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TITLE 46
Waters and Navigation
CHAPTER 46-12.2
Rhode Island Infrastructure Bank
SECTION 46-12.2-1

§ 46-12.2-1. Legislative findings.

(a) It is hereby found that there exists and will in the future exist within the state of Rhode Island the need to construct facilities and to facilitate projects for the abatement of pollution caused by wastewater for the enhancement of the waters of the state, and for the completion of renewable energy and energy efficiency projects in order to save property owners money and to encourage job and business growth in Rhode Island.

(b) It is hereby further found that to meet water quality goals under federal and state law, and to secure maximum benefit of funding programs available under federal and state law pertaining to wastewater pollution abatement projects, it is necessary to establish a revolving loan fund program in accordance with federal and state law to provide a perpetual source of low cost financing for water pollution abatement projects.

(c) It is hereby further found that to secure maximum benefit to the state from funding programs available under federal and state law and, to the extent permissible to attract private capital, for water pollution abatement projects, for safe drinking water projects, for municipal road and bridge projects, and other infrastructure related projects, it is necessary to establish a finance agency to administer the revolving loan funds and other financing mechanisms, and for the finance agency to work with the department of environmental management, Rhode Island department of transportation, the Rhode Island office of energy resources and other federal and state agencies for proper administration of revolving loan funds and other financing mechanisms.

(d) It is hereby further found that cities and towns can lower the costs of borrowing for road and bridge projects through cooperation with the Rhode Island infrastructure bank and that greater coordination among cities and towns will enable more efficient allocation of infrastructure resources by the state of Rhode Island.

(e) It is hereby further found that the geographic size of and population of Rhode Island, while often derided as an impediment to economic growth, are potential assets, not handicaps, to better infrastructure development.

(f) It is hereby further found that initiatives for infrastructure finance can best be accomplished through a new, streamlined entity that seeks to foster and develop a public-private sector partnership that takes advantage of all of Rhode Island's strengths.

(g) It is hereby further found that expanding the Rhode Island clean water finance agency and renaming it the Rhode Island infrastructure bank provides the best avenue for reducing ongoing pollution to the waters of the state and emissions that degrade air quality and contribute to climate change while fostering the creation of jobs and the realization of energy cost savings through the facilitation of infrastructure improvements.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2001, ch. 144, § 4; P.L. 2001, ch. 163, § 4; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-2. Definitions.

As used in this chapter, unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings:

(1) "Agency" means the Rhode Island clean water finance agency, and, effective September 1, 2015, and thereafter, shall mean the Rhode Island infrastructure bank;

(2) "Approved project" means any project or portion thereof that has been issued a certificate of approval by the department for financial assistance from the agency, and also includes any project approved for financial assistance from the agency in accordance with state law, and, furthermore, shall include water pollution abatement projects funded outside of the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, or the local interest subsidy trust fund, without the requirement of the issuance of a certificate of approval; and, furthermore, shall include resiliency related infrastructure projects, and projects which may, subject to compliance with all state and federal requirements, include state and federal infrastructure located within the state of Rhode Island;

(3) "Board" means the board of directors of the agency;

(4) "Bond act" means any general or special law authorizing a local governmental unit to incur indebtedness for all or any part of the cost of projects coming within the scope of a water pollution abatement project, or for other projects related to this chapter, including but not limited to, § 45-12-2;

(5) "Bonds" means bonds, notes, or other evidence of indebtedness of the agency;

(6) "Certificate of approval" means the certificate of approval contemplated by § 46-12.2-8;

(7) "Chief executive officer" means the mayor in any city, the president of the town council in any town, and the executive director of any authority or commission, unless some other officer or body is designated to perform the functions of a chief executive officer under any bond act or under the provisions of a local charter or other law;

(8) "Clean Water Act" or "act" means the Federal Water Pollution Control Act, act of June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. No. 92-500, 86 Stat. 896, as added Dec. 27, 1977, Pub. L. No. 95-217, 91 Stat. 1566 (codified at 33 U.S.C. § 1251 et seq., as amended and as hereafter amended from time to time);

(9) "Corporation" means any corporate person, including, but not limited to: corporations, societies, associations, limited liability companies, partnerships, and sole proprietorships;

(10) "Cost" as applied to any approved project, means any or all costs, whenever incurred, approved by the agency in accordance with § 46-12.2-8, of planning, designing, acquiring, constructing, and carrying out and placing the project in operation, including, without limiting the generality of the foregoing, amounts for the following: planning, design, acquisition, construction, expansion, improvement, and rehabilitation of facilities; acquisition of real or personal property; demolitions and relocations; labor, materials, machinery, and equipment; services of architects, engineers, and environmental and financial experts and other consultants; feasibility studies, plans, specifications, and surveys; interest prior to and during the carrying out of any project and for a reasonable period thereafter; reserves for debt service or other capital or current expenses; costs of issuance of local governmental obligations or non-governmental obligations issued to finance the obligations including, without limitation, fees, charges, and expenses and costs of the agency relating to the loan evidenced thereby, fees of trustees and other depositories, legal and auditing fees, premiums and fees for insurance, letters or lines of credit or other credit facilities securing local governmental obligations or non-governmental obligations and other costs, fees, and charges in connection with the foregoing; and working capital, administrative expenses, legal expenses, and other expenses necessary or incidental to the aforesaid, to the financing of a project, and to the issuance therefor of local government obligations under the provisions of this chapter;

(11) "Department" means the department of environmental management;

(12) "Financial assistance" means any form of financial assistance provided by the agency to a local governmental unit, person, or corporation in accordance with this chapter for all or any part of the cost of an approved project, including, without limitation: grants, temporary and permanent loans, with or without interest, guarantees, insurance, subsidies for the payment of debt service on loans, lines of credit, and similar forms of financial assistance; provided, however, notwithstanding the foregoing, for purposes of capitalization grant awards made available to the agency, pursuant to the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), or as otherwise required in connection with other capitalization grant awards made available to the agency, financial assistance shall also include principal forgiveness and negative interest loans;

