 23, 360.

C.J.S. Agriculture §§ 1, 72 to 79.

C.J.S. States §§ 254 to 257.

§ 1835-c. Loans to lenders

1. The authority shall have the power and is hereby authorized to make and contract to make loans to lenders on such terms and conditions as it shall determine, and all lenders are authorized to borrow from the authority in accordance with the provisions of this section and upon such terms and conditions as the authority may impose, provided that the business development corporation established under article five-A of the banking law shall receive no more than five million dollars and any other lender shall receive no more than two million dollars in loans to lenders from the authority in any twelve month period.

2. The authority shall require as a condition of each loan to lender that such lender enter into written commitments to make within such period of time as the authority may require loans for agricultural business projects in accordance with the standards and criteria prescribed by the authority. Such loans for agricultural

ness projects shall be in an aggregate principal amount equal to amount of such loan to the lender and shall require the disbursement of such loan proceeds by the lender to borrowers to pay the costs of such projects; provided that no borrower shall receive more than two hundred thousand dollars in loans for agricultural business projects that are financed by loans to lenders from the authority in any twelve month period.

The authority shall require the submission to it by each lender to which the authority has made a loan such documentation and other evidence satisfactory to the authority that the lender has made loans for agricultural business projects in accordance with the standards and criteria prescribed by the authority, and in this connection the authority through its members, agents and employees shall inspect the books and records of such lender.

The authority shall require that each lender receiving a loan to be repaid pursuant to this section shall issue and deliver to the authority evidence of its indebtedness to the authority which shall constitute an unconditional obligation of such lender and shall bear such date or dates, shall mature at such times¹ or times, shall be subject to payment and shall contain such other provisions consistent with the subtitle as the authority shall require.

Notwithstanding any other provision of this subtitle, the interest rate and other terms of loans to lenders made from the proceeds of any issue of loans to lenders bonds or notes of the authority shall be at least sufficient to assure the payment of principal, redemption premium, if any, and interest on such bonds and notes as the same become due and payable.

The authority may require that loans to lenders made pursuant to this subtitle shall be secured as to the payment of both principal and interest by a pledge of collateral security in such amounts as the authority may determine to be necessary to assure the payment of such loans and the interest thereon as the same become due and payable. Such collateral security may consist of (a) obligations of or securities guaranteed by the United States of America, (b) obligations of the United States or obligations the principal and interest of which are guaranteed by the state, excluding any obligations of the authority, (c) obligations of any corporation wholly owned by the United States of America, (d) obligations of any corporation sponsored by the United States of America which are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system, or (e) certificates of deposit or time deposits secured in such manner, if any, as the authority shall determine.

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7. The authority may require that any collateral security for loans to lenders be deposited with a bank, trust company or other financial institution (other than the lender pledging such collateral security) which shall be located in the state and designated by the authority as custodian therefor or may require each lender to enter into an agreement with the authority containing such provisions as the authority shall require to (a) adequately identify and maintain such collateral security, (b) service such collateral security, and (c) require the lender to hold such collateral security in trust for the authority and be accountable to the authority as the trustee of an express trust. The authority may also establish such additional requirements as it shall deem necessary with respect to the pledging, assigning, setting aside or holding of such collateral security and the making of substitutions of or additions thereto and the disposition of income and receipts therefrom.

8. The authority may require as a condition of any loans to lenders such representations and warranties as it shall determine to be necessary to secure such loans and carry out the purposes of this subtitle, and may make and execute contracts for the administration, servicing or collection of any loans to lenders or other financing with a lender and may pay the reasonable value of services rendered to the authority pursuant to such contracts.

(Added L.1984, c. 508, § 1.)

¹ So in original.

Legislative Histories

L.1984, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Library References

States ¶84, 124.

Westlaw Topic No. 360.

C.J.S. States §§ 254 to 257, 374 to 376.

§ 1835-d. Loans to lenders bonds and notes

1. The authority shall have the power and is hereby authorized, for the purposes of this subtitle, to issue at one time or in series from time to time loans to lenders bonds and loans to lenders notes issued in anticipation of the issuance of such loans to lenders bonds, including renewals thereof, in an aggregate principal amount which shall not at any one time exceed fifty million dollars, excluding loans to lenders bonds issued to refund outstanding loans to lenders bonds.

2. Except as may otherwise be expressly provided by the authority, all loans to lenders bonds and notes shall be limited obligations of the authority and payable solely from the revenues derived by the authority from loans to lenders.

3. Loans to lenders bonds and notes shall be authorized by resolution of the authority and bear such date or dates, shall mature at such time or times, shall bear interest at such rate or rates, shall be of such denominations, shall be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America and at such terms of redemption prior to maturity as may be provided by such resolution or resolutions with respect to such bonds or notes, as the case may be; provided, however that the maximum maturity of such bonds shall not exceed thirty years from the date thereof and the maximum maturity of such notes or any renewals thereof shall not exceed seven years from the date of the original issue of such notes.

4. The authority shall have power from time to time to renew loans to lenders notes or to issue loans to lenders notes for such purpose, to issue loans to lenders bonds to pay loans to lenders notes, and whenever it deems refunding expedient, to refund any loans to lenders bonds by the issuance of new loans to lenders bonds, whether the bonds to be refunded have or have not matured, and may issue loans to lenders bonds partly to refund loans to lenders bonds then outstanding and partly for the purposes specified in this subtitle. Any loans to lenders bonds issued for refunding purposes shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

5. Loans to lenders bonds and notes of the authority may be sold by the authority at public or private sale in such manner and on such terms and at such price or prices as the authority shall determine but shall not be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller where such sale is not to the comptroller, or by the director of the budget where such sale is to the comptroller.

(Added L.1984, c. 508, § 1.)

Historical and Statutory Notes

Derivation

Former § 1821-a, added L.1980, c. 348, § 17; amended L.1980, c. 350, § 1; repealed L.1984, c. 508, § 7.

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Legislative Histories

4, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Library References

§ 84, 124.
Law Topic No. 360.
States §§ 254 to 257, 374 to 376.

5-e. State not liable on loans to lenders bonds and notes

State shall not be liable on loans to lenders bonds and notes of authority, and such bonds and notes shall contain on the face a statement to that effect.

L.1984, c. 508, § 1.)

Historical and Statutory Notes

on

§ 1821-b, added L.1980, c. 17; repealed L.1984, c. 508, § 7.

Legislative Histories

1984, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Library References

§ 84, 124.
Law Topic No. 360.
U.S. States §§ 254 to 257, 374 to 376.

135-f. Loans to lenders funds

The following shall constitute loans to lenders funds of the authority and shall be kept separate and apart from all other funds of authority: (a) the proceeds of sale of loans to lenders bonds and notes hereafter issued, (b) any moneys appropriated and made available by the state for the purposes of this subtitle, (c) any moneys available to the authority for the purposes of this subtitle from any other source, including without limitation, any federal agency, and any moneys received by the authority as principal, interest and principal payments on account of loans hereafter made by the authority pursuant to this subtitle, (e) any fees, charges or other moneys received by the authority in respect of loans to lenders hereinafter made by the authority pursuant to this subtitle or on account of transactions therefor, and (f) any income or interest hereafter earned

by or any increment hereafter added to any loans to lenders funds due to the investment thereof.

2. Subject to the terms of any agreement with lenders, bondholders and noteholders, loans to lenders funds may be used by the authority solely: (a) to make loans to lenders for the purpose of financing loans for agricultural business projects in any area of the state, (b) to pay expenses of the authority referred to in any of the clauses of subdivision one of section eighteen hundred twenty-eight of this title, (c) to repay advances from the state for use as loans to lenders funds in accordance with any provision of law or repayment agreement between the authority and the state, (d) to pay the principal, redemption premium or interest on loans to lenders bonds or notes, (e) to purchase outstanding loans to lenders bonds and notes or (f) to exercise any of the powers conferred in this subtitle. (Added L.1984, c. 508, § 1.)

Legislative Histories

L.1984, c. 508: For memorandum of the State Executive Department, see McKinney's 1984 Session Laws of New York, p. 3327.

Library References

States ¶84, 124, 127.
Westlaw Topic No. 360.
C.J.S. States §§ 254 to 257, 374 to 376, 386 to 387.

SUBTITLE VI—EMPLOYEE OWNERSHIP ASSISTANCE

Section

- 1836-a. Legislative findings.
- 1836-b. Definitions.
- 1836-c. Applications for loans.
- 1836-d. Loan preferences.
- 1836-e. Loan agreements.
- 1836-f. Repayment of loans; interest.
- 1836-g. Rules and regulations of the authority.

Historical and Statutory Notes

Former Sections

Former § 1836 was renumbered as Public Authorities Law § 1361.

§ 1836-a. Legislative findings

The legislature hereby finds and declares that the health, safety and general welfare of the people of this state are directly dependent upon the state economy, and that one of the principal problems of

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our present economy is the permanent closing of industrial and manufacturing plants, and their relocation out of state, which results in the loss of jobs and increasing unemployment.

It is the purpose of this subtitle to encourage the employees of plants that are about to be permanently closed, or relocated, to acquire such plants and to continue to operate them as employee-owned enterprises, thereby retaining the jobs that would otherwise be lost, and strengthening the economic base of this state.

(Added L.1983, c. 788, § 4.)

Research References**Encyclopedias**

- NY Jur. 2d, Business Relationships § 1987, Generally; Legislative Findings.
- NY Jur. 2d, Business Relationships § 1988, Definitions.
- NY Jur. 2d, Business Relationships § 1991, Loan Agreements.
- NY Jur. 2d, Business Relationships § 1993, Rules and Regulations of Authority.

§ 1836-b. Definitions

When used in this subtitle, unless the context otherwise requires:

1. "Agreement" means an employee ownership assistance loan agreement made pursuant to this subtitle.
2. "Authority" means the job development authority created by section one thousand eight hundred two of this chapter.
3. "Eligible project" means the acquisition or rehabilitation by an employee ownership association of an existing industrial or manufacturing plant located in this state for the purpose of operating it as an employee-owned enterprise.
4. "Employee ownership association" means a corporation or other association formed by or on behalf of the employees of an industrial or manufacturing plant located in this state for the purpose of assuming ownership or control of the plant and operating it as an employee-owned enterprise or as a worker cooperative as defined in section eighty-one of the cooperative corporations law.
5. "Employee-owned enterprise" means a business in which the employees are represented on the board of directors and the employees control the majority of the voting stock, or if the business is held in a trust which controls the majority of the voting stock, the trustees are elected by the employees. The term "employee-owned enterprise" shall also refer to a worker cooperative as defined in section eighty-one of the cooperative corporations law.

6. "Funding partner" means an entity which singly or in combination with other entities has agreed to finance a portion of the project cost of an eligible project, and may include the employee ownership association undertaking the project as well as any financial entity.

7. "Plant" includes the site, structure, building and equipment and all real and personal property in connection therewith, whether or not in existence, and may include any road, railroad, or utility or equipment appurtenant thereto.

8. "Project cost" includes all reasonable and necessary costs to be incurred in the course of an eligible project, including any anticipated acquisition, construction, land acquisition, improvements, equipment, pertinent rights and easements, and associated technical, engineering, legal and financial services.

(Added L.1983, c. 788, § 4; amended L.1985, c. 805, § 1.)

Research References

Encyclopedias

NY Jur. 2d, Business Relationships § 1988, Definitions.

§ 1836-c. Applications for loans

1. Any employee ownership association may apply to a local development corporation serving the municipality in which the eligible project is located for an employee ownership assistance loan to be used to help finance an eligible project. Such application must include a written statement from the entity from which the project is being acquired, stating that such entity consents to the acquisition. The application shall include in detail:

- (a) the history and membership of the association;
- (b) the history and circumstances of the plant to be acquired;
- (c) financial and marketing projections and analyses sufficient to allow the authority to evaluate the continued economic viability of the project;
- (d) estimate of the number of jobs to be saved or created by the project; and
- (e) total anticipated project cost.

2. The application shall also include a detailed financial statement of funding partner participation in the project, which shall include:

- (a) the identity of all funding partners; and

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the terms of the financing agreements with the funding party, including any repayment schedules and finance charges to be included in such agreements.

(L.1983, c. 788, § 4.)

Library References

Encyclopedia § 84, 124.

Restatement Topic No. 360.

U.S. States §§ 254 to 257, 374 to 376.