(13) "Fully marketable form" means a local governmental obligation in form satisfactory to the agency duly executed and accompanied by an opinion of counsel of recognized standing in the field of municipal law whose opinions have been and are accepted by purchasers of like obligations to the effect that the obligation is a valid and binding obligation of the local governmental unit issuing the obligation, enforceable in accordance with its terms;

(14) "General revenues," when used with reference to a local governmental unit, means revenues, receipts, assessments, and other moneys of the local governmental unit received from or on account of the exercise of its powers and all rights to receive the same, including without limitation:

(i) Taxes;

(ii) Wastewater system revenues;

(iii) Assessments upon or payments received from any other local governmental unit that is a member or service recipient of the local governmental unit, whether by law, contract, or otherwise;

(iv) Proceeds of local governmental obligations and loans and grants received by the local governmental unit in accordance with this chapter;

(v) Investment earnings;

(vi) Reserves for debt service or other capital or current expenses;

(vii) Receipts from any tax, excise, or fee heretofore or hereafter imposed by any general or special law all or a part of the receipts of which are payable or distributable to or for the account of the local governmental unit;

(viii) Local aid distributions; and

(ix) Receipts, distributions, reimbursements, and other assistance received by or for the account of the local governmental unit from the United States or any agency, department, or instrumentality thereof;

(15) "Loan" means a loan by the agency to a local governmental unit, or person, or corporation for costs of an approved project, including, without limitation, temporary and permanent loans, and lines of credit;

(16) "Loan agreement" means any agreement entered into by the agency with a local governmental unit, person, or corporation pertaining to a loan, other financial assistance, local governmental obligations, or non-governmental obligations, including, without limitation: a loan agreement, trust agreement, security agreement, reimbursement agreement, guarantee agreement, financing lease agreement, appropriation agreement, or similar instrument;

(17) "Local aid distributions" means receipts, distributions, reimbursements, and other assistance payable by the state to or for the account of a local governmental unit, except such receipts, distributions, reimbursements, and other assistance restricted by law to specific statutorily defined purposes;

(18) "Local governmental obligations" means bonds, notes, financing lease obligations, appropriation obligations, and other evidences of indebtedness in fully marketable form issued by a local governmental unit to evidence a loan or other financial assistance, from the agency in accordance with this chapter or otherwise as provided herein;

(19) "Local governmental unit" means any town, city, district, commission, agency, authority, board, bodies politic and corporate, public corporation, or other political subdivision or instrumentality of the state or of any political subdivision thereof, including the Narragansett Bay commission; and, for purposes of dam safety or dam maintenance projects, any person seeking financial assistance as a joint applicant with any of the above entities;

(20) "Local interest subsidy trust fund" means the local interest subsidy trust fund established under § 46-12.2-6;

(21) "Non-governmental obligations" means bonds, notes, or other evidences of indebtedness in fully marketable form issued by a person or corporation to evidence a loan, or other financial assistance, from the agency in accordance with this chapter or otherwise as provided herein;

(22) "Person" means any natural person;

(23) "Priority determination system" means the system by which water pollution abatement projects are rated on the basis of environmental benefit and other criteria for funding assistance pursuant to rules and regulations promulgated by the department as they may be amended from time to time;

(24) "Projected energy efficiency savings" means, at the time a loan agreement is entered into between the agency and a local governmental unit, the savings projected to be derived from the implementation of energy efficient and renewable-energy upgrades to public buildings, as determined in accordance with the rules and regulations promulgated by the Rhode Island infrastructure bank pursuant to this chapter;

(25) "Qualified energy conservation bond" or "QECB" means those bonds designated by 26 U.S.C. § 54D;

(26) "Revenues," when used with reference to the agency, means any receipts, fees, payments, moneys, revenues, or other payments received or to be received by the agency in the exercise of its corporate powers under this chapter, including, without limitation: loan repayments, payments on local governmental obligations, non-governmental obligations, grants, aid, appropriations, and other assistance from the state, the United States, or any agency, department, or instrumentality of either or of a political subdivision thereof, bond proceeds, investment earnings, insurance proceeds, amounts in reserves, and other funds and accounts established by

or pursuant to this chapter or in connection with the issuance of bonds, including, without limitation, the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, and the local interest subsidy fund, and any other fees, charges or other income received or receivable by the agency;

(27) "Rhode Island water pollution control revolving fund" means the Rhode Island water pollution control revolving fund established pursuant to § 46-12.2-6;

(28) "Trust agreement" means a trust agreement, loan agreement, security agreement, reimbursement agreement, currency or interest rate exchange agreement, or other security instrument, and a resolution, loan order, or other vote authorizing, securing, or otherwise providing for the issue of bonds, loans, or local governmental obligations or non-governmental obligations;

(29) "Wastewater system revenues" means all rates, rents, fee assessments, charges, and other receipts derived or to be derived by a local governmental unit from wastewater collection and treatment facilities and water pollution abatement projects under its ownership or control, or from the services provided thereby, including, without limitation: proceeds of grants, gifts, appropriations, and loans, including the proceeds of loans or grants awarded by the agency or the department in accordance with this chapter, investment earnings, reserves for capital and current expenses, proceeds of insurance or condemnation, and the sale or other disposition of property; wastewater system revenues may also include rates, rents, fees, charges, and other receipts derived by the local governmental unit from any water supply of distribution facilities or other revenue producing facilities under its ownership or control; wastewater system revenues shall not include any ad valorem taxes levied directly by the local governmental unit on any real and personal property;

(30) "Water pollution abatement project" or "project" means any project eligible pursuant to Title VI of the Clean Water Act including, but not limited to, a wastewater treatment or conveyance project that contributes to removal, curtailment, or mitigation of pollution of the surface water of the state, and conforms with any applicable comprehensive land use plan which has been adopted or any dam safety, removal or maintenance project; it also means a project to enhance the waters of the state, which the agency has been authorized by statute to participate in; it also means any other project to which the agency has been authorized to provide financial assistance;