Research References

Encyclopedias

19 Jur. 2d, Business Relationships § 1989, Applications for Loans.

§ 1836-d. Loan preferences

When approving applications for loans under this subtitle, the authority shall give preference to projects which:

- have a higher level of funding from the funding partners;
- have the most direct impact on local economic development;
- the creation or retention of employment opportunities;
- are most likely to stimulate other private sector investments;

and are least speculative, and provide greatest assurance of repayment of the loan.

(L.1983, c. 788, § 4.)

Library References

Encyclopedia § 84, 124.

Restatement Topic No. 360.

U.S. States §§ 254 to 257, 374 to 376.

Research References

Encyclopedias

19 Jur. 2d, Business Relationships § 1990, Loan Preference.

§ 1836-e. Loan agreements

If the authority approves an application for a loan under this subtitle, the local development corporation may enter into a loan agreement with the employee ownership association whereby the local development corporation agrees to loan to the employee ownership association the remaining funds necessary for the eligible pro-

2. No such loan may exceed forty percent of the cost of the project and the repayment of such loan shall be secured by a mortgage thereon which shall not be a junior encumbrance thereon by more than fifty percent of such cost, and by means of the guarantees of the loans made by banking organizations which guaranty shall not exceed eighty percent of the cost of the project, except as provided in paragraphs (a) and (b) of subdivision two of section eighteen hundred three and paragraph (a) of subdivision seven of section eighteen hundred twenty-three of this chapter.

3. The local development corporation may not enter into any loan agreement unless the authority determines through an appropriate method that there is reasonable assurance of repayment. The authority shall establish such requirements or terms as it may deem necessary or desirable to secure the repayment of the loan and to protect the interests of the authority and the holders of its bonds.

4. Subject to the requirements of this subtitle, the authority is authorized to determine the form and substance of any loan agreement made pursuant to this subtitle.

(Added L.1983, c. 788, § 4; amended L.1992, c. 839, § 9.)

Library References

States ⇨84, 124.
Westlaw Topic No. 360.
C.J.S. States §§ 254 to 257, 374 to 376.

Research References

Encyclopedias

NY Jur. 2d, Business Relationships § 1991, Loan Agreements.

§ 1836-f. Repayment of loans; interest

The entire amount loaned shall be repaid by the employee ownership association to the authority or its designee.

(Added L.1983, c. 788, § 4.)

Library References

States ⇨84, 124.
Westlaw Topic No. 360.
C.J.S. States §§ 254 to 257, 374 to 376.

Research References

Encyclopedias

NY Jur. 2d, Business Relationships § 1992, Repayment of Loans; Interest.

-g. Rules and regulations of the authority

The authority shall make, promulgate and enforce such rules and regulations relating to its duties under this subtitle as seem appropriate.

To effectuate the purposes of this subtitle, the authority may obtain from any authority, division, board, bureau, commission or agency of the state or from any public corporation, and the authority is authorized to provide, such services, assistance and data as may be necessary to enable the authority to properly carry out its functions, powers and duties under this subtitle.

The authority shall also cooperate with the department of economic development to permit the department to carry out its duties and responsibilities under section one hundred four-a of the economic development law.

(1983, c. 788, § 4; amended L.1990, c. 118, § 5.)

Legislative Histories

§ 118, c. 118: For memorandum of the Job Development Authority, see McKinney's 1990 Session Laws of New York, p. 2350.

Library References

§ 84.

Law Topic No. 360.

States §§ 254 to 257.

Research References

dias

§ 1993, Rules and Regulations of Authority.

SUBTITLE VII—SPECIAL PROJECT DEVELOPMENT

Legislative findings.

Definitions.

Loans to local development corporations.

Regulations by authority.

Bonding guarantee assistance program.

7. Legislative findings

The legislature hereby finds that one of the major concerns of the state economy is the limited access to financing assistance of small businesses and services that support or facilitate employment and economic development, but are not themselves directly involved in manufacturing or industrial production.

It is the purpose of this subtitle to encourage the development of community development projects that promote and enhance economic development by providing loans and loan guarantees at a reasonable cost.

(Added L.1992, c. 839, § 10.)

Historical and Statutory Notes

Former Sections

Former § 1837 was renumbered as Public Authorities Law § 1362.

§ 1837-a. Definitions

When used in this subtitle unless the context otherwise requires:

1. "Eligible project" means the acquisition, renovation, rehabilitation or development of property necessary to commence and complete operation of projects that are not primarily residential nor retail businesses or enterprises, other than manufacturing and industrial plants, that promote, facilitate or encourage employment and economic development, including day care, commercial production and incubators primarily used for commercial purposes that will result in the creation or retention of employment.

2. "Eligible project cost" includes all reasonable and necessary costs and fees related to the acquisition, renovation, or rehabilitation of the project, including, but not limited to, acquisition, construction, and acquisition, improvements, easements, rights of way, equipment, contract and/or license rights, and related technical, engineering, legal and financial services.

(Added L.1992, c. 839, § 10.)

§ 1837-b. Loans to local development corporations

1. No loan shall be made by the authority under the provisions of this subtitle with respect to an eligible project unless: (a) the local development corporation has obtained firm commitments satisfactory to the authority from responsible financial sources, which may include a federal agency or the project occupant, for the total project cost exclusive of any loan requested from the authority; (b) the local development corporation has obtained a firm commitment satisfactory to the authority from the project occupant to lease or use the project after it has been completed; (c) the principal amount of such loan is forty percent or less of the project cost, except as provided in paragraphs (a) and (b) of subdivision two of section eighteen hundred three and paragraph (a) of subdivision seven of section eighteen

ed twenty-three of this chapter; and (d) if such loan is secured mortgage on the project, such mortgage is not a junior encumbrance on the project by more than fifty percent of the project cost.

No loan shall be guaranteed by the authority with respect to a project unless: (a) the project occupant has obtained firm commitments satisfactory to the authority from banking organizations for the financing of the project cost exclusive of the amount to be provided by the project occupant; (b) the authority is satisfied that the project occupant may be reasonably expected to comply with the terms of the loan for which a guarantee is sought; (c) the amount of the guarantee is eighty percent or less of the project cost; and (d) the loan is secured by a mortgage or security instrument which is not a junior encumbrance or other collateral deemed satisfactory to protect the authority's interest.

(Added L.1992, c. 839, § 10.)

Library References

States § 84, 124.

Westlaw Topic No. 360.

U.S. States §§ 254 to 257, 374 to 376.

§ 837-c. Regulations by authority

The authority shall promulgate rules and regulations to effectuate the purposes of this subtitle which shall be subject to the approval of the director of the budget.

(Added L.1992, c. 839, § 10.)

Library References

States § 84.

Westlaw Topic No. 360.

U.S. States §§ 254 to 257.

§ 838. Bonding guarantee assistance program

There is hereby created a state bonding guarantee assistance program to enable small businesses, and minority-owned and women-owned business enterprises, certified as a minority-owned or women-owned business enterprise pursuant to article fifteen-A of the constitution law,¹ to meet payment and/or performance bonding requirements by providing additional financial backing needed to induce a surety company to issue a bond for construction projects, including but not limited to, government sponsored, transportation related construction projects. For purposes of this section, the term

small business shall have the same meaning as defined in section one hundred thirty-one of the economic development law. Such program shall give preference to minority-owned and women-owned business enterprises and shall:

(a) make available funds to surety companies providing bonds to small businesses and minority-owned or women-owned business enterprises in an amount equal to a percentage not to exceed fifty percent of the face value of bonds issued by the surety.

(b) provide technical assistance in completing bonding applications for small businesses and minority-owned or women-owned business enterprises seeking to become eligible for bonding in preparation for bidding on construction projects, including transportation related projects. The authority shall refer such businesses to the department of economic development and the urban development corporation for technical assistance as such businesses may need, including but not limited to:

(i) a review of the applicants' market and business competitive strategy;

(ii) consultation and review of the development and planned implementation of a working capital budget;

(iii) assistance with applications for the receipt of funding from other financial sources and providing referrals to other appropriate public and private sources of financing; and

(iv) assistance from the regional offices of the department of economic development, pursuant to article eleven of the economic development law,² and the entrepreneurial assistance program, pursuant to article nine of such law,³ and any other such program receiving state funds from the department of economic development or the urban development corporation or any other state agency that is intended to provide technical assistance to small businesses and minority-owned and women-owned small business enterprises.

2. Criteria and regulations. (a) The authority shall by rule establish criteria for such program, such criteria to include detailed provisions for eligibility.

(b) The authority shall promulgate rules and regulations to effectuate the purposes of this section which shall be approved by the director of the budget.

(Added L.1993, c. 56; § 39.)

¹ Executive Law § 310 et seq.

² Economic Development Law § 230 et seq.

³ Economic Development Law § 210 et seq.

Historical and Statutory Notes

1993, c. 56 legislation

1993, c. 56, § 133, eff. April 15, provides:

any clause, sentence, paragraph, or part of this act be adjudged by a court of competent jurisdiction to be void, such judgment shall not affect, amend or invalidate the remainder there-

of but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered."

Former Sections

Former § 1838 was renumbered as Public Authorities Law § 1363.

Cross References

Entrepreneurial assistance, see Economic Development Law § 210 et seq.
 Participation by minority group members and women with respect to state contracts, see Executive Law § 310 et seq.
 Regional economic development, see Economic Development Law § 230 et seq.
 Small business defined, see Economic Development Law § 131.

Library References

States §§ 84, 124.
 Nestlaw Topic No. 360.
 C.J.S. States §§ 254 to 257, 374 to 376.

McKINNEY'S
CONSOLIDATED LAWS
OF NEW YORK ANNOTATED

Book 42
Public Authorities Law
§§ 1650 to 1849

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Current through the Laws of 2014, chapters 1 to 400 of the
237th Legislative Session



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**§§ 1790 to 1799
Repealed**

Repealed § 1793, which related to membership, was added by L.1969, c. 791, § 1.

Repealed § 1794, which related to powers of the authority, was added by L.1969, c. 791, § 1, and was amended by L.1971, c. 631, § 1.

Repealed § 1794-a, which related to the indian lease tax, was added by L.1971, c. 631, § 2.

Repealed § 1795, which related to the purpose of the authority, was added by L.1969, c. 791, § 1.

Repealed § 1796, which related to bonds and other obligations, was added by L.1969, c. 791, § 1.

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Repealed § 1797, which related Indian least tax assessment review, was added by L.1969, c. 631, § 3.

Repealed § 1798, which related to inconsistent provisions, was added by L.1969, c. 791, § 1.

Repealed § 1798-a, which related to actions, was added by L.1990, c. 804, § 66.

Repealed § 1799, which related to the duration of the authority, was added by L.1969, c. 791, § 1.

TITLE 8—NEW YORK JOB DEVELOPMENT AUTHORITY

SUBTITLE I—GENERAL PROVISIONS

Section

1801. Definitions.

1802. New York job development authority.

§ 1800. Short title

Research References

Encyclopedias

N.Y. Jur. 2d Condominiums and Co-Operative Apartments § 102, Exceptions.

N.Y. Jur. 2d Employment Relations § 437, Combating Unemployment; Job Development Authorities.

N.Y. Jur. 2d Public Authorities § 5, Particular Authorities.

§ 1801. Definitions

As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Assisted project" shall mean any project in respect of which the authority has granted a loan or guaranteed a loan.

2. "Authority" shall mean the New York job development authority created by subdivision one of section eighteen hundred two of this title.

3. "Banking organization" when used in this title shall mean (a) any organization defined by subdivision eleven of section two of the banking law, (b) any agency or branch of a foreign banking corporation licensed by the department of financial services under article five of the banking law, (c) any national bank, federal savings and loan association and federal credit union, (d) any authorized insurer defined by paragraph ten of subsection (a) of section one hundred seven of the insurance law and (e) any public or private pension or investment fund required to file a report with any state or federal regulatory or supervisory body.