(31) "Water pollution control revolving fund" means the water pollution control revolving fund contemplated by title VI of the Water Quality Act and established under § 46-12.2-6;

(32) "Water Quality Act" means the Water Quality Act of 1987, Pub. L. No. 100-4, 101 Stat. 7, 33 U.S.C. § 1251 et seq., as amended from time to time.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 1993, ch. 259, § 2; P.L. 2001, ch. 112, § 1; P.L. 2001, ch. 135, § 1; P.L. 2001, ch. 144, § 4; P.L. 2001, ch. 163, § 4; P.L. 2009, ch. 5, art. 3, § 1; P.L. 2010, ch. 179, § 1; P.L. 2010, ch. 189, § 1; P.L. 2011, ch. 219, § 1; P.L. 2011, ch. 308, § 1; P.L. 2015, ch. 141, art. 14, § 17; P.L. 2017, ch. 480, § 4; P.L. 2019, ch. 216, § 1; P.L. 2019, ch. 257, § 1.)

§ 46-12.2-3. Establishment, composition, appointment of directors of the Rhode Island infrastructure bank.

(a) There is hereby created a body politic and corporate and public instrumentality of the state having distinct legal existence from the state and not constituting a department of the state government, to be known as the Rhode Island clean water finance agency, and, effective September 1, 2015, and thereafter, to be known as the Rhode Island infrastructure bank. Effective September 1, 2015, whenever, in any general law, public law, rule, regulation, bylaw and/or otherwise, any reference is made to the Rhode Island clean water finance agency, by name or otherwise, the reference shall be deemed to refer to and mean the "Rhode Island infrastructure bank." The agency shall take all necessary actions to effectuate this name change, including, but not limited to, changing the name of the agency on file with any government office. The exercise by the agency of the powers conferred by this chapter shall be deemed to be the performance of an essential public function.

(b) Nothing in this act shall be construed to change or modify the corporate existence of the former Rhode Island clean water finance agency, or to change or modify any contracts or agreements of any kind by, for, or to which the Rhode Island clean water finance agency is a party thereto.

(c) The powers of the agency shall be exercised by or under the supervision of a board of directors consisting of five (5) members, four of whom shall be members of the public appointed by the governor, with the advice and consent of the senate. The governor in making these appointments shall give due consideration to persons skilled and experienced in law, finance, and public administration and give further due consideration to a recommendation by the general treasurer for one of those appointments. All appointments made by the governor shall serve for a term of two (2) years. No one shall be eligible for appointment unless he or she is a resident of this state. The members of the board of directors as of the effective date of this act [July 15, 2005] who were appointed to the board of directors by members of the general assembly shall cease to be members of the board of directors on the effective date of this act. As of the effective date of this act, the general treasurer or his or her designee, who shall be a subordinate within the general treasurer's department, shall serve on the board of directors as an ex-officio member. Those members of the board of directors as of the effective date of this act who were appointed to the board of directors by the governor shall continue to serve the balance of their current terms.

(d) Each member of the board of directors shall serve until his or her successor is appointed and qualified. The appointed member of the board of directors shall be eligible for reappointment. Any member of the board of directors appointed to fill a vacancy of a public member on the board shall be appointed by the governor, with the advice and consent of the senate, for the unexpired term of the vacant position in the same manner as the member's predecessor as set forth in subsection 46-12.2-3(b). The public members of the board of directors shall be removable by the governor, pursuant to § 36-1-7 and for cause only, and removal solely for partisan or personal reasons unrelated to capacity or fitness for the office shall be unlawful. The governor shall designate one member of the board of directors to be the chairperson of the agency to serve in such capacity during his or her term as a member. The board of directors may

elect from among its members such other officers as they deem necessary. Three (3) members of the board of directors shall constitute a quorum. A majority vote of those present shall be required for action. No vacancy in the membership of the board of directors shall impair the right of a quorum to exercise the powers of the board of directors. The members of the board of directors shall serve without compensation, but each member shall be reimbursed for all reasonable expenses incurred in the performance of his or her duties.

(e) Notwithstanding any other provision of general or special law to the contrary, any member of the board of directors, who is also an officer or employee of the state or of a local governmental unit or other public body, shall not thereby be precluded from voting for or acting on behalf of the agency, the state, or local governmental unit or other public body on any matter involving the agency, the state, or that local governmental unit or other public body, and any director, officer, employee, or agent of the agency shall not be precluded from acting for the agency on any particular matter solely because of any interest therein which is shared generally with a substantial segment of the public.

(f) In addition to the board of directors, there is hereby created a green infrastructure strategic advisory council (the "advisory council"). The advisory council shall exist to advise the board of directors on advances related to green infrastructure, energy efficiency, and renewable energy and to make recommendations on potential opportunities for new programs and/or updates to existing programs. The advisory council shall consist of: the executive director of the Rhode Island Infrastructure Bank, or designee, the chairperson of the Rhode Island Infrastructure Bank board of directors, or designee, the secretary of commerce, or designee, the director of the department of environmental management, or designee, the commissioner of the office of energy resources, or designee, the director of the department of health, or designee, the director of the department of transportation, or designee and the executive director of Rhode Island housing, or designee. The chairperson of the Rhode Island Infrastructure Bank, or designee, shall serve as chairperson of the advisory council.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2001, ch. 180, § 148; P.L. 2005, ch. 316, § 1; P.L. 2005, ch. 320, § 1; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-4. General powers and duties of agency.