4. "Comptroller" shall mean the comptroller of the state.
5. "Eligible business facility" shall mean any type of business facility to be used or occupied by any person in an enterprise deemed to offer a reasonable likelihood for promoting the creation or retention of job opportunities in the state, and includes, but is not limited to, industrial or manufacturing plants, facilities for research and development purposes, facilities for conducting wholesale, receiving and distributing operations, facilities for conducting office operations, warehousing operations, or any other operation dealing in the exchange of goods, wares, services or other types of property of any type or description.
6. "Federal agency" shall mean the United States of America, and any officer, department, board, commissioner, bureau, division, corporation, agency or instrumentality thereof.
7. "Industrial plant" shall include a manufacturing plant and a plant used in connection with extracting, smelting, recovering, developing, preparing, compounding, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature, and shall include facilities related thereto for storage, warehousing or distribution, for research and development or for the discovery of new and the refinement of known substances, processes and products.
8. "Local development corporation" shall mean a non-profit corporation incorporated or reincorporated under the laws of this state, regardless of its particular name, which shall meet the additional requirements of section eighteen hundred twenty-five of this title.
9. "Manufacturing plant" shall include a plant used in connection with making, creating, working, preparing, processing, milling, manufacturing, finishing, fashioning, fabricating, or producing in any manner, goods, wares, merchandise, metals, fabrics, materials, products or substances of any kind or nature.
10. "Municipality" shall mean any county, city, town or village in the state.
11. a. "Loan" shall mean (i) a mortgage loan evidenced by a bond, note or other obligation of a local development corporation secured by a mortgage on a project, defined in subdivision fourteen (i) and (ii) of this section, made by a local development corporation, a project occupant or other person, firm or corporation; (ii) a loan evidenced by a bond, note or other obligation of a local development corporation, a project occupant, or other person, firm or corporation secured by a loan agreement, contract or such other instrument deemed necessary or convenient on a project defined in subdivision fourteen (iii) of this section; (iii) a loan evidenced by a bond, note or other obligation of a local development corporation, a project occupant, or other person, firm or corporation secured by a security interest in machinery and equipment as provided in section eighteen hundred fourteen; and (iv) an employee ownership assistance loan made pursuant to paragraph (v) of subdivision fourteen of this section.

b. "Loan guarantee" shall mean the guaranteeing by the authority of a loan made by a banking organization on a project as defined in subdivision fourteen of this section.

12. "Pollution control facilities" shall mean real or personal property having to do with, or the end purpose of which, is the control, abatement or prevention of land, sewer, water, air, thermal, radiational, noise or general environmental pollution resulting from the operation of an industrial, manufacturing or research plant.

13. "Plant" shall mean real property, the buildings, improvements and structures thereon and the fixtures thereon other than machinery or equipment used by a project occupant in its operations.

14. "Project" shall mean (i) the construction of a new industrial or manufacturing plant, a new research and development building or other new eligible business facility, (ii) the acquisition, rehabilitation or improvement of a former or existing industrial or manufacturing plant, of a former or existing building to be used for research and development, of a former or existing other eligible business facility, (iii) the construction, acquisition, rehabilitation or improvement of pollution control facilities, (iv) the purchase of machinery and equipment, for which financial assistance from the authority is sought, or (v) assistance to employees under an employee ownership assistance loan agreement made pursuant to subtitle six of this title; provided, however, that any such plant, building, facility or machinery and equipment therefore shall not be primarily used in making retail sales of goods or services to customers who personally visit such facilities to obtain such goods or services, or used primarily as a hotel, apartment house or other place of business which furnishes dwelling space or accommodations to either residents or transients.

15. "Project cost" shall mean the aggregate costs incurred to finance the construction, acquisition, rehabilitation, or improvement of a project, and which are determined by the authority to be or to have been reasonably necessary therefor, including, without intending thereby to limit the generality of such costs: the cost of acquiring real property therefor; the cost of constructing or reconstructing buildings and improvements thereon, including, to the extent such costs are not borne by the municipality or other taxing district within which the project is located, the cost of constructing means of access to and from such project; the cost of constructing extensions to the project site of existing utility systems if such costs are customarily borne by the consumer; insurance premiums, financing charges, interest costs, commitment fees and the like incurred prior to or during the period of construction, acquisition, rehabilitation or improvement; any fees or charges imposed by the authority in respect of an application for a mortgage loan; the cost of preparing project specifications, maps, plans, surveys, estimates, applications and other documents, including costs related to determination of the feasibility of the project in the planning stages; and all such other costs, charges, fees, and expenses, including labor costs, overhead costs, the costs of materials and supplies, and engineering, accounting and legal expenses, as may be reasonably incident to the construction, acquisition, rehabilitation or

improvement of the project; provided, however, that the term "project cost" except when used in subtitle III of this title shall not include the cost of any machinery or equipment (other than fixtures) or personal property to be used by the project occupant in its operations or any expenses related to the installation, replacement or rehabilitation thereof.

16. "Project occupant" shall mean the business enterprise which proposes to use a project after construction, acquisition, rehabilitation or improvement.

17. "Real property" shall mean lands, waters, rights in lands or waters, structures, franchises and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within the said term and includes also any and all interests in such property less than full title, such as easements permanent or temporary, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments in every estate, interest or right, legal or equitable.

18. "State" shall mean the state of New York.

19. "State agency" shall mean any officer, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

(Added L.1961, c. 443, § 2. Amended L.1962, c. 502, § 1; L.1963, c. 412, §§ 1-4; L.1966, c. 355, §§ 1, 2; L.1973, c. 674, §§ 1-5; L.1974, c. 1045, §§ 1, 2; L.1978, c. 631, §§ 1-5; L.1980, c. 348, §§ 1, 2; L.1983, c. 788, §§ 2, 3; L.1984, c. 805, § 50; L.1992, c. 839, § 1; L.2011, c. 62, pt. A, § 104, eff. Oct. 3, 2011.)

Historical and Statutory Notes

L.2011, c. 62 legislation

L.2011, c. 62, pt. A, § 104, subd. (c), provides:

"(c) Wherever the terms 'insurance department', 'department of insurance', 'banking department' or 'de-

partment of banking' appears in the consolidated or unconsolidated laws of this state other than the banking law or the insurance law, such terms are hereby changed to 'department of financial services'."

§ 1802. New York job development authority

1. There is hereby created the "New York job development authority." The authority shall be a body corporate and politic constituting a public benefit corporation. Its members shall consist of the commissioner of economic development, the commissioner of labor, the commissioner of agriculture and markets, and the superintendent of financial services, serving ex officio, and seven members to be appointed by the governor with the advice and consent of the senate. Each member appointed by the governor shall be a citizen of the United States and a resident of the state.

1-a. The commissioner of economic development, the commissioner of labor, the commissioner of agriculture and markets, and the superintendent of financial services each may designate a person from his department to represent him at all meetings of the authority from which such member may be absent. Any representative so designated

shall have the power to attend and to vote at any meeting of the authority from which the member so designating him is absent, with the same force and effect as if the member designating him were present and voting. Such designation shall be by written notice to the chairman by the member making the designation. Such designation shall not limit the power of the member making the designation to attend and vote in person at any meeting of the authority.

2. Members shall continue in office until the expiration of their terms and until their successors have been appointed and confirmed. Persons appointed for full terms as their successors shall serve for four years each commencing as of January first. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, the governor shall appoint a successor with the advice and consent of the senate to serve for the balance of the unexpired term.

3. The members of the authority shall serve without salary or other compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

4. The members of the authority may engage in private employment, or in a profession or business, subject to the limitations contained in sections seventy-three and seventy-four of the public officers law. The authority shall, for the purposes of such sections, be a "state agency", and such members shall be "officers" of the agency for the purposes of said sections. In addition, the authority may adopt such standards and procedures as it considers necessary to ensure compliance with the provisions of sections seventy-three and seventy-four of the public officers law.

5. Notwithstanding any inconsistent provisions of law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership on the authority created by this section, provided, however, that a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services.

6. The governor may remove any member for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him, and an opportunity to be heard, in person or by counsel, in his defense, upon not less than ten days' notice. If any such member shall be removed, the governor shall file in the office of the department of state a complete statement of charges made against such member, and his findings thereon, together with a complete record of the proceedings.

7. The commissioner of economic development shall be the chairman of the authority and shall preside over all meetings of the authority and shall have such other duties as the authority may direct. A vice-chairman may be elected by the authority from among its other members for one or more terms of one year each. The vice-chairman shall preside over all meetings of the authority in the absence of the

commissioner of economic development and shall have such other duties as the authority may direct.

8. Six members of the authority shall constitute a quorum for the transaction of any business or the exercise of any power or function of the authority. Resolutions authorizing the issuance of bonds or notes of the authority and resolutions authorizing the granting of mortgage loans shall be approved by not less than six members of the authority at a meeting duly called for such purpose, but for the transaction of any other business or the performance of any other power or function of the authority, the authority may act by a majority of the members present at any meeting at which a quorum is in attendance.

8-a. Determination on mortgage loan applications. The chairman of the authority shall convene meetings for the transaction of business or the exercise of any power or function of the authority at regular intervals, and whenever prudent and practical, the authority shall render a determination on an application for a mortgage loan and notify the applicant of the determination within four weeks of the receipt of such completed application. In the event that a determination cannot be reached within the four week period, the authority shall submit to the applicant a statement of the reasons for such delay upon or prior to the expiration of such four week period.

9. The authority may appoint such persons to serve as officers of the authority as it may deem advisable, including a president and a counsel, and such employees as it deems advisable, and may prescribe their duties and fix their compensation, subject to the civil service law and the rules and regulations of the civil service commission of the state.

10. The authority may appoint one or more advisory committees consisting of not more than seven members each to consider and advise the authority upon all matters submitted to them by the authority and to recommend to the authority such changes in the administration of this title and the operations of the authority as the advisory committee may deem desirable. Members of advisory committees shall serve without salary for such terms, not to exceed four years, as the authority may determine. Each member of an advisory committee shall be entitled to reimbursement for his actual and necessary travel expenses incurred in the performance of his duties.

(Added L.1961, c. 443, § 2. Amended L.1962, c. 502, § 2; L.1963, c. 412, § 5; L.1966, c. 355, § 3; L.1966, c. 829, § 1; L.1977, c. 714, § 1; L.1980, c. 348, §§ 3-5; L.1985, c. 482, § 1; L.1986, c. 185, § 1; L.1990, c. 118, § 1; L.1992, c. 55, § 206; L.2011, c. 62, pt. A, § 104, eff. Oct. 3, 2011.)

Historical and Statutory Notes

L.2011, c. 62 legislation

L.2011, c. 62, pt. A, § 104, subd. (f), provides:

“(f) Wherever the terms ‘superintendent of insurance’ or ‘superinten-

dent of banks’ appears in the consolidated or unconsolidated laws of this state other than the banking law or the insurance law, such terms are hereby changed to ‘superintendent of financial services.’”

Research References

Encyclopedias

- N.Y. Jur. 2d Business Relationships § 2135, Definitions.
- N.Y. Jur. 2d Business Relationships § 2137, Loan Preference.
- N.Y. Jur. 2d Business Relationships § 2138, Loan Agreements.
- N.Y. Jur. 2d Business Relationships § 2139, Repayment of Loans; Interest.
- N.Y. Jur. 2d Business Relationships § 2140, Rules and Regulations of Authority.

§ 1803. Purposes of the authority

Research References

Encyclopedias

- N.Y. Jur. 2d Business Relationships § 2138, Loan Agreements.
- N.Y. Jur. 2d Employment Relations § 437, Combating Unemployment; Job Development Authorities.

§ 1805. Issuance of bonds and notes by the authority

Research References

Encyclopedias

- N.Y. Jur. 2d Public Securities § 99, Obligations of Public Authorities.

§ 1806. Exemption from taxation of the property and income of the authority

Research References

Encyclopedias

- N.Y. Jur. 2d Taxation and Assessment § 114, Public Authorities.

§ 1807. Exemption from taxation of bonds and notes of the authority

Research References

Encyclopedias

- N.Y. Jur. 2d Taxation and Assessment § 114, Public Authorities.

§ 1810. Moneys of the authority

Research References

Encyclopedias

- N.Y. Jur. 2d Public Funds § 74, Expenditures.
- N.Y. Jur. 2d Public Funds § 75, Investment of Funds.

SUBTITLE II—FINANCIAL ASSISTANCE FROM SPECIAL PURPOSE FUNDS

§ 1811. Application of subtitle

Research References

Encyclopedias

N.Y. Jur. 2d Public Funds § 74, Expenditures.

§ 1814. Loans and loan guarantees for machinery and equipment

Research References

Encyclopedias

N.Y. Jur. 2d Public Funds § 74, Expenditures.

§ 1815. Special purpose funds

Research References

Encyclopedias

N.Y. Jur. 2d Public Funds § 74, Expenditures.

SUBTITLE III—FINANCIAL ASSISTANCE FROM POLLUTION CONTROL FUNDS

§ 1817. Application of subtitle

Research References

Encyclopedias

N.Y. Jur. 2d Public Funds § 74, Expenditures.