(a) The agency shall have all powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, chapter 24-18 and chapter 39-26.5, including without limiting the generality of the foregoing, the powers and duties:

(1) To adopt and amend bylaws, rules, regulations, and procedures for the governance of its affairs, the administration of its financial assistance programs, and the conduct of its business;

(2) To adopt an official seal;

- (3) To maintain an office at such place or places as it may determine;
- (4) To adopt a fiscal year;
- (5) To adopt and enforce procedures and regulations in connection with the performance of its functions and duties;
- (6) To sue and be sued;
- (7) To employ personnel as provided in § 46-12.2-5, and to engage accounting, management, legal, financial, consulting and other professional services;
- (8) Except as provided in this chapter, to receive and apply its revenues to the purposes of this chapter without appropriation or allotment by the state or any political subdivision thereof;
- (9) To borrow money, issue bonds, and apply the proceeds thereof, as provided in this chapter, chapter 19.16 of title 23, chapter 18 of title 24 and chapter 26.5 of title 39, and to pledge or assign or create security interests in revenues, funds, and other property of the agency and otherwise as provided in this, chapter 19.16 of title 23, chapter 18 of title 24 and chapter 26.5 of title 39, to pay or secure the bonds; and to invest any funds held in reserves or in the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, the municipal road and bridge fund established under chapter 24-18, any other funds established in accordance with this chapter, or the local interest subsidy trust fund, or any revenues or funds not required for immediate disbursement, in such investments as may be legal investments for funds of the state;
- (10) To obtain insurance and to enter into agreements of indemnification necessary or convenient to the exercise of its powers under this, chapter 19.16 of title 23, chapter 18 of title 24 and chapter 26.5 of title 39;
- (11) To apply for, receive, administer, and comply with the conditions and requirements respecting any grant, gift, or appropriation of property, services, or moneys;
- (12) To enter into contracts, arrangements, and agreements with other persons, and execute and deliver all instruments necessary or convenient to the exercise of its powers under this, chapter 19.16 of title 23, chapter 18 of title 24 and chapter 26.5 of title 39; such contracts and agreements may include without limitation, loan agreements with a local governmental unit, person or corporation, capitalization grant agreements, intended use plans, operating plans, and other agreements and instruments contemplated by title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., or this chapter, agreement and instruments contemplated by chapter 24-18, grant agreements, contracts for financial assistance or other forms of assistance from the state or the United States, and trust agreements and other financing agreements and instruments pertaining to bonds;

(13) To authorize a representative to appear on its own behalf before other public bodies, including, without limiting the generality of the foregoing, the congress of the United States, in all matters relating to its powers and purposes;

(14) To provide financial assistance to a local governmental unit, person, or, to a corporation to finance costs of approved projects, and to thereby acquire and hold local governmental obligations and non-governmental obligations at such prices and in such manner as the agency shall deem advisable, and sell local governmental obligations and non-governmental obligations acquired or held by it at prices without relation to cost and in such manner as the agency shall deem advisable, and to secure its own bonds with such obligations all as provided in this chapter, chapter 19.16 of title 23, chapter 18 of title 24 and chapter 26.5 of title 39. Furthermore, in connection with a recommendation by the Rhode Island commerce corporation, this power shall include the power to designate a commercial project as a high priority, and to provide that project with financial assistance as soon as practicable;

(15) To establish and collect such fees and charges as the agency shall determine to be reasonable;

(16) To acquire, own, lease as tenant, or hold real, personal or mixed property or any interest therein for its own use; and to improve, rehabilitate, sell, assign, exchange, lease as landlord, mortgage, or otherwise dispose of or encumber the same;

(17) To do all things necessary, convenient, or desirable for carrying out the purposes of this chapter and chapter 24-18 or the powers expressly granted or necessarily implied by this chapter, chapter 19.16 of title 23, chapter 18 of title 24 and chapter 26.5 of title 39;

(18) To conduct a training course for newly appointed and qualified members and new designees of ex-officio members within six (6) months of their qualification or designation. The course shall be developed by the executive director, approved by the board of directors, and conducted by the executive director. The board of directors may approve the use of any board of directors or staff members or other individuals to assist with training. The training course shall include instruction in the following areas: the provisions of chapters 46-12.2, 42-46, 36-14, and 38-2; and the agency's rules and regulations. The director of the department of administration shall, within ninety (90) days of the effective date of this act [July 15, 2005], prepare and disseminate, training materials relating to the provisions of chapters 42-46, 36-14 and 38-2; and

(19) Upon the dissolution of the water resources board (corporate) pursuant to § 46-15.1-22, to have all the powers and duties previously vested with the water resources board (corporate), as provided pursuant to chapter 46-15.1.

(20) To meet at the call of the chair at least eight (8) times per year. All meetings shall be held consistent with chapters 42-46.

(21) To be the sole issuer of QEGBs from the state of Rhode Island's allocation, including any portions of which have been reallocated to the state by local governments, for any project

authorized to be financed with the proceeds thereof under the applicable provisions of 26 U.S.C. § 54D.

(b) Notwithstanding any other provision of this chapter, the agency shall not be authorized or empowered:

(1) To be or to constitute a bank or trust company within the jurisdiction or under the control of the department of banking and insurance of the state, or the commissioner thereof, the comptroller of the currency of the United States of America, or the Treasury Department thereof; or

(2) To be or constitute a bank, banker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange, or securities dealers' law of the United States or the state.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2005, ch. 316, § 1; P.L. 2005, ch. 320, § 1; P.L. 2009, ch. 68, art. 5, § 5; P.L. 2013, ch. 144, art. 20, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-4.1. Power to participate in projects to enhance the waters of the state.

The agency shall have the power to exercise the powers set forth in § 46-12.2-4 to participate in the following projects and classes of projects that enhance the waters of the state: projects for dewatering dredged material, for beneficial use and disposal of dredged material at sites above mean high water and for confined aquatic disposal of dredged materials, provided that the project has been approved by the coastal resources management council and the department as provided for in chapter 6.1 of this title, and further provided that the project is supported either by a fund established for the purposes of supporting such projects or is supported from project revenues. The agency shall cooperate with the coastal resources management council and the department in preparing a proposal for establishing a fund to support projects for dewatering dredged material, for beneficial use and disposal of dredged material at sites above mean high water and for confined aquatic disposal of dredged materials.

History of Section.

(P.L. 2001, ch. 144, § 5; P.L. 2001, ch. 163, § 5.)

§ 46-12.2-4.2. Establishment of the efficient buildings fund.

(a) There is hereby authorized and created within the Rhode Island infrastructure bank an efficient buildings fund for the purpose of providing technical, administrative and financial assistance to local governmental units for energy efficient and renewable energy upgrades to public buildings and infrastructure, including, but not limited to, streetlights. The Rhode Island

infrastructure bank shall review and approve all applications for projects to be financed through the efficient buildings fund.

The office of energy resources shall promulgate rules and regulations establishing a project priority list for efficient buildings fund and the process through which a local governmental unit may submit an application for inclusion of a project on the project priority list. Upon issuance of the project priority list by the office of energy resources, the project priority list shall be used by the Rhode Island infrastructure bank to determine the order in which financial assistance shall be awarded. The Rhode Island infrastructure bank shall promulgate rules and regulations to effectuate the provisions of this section which may include, without limitation, forms for financial assistance applications, loan agreements, and other instruments. All rules and regulations promulgated pursuant to this chapter shall be promulgated in accordance with the provisions of chapter 35 of title 42. Eligibility for receipt of this financial assistance by a local governmental unit shall be conditioned upon that local governmental unit reallocating their remaining proportional QECB allocation to the state of Rhode Island.

(b) The Rhode Island infrastructure bank shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section including, without limiting the generality of the preceding statement, the authority:

(1) To receive and disburse such funds from the state and federal government as may be available for the purpose of the fund subject to the provisions of this section;

(2) To make and enter into binding commitments to provide financial assistance to eligible borrowers from amounts on deposit in the fund;

(3) To levy administrative fees on eligible borrowers as necessary to effectuate the provisions of this section, provided the fees have been previously authorized by an agreement between the Rhode Island infrastructure bank and the eligible borrower;

(4) To engage the services of third-party vendors to provide professional services;

(5) To establish one or more accounts within the fund; and

(6) Such other authority as granted to the Rhode Island infrastructure bank under this chapter.

(c) Subject to the provisions of this section and to any agreements with the holders of any bonds of the Rhode Island infrastructure bank or any trustee therefor, amounts held by the Rhode Island infrastructure bank for the account of the fund shall be applied by the Rhode Island infrastructure bank, either by direct expenditure, disbursement, or transfer to one or more other funds and accounts held by the Rhode Island infrastructure bank or maintained under any trust agreement pertaining to bonds, either alone or with other funds of the Rhode Island infrastructure bank, to the following purposes:

(1) To provide financial assistance to local governmental units to finance costs of approved projects, as set forth in subsection (a), and to refinance the costs of the projects, subject to such terms and conditions, if any, as are determined by the Rhode Island infrastructure bank;

(2) To fund reserves for bonds of the Rhode Island infrastructure bank and to purchase insurance and pay the premiums therefor, and pay fees and expenses of letters or lines of credit and costs of reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to otherwise provide security for, and a source of payment for obligations of the Rhode Island infrastructure bank, by pledge, lien, assignment, or otherwise as provided in this chapter;

(3) To pay expenses of the Rhode Island infrastructure bank in administering the fund;

(4) To provide a reserve for, or to otherwise secure, amounts payable by borrowers on loans and obligations outstanding in the event of default thereof; amounts in any account in the fund may be applied to defaults on loans outstanding to the borrower for which the account was established and, on a parity basis with all other accounts, to defaults on any loans or obligations outstanding; and

(5) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or otherwise as provided in this chapter, any bonds of the Rhode Island infrastructure bank.

(d) In addition to other remedies of the Rhode Island infrastructure bank under any loan agreement or otherwise provided by law, the Rhode Island infrastructure bank may also recover from a borrower, in an action in superior court, any amount due the Rhode Island infrastructure bank together with any other actual damages the Rhode Island infrastructure bank shall have sustained from the failure or refusal of the borrower to make the payments or abide by the terms of the loan agreement.

(e) The Rhode Island infrastructure bank may create one or more loan loss reserve funds to serve as further security for any loans made by the Rhode Island infrastructure bank or any bonds of the Rhode Island infrastructure bank issued to fund energy efficiency improvements in public buildings in accordance with this section.

(f) To the extent possible, and in accordance with law, the infrastructure bank shall encourage the use of project labor agreements for projects over ten million dollars (\$10,000,000) and local hiring on projects funded under this section.

(g) Any financial assistance provided by the Rhode Island infrastructure bank to a public entity for the purpose of retrofitting a school building shall not be subject to the match established by Rhode Island general laws §§ 16-7-35 to 16-7-47, and shall be made subject to coordination with the Rhode Island department of education.

History of Section.

(P.L. 2015, ch. 141, art. 14, § 18.)

§ 46-12.2-5. Officers.

(a) An executive director, who shall be a person professionally skilled and experienced in law, finance, or public administration, shall be appointed by the board of directors as chief executive officer of the agency, and shall serve at the pleasure of the board. The executive director shall administer the affairs of the agency, including, without limiting the generality of the foregoing matters, relating to contracting, financial assistance administration, personnel and administration, under the supervision of the board in accordance with such authorizations as the board may from time to time reasonably adopt and continue in force. Salaries of personnel shall be guided by the unclassified pay plan. The board may also appoint persons to hold the offices of secretary and treasurer to the agency, including assistant secretaries and assistant treasurers in whom may be vested any of the powers of the secretary and the treasurer, respectively, or may appoint a director or employee of the agency to exercise such duties. The secretary shall be the custodian of the seal and of the books and records of the agency, and shall keep a record of the proceedings of the board of directors. The secretary may cause copies to be made of all minutes and other records and documents of the agency, and may give certificates under its official seal to the effect that the copies are true copies and all persons dealing with the agency may rely upon the certificates. The treasurer shall have charge of the books of account and accounting records of the agency, and shall be responsible, under the supervision of the executive director, for financial control for the agency. The board shall appoint and establish compensation benefits and other terms of employment for other officers and employees of the agency as it deems reasonable and necessary. Officers of the agency shall serve at the pleasure of the board or under contracts of employment; provided, however, that no contract of employment shall exceed a term of three (3) years, which may be renewed upon the expiration for successive terms.