§ 1820. Pollution control funds

Research References

Encyclopedias

N.Y. Jur. 2d Public Funds § 74, Expenditures.

SUBTITLE IV—FINANCIAL ASSISTANCE GENERALLY

Section

1825. Local development corporations.

§ 1822. Loans to local development corporations

Research References

Forms

McKinney's Forms, Not-For-Profit Corp. Law § 14:38, Certificate of Incorporation of Local Development Corporation.

§ 1823. Further restrictions on loans and loan guarantees**Research References****Encyclopedias**

N.Y. Jur. 2d Business Relationships § 2138, Loan Agreements.

§ 1825. Local development corporations

To be eligible for loans from the authority, a local development corporation shall meet the following requirements in addition to any others imposed by the provisions of this title:

1. The corporation shall (a) be incorporated or reincorporated under section fourteen hundred eleven of the not-for-profit corporation law, or (b) be incorporated under article four of the not-for-profit corporation law, in addition to other purposes, to construct new industrial or manufacturing plants or new research and development buildings and acquire machinery and equipment deemed related thereto or acquire, rehabilitate, and improve for use by others, industrial or manufacturing plants in the area of the state in which an assisted project is to be located, to assist financially in such construction, acquisition, rehabilitation and improvement and to maintain such plants, buildings and equipment for others, and may also be authorized to study and promote, alone or in concert with local officials and interested local groups, the economic growth and business prosperity of the area and the solution of other civic problems of the region which includes such areas.

2. The corporation shall have no member or employee thereof who owns beneficially more than five per cent of the capital stock of the project occupant, or of the business enterprise described in section eighteen hundred twenty-seven and if any member or employee of the corporation has any material financial interest in, is employed by, or is a consultant to any such project occupant or business enterprise or any other business enterprise including a bank or other lending institution having a material financial relationship with such project occupant or business enterprise, such member or employee shall fully disclose any such interest or involvement to the corporation and to the authority in such form and manner as the authority board shall prescribe and such member or employee shall not participate in any evaluation of, or decision concerning, an application pursuant to section eighteen hundred twenty-four of this title regarding such project applicant or business enterprise.

3. The corporation shall agree to be bound by the rules and regulations of the authority relating to assisted projects and the operations of local development corporations, including the use of the loan evaluation criteria and methods established by the authority pursuant to subdivision thirteen-b of section eighteen hundred four of this title and the criteria established by the authority pursuant to subdivision thirteen-c of section eighteen hundred four of this title, and shall submit to examination of its books of account and corporate records by the authority at such times as the authority may require during the term of any loan made to it by the authority.

4. The corporation shall develop, promote and ensure that, where possible, minority groups which traditionally have been disadvantaged, and women, are afforded equal opportunity for loans from the authority through the corporation and for contracts in connection with the construction of the projects financed by loans from the authority through the corporation; provided, however, that the corporation may request that the authority implement the provisions of this subdivision. (Added L.1961, c. 443, § 2. Amended L.1963, c. 412, § 11; L.1970, c. 937, § 4; L.1973, c. 674, § 20; L.1974, c. 1045, § 11; L.1985, c. 482, §§ 9, 10; L.2013, c. 549, § 18, eff. July 1, 2014.)

Historical and Statutory Notes

L.2013, c. 549 legislation

L.2013, c. 549, § 1, provides:

“§ 1. This act shall be known and may be cited as the ‘non-profit revitalization act of 2013’.”

§ 1827. Loans for multi-tenant facilities

Research References

Forms

McKinney's Forms, Not-For-Profit Corp. Law § 14:38, Certificate of Incorporation of Local Development Corporation.

SUBTITLE V—MISCELLANEOUS PROVISIONS

Section

1830. Cooperation and assistance from other state agencies.

§ 1828. Expenses and reserve funds

Research References

Encyclopedias

N.Y. Jur. 2d Public Funds § 74, Expenditures.

§ 1830. Cooperation and assistance from other state agencies

The department of economic development, the department of labor, the department of financial services, the department of state and all other state agencies shall cooperate with and assist the authority in the fulfillment of its corporate purposes and in the exercise of its corporate powers under this title and may render such services to the authority within their respective functions as may be requested by the authority.

(Added L.1961, c. 443, § 2. Amended L.1975, c. 464, § 41; L.1990, c. 118, § 3; L.2011, c. 62, pt. A, § 104, eff. Oct. 3, 2011.)

Historical and Statutory Notes

L.2011, c. 62 legislation

L.2011, c. 62, pt. A, § 104, subd. (c), provides:

“(c) Wherever the terms ‘insurance department’, ‘department of insurance’

ance', 'banking department' or 'department of banking' appears in the consolidated or unconsolidated laws of this state other than the banking

law or the insurance law, such terms are hereby changed to 'department of financial services'."

SUBTITLE V-A—LOANS TO LENDERS PROGRAM

Section

1835-a. Definitions.

1835-b. Additional powers of the authority.

§ 1835. Statement of legislative findings

Research References

Encyclopedias

N.Y. Jur. 2d Employment Relations § 437, Combating Unemployment; Job Development Authorities.

§ 1835-a. Definitions

As used or referred to in this subtitle, unless a different meaning appears from the context:

1. "Borrower" means the person, firm, partnership, corporation or other entity which receives a loan from a lender to pay the cost of a business project.

2. "Agricultural business project" means any land, any building or other improvement and any real and personal properties located within the state, including but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be used for manufacturing, warehousing, research, commercial, industrial or other business purposes in support of the state's agricultural industry.

3. "Lender" means (a) any organization defined by subdivision eleven of section two of the banking law, (b) any agency or branch of a foreign banking corporation licensed by the department of financial services under article five of the banking law, (c) any national bank, federal savings and loan association and federal credit union, (d) any authorized insurer defined by subdivision six of section four of the insurance law and (e) any other institution within the state authorized to originate and service loans including, but not limited to, credit unions, mortgage loan companies and the New York business development corporation established under article five-A of the banking law, which shall be treated as a lender for all purposes of this subtitle.

4. "Loan for agricultural business project" means a loan received by a borrower from a lender to pay the cost of an agricultural business project.