(b) Present or past directors, officers, employees, or agents of the agency may be indemnified by the agency to the extent allowed by and in accordance with the indemnification provisions applicable to nonprofit corporations pursuant to § 7-6-6, as amended from time to time. The agency shall be a public body for purposes of § 9-1-31.1.

(c) The agency shall be subject to the provisions of § 42-11.3-1 and the executive director shall not be deemed to be a director as used in said section.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 1993, ch. 259, § 2.)

§ 46-12.2-5.1. Purchasing.

Internal purchasing procedures of the agency shall follow the principles and policies of state purchasing.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 1993, ch. 259, § 2.)

§ 46-12.2-6. Establishment of the water pollution control revolving fund, the Rhode Island water pollution control revolving fund and the local interest subsidy trust fund – Sources of funds – Permitted uses.

(a) The agency shall be the instrumentality of the state for administration of the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, and the local interest subsidy trust fund, and such other funds it holds or for which it is responsible, and, in conjunction with the department, is empowered to and shall take all action necessary or appropriate to secure to the state the benefits of title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and other federal or state legislation pertaining to the funds and to the financing of approved projects. Without limiting the generality of the foregoing and other powers of the agency provided in this chapter, the agency is empowered to and shall:

(1) Cooperate with appropriate federal agencies in all matters related to administration of the water pollution control revolving fund and, pursuant to the provisions of this chapter, administer the fund and receive and disburse such funds from any such agencies and from the state as may be available for the purpose of the fund.

(2) Administer the Rhode Island water pollution control revolving fund and the local interest subsidy trust fund, and receive and disburse such funds from the state as may be available for the purpose of the funds subject to the provisions of this chapter.

(3) In cooperation with the department, prepare, and submit to appropriate federal agencies applications for capitalization grants under title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and enter into capitalization grant agreements, operating agreements, and other agreements with appropriate federal and state agencies, and accept and disburse, as provided herein, any capitalization grant awards made under title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq.

(4) Cooperate with the department in the preparation and submission to appropriate federal and state agencies of intended use plans identifying the use of capitalization grant awards and other moneys in the water pollution control revolving fund.

(5) In cooperation with the department, prepare and submit to appropriate federal agencies, the department and the governor, annual and other reports and audits required by law.

(6) Subject to the provisions of this chapter both to make, and enter into binding commitments to provide financial assistance to local governmental units, persons or corporations from amounts on deposit in the water pollution control revolving fund, the Rhode Island water pollution control revolving fund and from other funds of the agency; and to provide, and enter into binding commitments to provide subsidy assistance for loans, local governmental obligations and non-governmental obligations from amounts on deposit in the local interest subsidy trust fund.

(7) Establish and maintain fiscal controls and accounting procedures conforming to generally accepted government accounting standards sufficient to ensure proper accounting for receipts in

and disbursements from the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, the local interest subsidy trust fund and other funds it holds or for which it is responsible and, adopt such rules, regulations, procedures, and guidelines which it deems necessary to ensure that local governmental units, persons and corporations administer and maintain approved project accounts and other funds and accounts relating to financial assistance in accordance with generally accepted government accounting standards.

(b) The agency shall establish and set up on its books a special fund, designated the water pollution control revolving fund, to be held in trust and to be administered by the agency solely as provided in this chapter and in any trust agreement securing bonds of the agency. The agency shall credit to the water pollution control revolving fund or one or more accounts therein:

(1) All federal capitalization grant awards received under title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., provided the agency shall transfer to the department the amount allowed by § 603(d)(7) of the Water Quality Act, 33 U.S.C. § 1383(d)(7), to defray administration expenses;

(2) All amounts appropriated or designated to the agency by the state for purposes of the fund;

(3) To the extent required by federal law, loan repayments and other payments received by the agency on any loans, local governmental obligations and non-governmental obligations;

(4) All investment earnings on amounts credited to the fund to the extent required by federal law;

(5) All proceeds of bonds of the agency to the extent required by any trust agreement for such bonds;

(6) All other monies which are specifically designated for this fund, including, amounts from the Rhode Island Clean Water Act environmental trust fund, gifts, bequests, administrative, civil and criminal penalties, or other funds from any public or private sources; and

(7)(i) Any other amounts required by the provisions of this chapter, agreement, or any other law or by any trust agreement pertaining to bonds to be credited to the fund or which the agency in its discretion shall determine to credit thereto.

(ii) At the request of the governor, the agency shall take all action necessary to transfer the state's allotment under title II of the Clean Water Act, 33 U.S.C. § 1281 et seq., for federal fiscal year 1989 and each federal fiscal year thereafter, to the purposes of the water pollution control revolving fund, provided that any portion of any allotment which, under the provisions of the Clean Water Act, 33 U.S.C. § 1251 et seq., may not be transferred to or used for the purposes of the water pollution control revolving fund, shall continue to be received and administered by the department as provided by law.

(c) The agency shall establish and set up on its books a special fund, designated the Rhode Island water pollution control revolving fund, to be held in trust and to be administered by the agency solely as provided in this chapter and in any trust agreement securing bonds of the agency. The

agency shall credit to the Rhode Island water pollution control revolving fund or one or more accounts therein:

(1) All amounts appropriated or designated to the agency by the state for purposes of the fund;

(2) At its discretion, and to the extent allowed by law, loan repayments and other payments received by the agency on any loans, local governmental obligations and non-governmental obligations;

(3) At its discretion, all investment earnings and amounts credited to the fund;

(4) All proceeds of bonds of the agency to the extent required by any trust agreement for such bonds;

(5) All other monies which are specifically designated for this fund, including, amounts from the Rhode Island Clean Water Act environmental trust fund, gifts, bequests, administrative, civil and criminal penalties, or other funds from any public or private sources; and

(6) Any other amounts required by provisions of this chapter or agreement, or any other law or any trust agreement pertaining to bonds to be credited to the fund or which the agency in its discretion shall determine to credit thereto.

(d) Except to the extent limited by federal law, and subject to the provisions of this chapter, to the provisions of any agreement with the state authorized by § 46-12.2-7, and to any agreements with the holders of any bonds of the agency or any trustee therefor, amounts held by the agency for the account of either the water pollution control revolving fund or the Rhode Island water pollution control revolving fund shall be applied by the agency, either by direct expenditure, disbursement, or transfer to one or more other funds and accounts held by the agency or maintained under any trust agreement pertaining to bonds, either alone or with other funds of the agency, to the following purposes:

(1) To provide financial assistance to a local governmental unit or corporation to finance costs of approved projects, and to refinance the costs of the projects, subject to such terms and conditions, if any, as are determined by the department and/or the agency in accordance with § 46-12.2-8;

(2) To purchase or refinance debt obligations of a local governmental unit or corporation, or to provide guarantees, insurance or similar forms of financial assistance for the obligations;

(3) To fund reserves for bonds of the agency and to purchase insurance and pay the premiums therefor, and pay fees and expenses of letters or lines of credit and costs of reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to otherwise provide security for, and a source of payment for, by pledge, lien, assignment, or otherwise as provided in § 46-12.2-14, bonds of the agency issued in accordance with this chapter; and

(4)(i) To pay expenses of the agency and the department in administering the funds and the financial assistance programs of the agency authorized by this chapter. As part of the annual appropriations bill, the department shall set forth the gross amount of expenses received from the agency and a complete, specific breakdown of the sums retained and/or expended for administrative expenses.

(ii) By way of illustration, not by limitation, in the personnel area, the breakdown of administrative expenses should contain the number of personnel paid, the position numbers of the personnel, and whether or not the position is a new position or a position which had been funded previously by federal funds or a position which had been previously created but unfunded.

(e) The agency shall also establish and set up on its books a special fund, designated the local interest subsidy trust fund, to be held in trust and to be administered by the agency solely as provided in this chapter and in any trust agreement securing bonds of the agency. The agency may maintain a separate account in the local interest subsidy trust fund for each local governmental unit or corporation which has received a loan from the agency, in accordance with this chapter, to separately account for or otherwise segregate all or any part of the amounts credited to the fund and receipts in and disbursements from the fund. To the extent that the agency is required by this chapter, by any loan agreement or by any trust agreement, it shall, and, to the extent that it is permitted, it may in its discretion, credit to the local interest subsidy trust fund, and to one or more of the accounts or subaccounts therein:

(1) All amounts appropriated or designated to the agency by the state for purposes of the fund;

(2) Loan repayments and other payments received on loans, local governmental obligations, and non-governmental obligations;

(3) Investment earnings on amounts credited to the local interest subsidy trust fund;

(4) Proceeds of agency bonds;

(5) All other monies which are specifically designated for this fund including, amounts from the Rhode Island Clean Water Act environmental trust fund, gifts, bequests, administrative, civil and criminal penalties, or other funds from any public or private sources; and

(6) Any other amounts permitted by law.

(f) Subject to any agreement with the state authorized by § 46-12.2-7, to the provisions of § 46-12.2-8, and to any agreement with the holders of any bonds of the agency or any trustee therefor, amounts held by the agency for the account of the local interest subsidy trust fund shall be applied by the agency, either by direct expenditure, disbursement, or transfer to one or more other funds and accounts held by the agency or maintained under any trust agreement pertaining to bonds, either alone or with other funds of the agency, to the following purposes:

(1) To pay or provide for all or a portion of the interest otherwise payable by local governmental units, persons or corporations on loans, local governmental obligations, and non-governmental obligations, in the amounts and on terms determined by the agency in accordance with § 46-12.2-8;

(2) To provide a reserve for, or to otherwise secure, amounts payable by local governmental units, persons or corporations on loans, local governmental obligations and non-governmental obligations outstanding in the event of default thereof; amounts in any account in the local interest subsidy trust fund may be applied to defaults on loans outstanding to the local governmental unit, person or corporation for which the account was established and, on a parity basis with all other accounts, to defaults on any loans, local governmental obligations, or non-governmental obligations outstanding; and

(3) To provide a reserve for, or to otherwise secure, by pledge, lien, assignment, or otherwise as provided in § 46-12.2-14, any bonds of the agency.

(g) Subject to any express limitation of this chapter pertaining to expenditure or disbursement of funds or accounts held by the agency, funds or accounts held by the agency may be transferred to any other fund or account held by the agency and expended or disbursed for purposes permitted by the fund or account.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 1993, ch. 259, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-7. Payment of state funds – Agreement between agency and department.

(a) Subject to the provisions of subsection (d) of this section, upon the written request of the agency, the state general treasurer shall pay to the agency, from time to time, from the proceeds of any bonds or notes issued by the state for the purposes of this chapter or funds otherwise lawfully payable to the agency for the purposes of this chapter, amounts equal to twenty percent (20%) of each federal capitalization grant award received or expected to be received by the agency under title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., plus such other amounts as shall have been appropriated or lawfully designated. All amounts so paid to the agency shall be credited to the water pollution control revolving fund to be applied as provided in § 46-12.2-6.

(b) Subject to the provisions of subsection (d), upon the written request of the agency, the state general treasurer shall pay to the agency, from time to time, from the proceeds of any bonds or notes issued by the state for the purposes of this chapter or funds otherwise lawfully payable to the agency for the purposes of this chapter, such amounts as shall have been appropriated or lawfully designated to meet the requirements of the local interest subsidy trust fund. All amounts so paid shall be in addition to any other amounts credited or expected to be credited to such fund, and shall be credited to the local interest subsidy trust fund.