5. "Loan to lender" means a loan made by the authority to a lender and evidenced by a bond, note, certificate of deposit or other obligation of such lender, secured or unsecured, as provided in this subtitle. (Added L.1984, c. 508, § 1. Amended L.2011, c. 62, pt. A, § 104, eff. Oct. 3, 2011.)

Historical and Statutory Notes

L.2011, c. 62 legislation

L.2011, c. 62, pt. A, § 104, subd. (c), provides:

“(c) Wherever the terms ‘insurance department’, ‘department of insurance’, ‘banking department’ or ‘de-

partment of banking’ appears in the consolidated or unconsolidated laws of this state other than the banking law or the insurance law, such terms are hereby changed to ‘department of financial services’.”

§ 1835-b. Additional powers of the authority

The authority shall have the following additional powers only with respect to making loans to lenders for the purpose of financing loans for agricultural business projects pursuant to this subtitle:

1. To prescribe standards and criteria for the granting of applications for loans to lenders and for the making of loans for agricultural business projects, which standards and criteria shall implement the intent and purposes of this subtitle. In developing such standards and criteria the authority shall consult with the superintendent of financial services regarding the qualifications of lenders and with the commissioner of agriculture and markets and the commissioner of economic development regarding the standards and criteria for the making of loans for business projects.

2. To make, and undertake commitments to make, loans to lenders under such terms and conditions as shall require the proceeds of such loans to lenders to be used by lenders to make loans for agricultural business projects;

3. To make and execute contracts for the administration or servicing of any loan to lender made by the authority and to pay the reasonable value of services rendered to the authority pursuant to such contracts;

4. To borrow money and issue bonds and notes as provided in section one thousand eight hundred thirty-five-d of this subtitle; and

5. To do any and all things necessary or convenient to carry out its corporate purposes and exercise the powers given and granted in this subtitle.

(Added L.1984, c. 508, § 1. Amended L.1990, c. 118, § 4; L.2011, c. 62, pt. A, § 104, eff. Oct. 3, 2011; L.2012, c. 155, § 77, eff. July 18, 2012.)

Historical and Statutory Notes

L.2011, c. 62 legislation

L.2011, c. 62, pt. A, § 104, subd. (f), provides:

“(f) Wherever the terms ‘superintendent of insurance’ or ‘superinten-

dent of banks’ appears in the consolidated or unconsolidated laws of this state other than the banking law or the insurance law, such terms are hereby changed to ‘superintendent of financial services’.”

§ 1835-f. Loans to lenders funds

Research References

Encyclopedias

N.Y. Jur. 2d Employment Relations § 437, Combating Unemployment; Job Development Authorities.

SUBTITLE VI—EMPLOYEE OWNERSHIP ASSISTANCE

§ 1836-a. Legislative findings

Research References

Encyclopedias

N.Y. Jur. 2d Business Relationships § 2134, Generally; Legislative Findings.
N.Y. Jur. 2d Business Relationships § 2135, Definitions.
N.Y. Jur. 2d Business Relationships § 2138, Loan Agreements.
N.Y. Jur. 2d Business Relationships § 2140, Rules and Regulations of Authority.

§ 1836-b. Definitions

Research References

Encyclopedias

N.Y. Jur. 2d Business Relationships § 2135, Definitions.
N.Y. Jur. 2d Business Relationships § 2138, Loan Agreements.

§ 1836-c. Applications for loans

Research References

Encyclopedias

N.Y. Jur. 2d Business Relationships § 2136, Applications for Loans.

§ 1836-d. Loan preferences

Research References

Encyclopedias

N.Y. Jur. 2d Business Relationships § 2137, Loan Preference.

§ 1836-e. Loan agreements

Research References

Encyclopedias

N.Y. Jur. 2d Business Relationships § 2138, Loan Agreements.

§ 1836-f. Repayment of loans; interest

Research References

Encyclopedias

N.Y. Jur. 2d Business Relationships § 2139, Repayment of Loans; Interest.

§ 1836-g. Rules and regulations of the authority

Research References

Encyclopedias

N.Y. Jur. 2d Business Relationships § 2134, Generally; Legislative Findings.

N.Y. Jur. 2d Business Relationships § 2135, Definitions.

N.Y. Jur. 2d Business Relationships § 2138, Loan Agreements.

N.Y. Jur. 2d Business Relationships § 2140, Rules and Regulations of Authority.

SUBTITLE VII—SPECIAL PROJECT DEVELOPMENT

§ 1838. Bonding guarantee assistance program

Research References

Encyclopedias

N.Y. Jur. 2d Employment Relations § 437, Combating Unemployment; Job Development Authorities.

N.Y. Jur. 2d Public Authorities § 5, Particular Authorities.

TITLE 8-A—LONG ISLAND JOB DEVELOPMENT
AUTHORITY [REPEALED]§§ 1840 to 1840-y. Repealed by L.2012, c. 374, § 20, eff. Oct.
15, 2012

Historical and Statutory Notes

Repealed § 1840, which related to the short title of the Long Island job development authority act, was added by L.1979, c. 273, § 1.

Repealed § 1840-a, which related to the definitions of the Long Island job development authority act, was added by L.1979, c. 273, § 1.

Repealed § 1840-b, which related to the organization of Long Island job development authority, was added by L.1979, c. 273, § 1.

Repealed § 1840-c, which related to the purposes of the authority, was added by L.1979, c. 273, § 1.

Repealed § 1840-d, which related to the general powers and duties of the authority, was added by L.1979, c. 273, § 1.

Repealed § 1840-e, which related to the issuance of bonds and notes by the authority, was added by L.1979, c. 273, § 1.

Repealed § 1840-f, which related to the agreement with Nassau and Suffolk

counties and the state, was added by L.1979, c. 273, § 1.

Repealed § 1840-g, which related to the reserve funds, was added by L.1979, c. 273, § 1.

Repealed § 1840-h, which related to the appropriations and authorized indebtedness, was added by L.1979, c. 273, § 1.

Repealed § 1840-i, which related to the remedies of bondholders and noteholders, was added by L.1979, c. 273, § 1.

Repealed § 1840-j, which related to the bonds and notes of the authority as investments, was added by L.1979, c. 273, § 1.

Repealed § 1840-k, which related to the moneys of the authority, was added L.1979, c. 273, § 1.

Repealed § 1840-l, which related to the exemption from taxation, was added by L.1979, c. 273, § 1.