(c) Subject to the provisions of subsection (d), upon the written request of the agency, the state general treasurer shall pay to the agency, from time to time, from the proceeds of any bonds or notes issued by the state for the purposes of this chapter or funds otherwise lawfully payable to the agency for the purposes of this chapter, such amounts as shall have been appropriated or lawfully designated for the Rhode Island water pollution control revolving fund. All amounts so paid to the agency shall be credited to the Rhode Island water pollution control revolving fund.

(d) The director of the department and the governor shall enter into, execute, and deliver one or more agreements with the agency setting forth or otherwise determining the terms, conditions, and procedures for, and the amount, time, and manner of payment of, all amounts available from the state to the agency under this section. The agreement or agreements may include such covenants and undertakings of the state, the agency, and the department as the governor, the agency, and the director of the department deem reasonable, including, without limitation, provision for payments by the state in advance of receipt of federal capitalization grant awards, or the execution and delivery of loan agreements by the agency and covenants and undertakings by the state to make payments in the future of amounts appropriated by the state when required by the agency or by the provisions of any trust agreement securing bonds. The agreement or agreements may also include provisions consistent with this chapter governing the application by the agency of amounts appropriated or designated by the state to the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, and the local interest subsidy trust fund and the remedies of the agency provided in § 46-12.2-8(h).

History of Section.

(P.L. 1989, ch. 303, § 2.)

§ 46-12.2-8. Procedures for application, approval, and award of financial assistance.

(a) Any local governmental unit, person or corporation may apply to the agency for financial assistance in accordance with this chapter to finance all or any part of the cost of a water pollution abatement project. The agency shall not award financial assistance to a local governmental unit, person or corporation until and unless the department shall have issued a certificate of approval of the project or portion thereof. Notwithstanding the foregoing, for water pollution abatement projects funded outside of the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, or the local interest subsidy trust fund, the agency may provide financial assistance without the requirement of the issuance of a certificate of approval, and such projects shall not be required to be listed on the department's priority list as set forth in this chapter.

(b) If the department shall determine, in accordance with rules and regulations promulgated pursuant to this chapter, that an application for financial assistance or portion thereof shall be approved, it shall deliver to the agency a certificate of approval of the project or a portion thereof which shall specify the project or portion thereof eligible for financial assistance and such other terms, conditions and limitations with respect to the construction and operation of the project as the department shall determine. The agency shall specify, among other things, the type and

amount of financial assistance to be provided, the costs thereof eligible for financial assistance, the amounts, if any, of the financial assistance, to be provided from the water pollution control revolving fund and/or the Rhode Island water pollution control revolving fund, the amount, if any, of subsidy assistance to be granted from the local interest subsidy trust fund, the amount, if any, of other financial assistance permitted by this chapter to be provided, and such other terms, conditions, and limitations on the financial assistance, the expenditure of loan proceeds, and the construction and operation of the project as the agency shall determine or approve.

(c) Any water pollution abatement project or portion thereof included on the priority list established by the department for federal fiscal year 1989 or any federal fiscal year thereafter shall be eligible for financial assistance in accordance with this chapter.

(d) In addition to the authority provided by law, the department shall be responsible for, and shall have all requisite power to, review and approve reports and plans for water pollution abatement projects and approved projects, or any part thereof, for which financial assistance has been applied or granted in accordance with this chapter, to enter into contracts with local governmental units, persons or corporations relative to approved projects, including, without limiting the generality of the foregoing, the costs of approved projects eligible for financial assistance, grants, and other terms, conditions and limitations with respect to the construction and operation of the project, and to inspect the construction and operation thereof of projects in compliance with approved plans. Without limiting the generality of the foregoing, in connection with the exercise of its powers and performance of its duties under this chapter, the department shall have all the powers provided by law to the department and its director. The department shall adopt rules, regulations, procedures, and guidelines to carry out the purposes of this chapter and for the proper administration of its powers and duties under this chapter. The rules, regulations, procedures, and guidelines shall include among other things, criteria for determining those water pollution abatement projects to be approved for financial assistance (the criteria shall include the priority determination system), specification of eligible costs of the projects, and provisions for compliance by projects constructed in whole or in part with funds directly made available under this chapter by federal capitalization grants with the requirements of the Clean Water Act, 33 U.S.C. § 1351 et seq., and other federal laws applicable to the project. The department shall cooperate with the agency in the development of capitalization grant applications, operating plans, and intended use plans for federal capitalization grant awards under title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and may enter into such agreements and other undertakings with the agency and federal agencies as necessary to secure to the state the benefits of title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq. In order to provide for the expenses of the department under this chapter, the agency shall transfer to the department for application to the expenses an amount from the water pollution control revolving fund equal to the maximum amount authorized by federal law, and such additional amounts as may be needed from the Rhode Island water pollution control fund and from any other monies available. The agency and the department shall enter into an operating agreement and amend the same, from time to time, allocating their respective rights, duties, and obligations with respect to the award of financial assistance and grants to finance approved projects under this chapter and establishing procedures for the application, approval, and oversight of projects, financial assistance, and grants.

(e) Upon issuance of a certificate of approval, the agency shall award as soon as practicable the financial assistance to the local governmental unit, person or corporation for any approved project specified in the certificate; provided, however, the agency may decline to award any financial assistance which the agency determines will have a substantial adverse effect on the interests of holders of bonds or other indebtedness of the agency or the interests of other participants in the financial assistance program, or for good and sufficient cause affecting the finances of the agency. All financial assistance shall be made pursuant to a loan agreement between the agency and the local governmental unit, person or corporation, acting by and through the officer or officers, board, committee, or other body authorized by law, or otherwise its chief executive officer, according to the terms and conditions of the certificate of approval and such other terms and conditions as may be established by the agency, and each loan shall be evidenced and secured by the issue to the agency of local governmental obligations or non-governmental obligations in fully marketable form in principal amount, bearing interest at the rate or rates specified in the applicable loan agreement, and shall otherwise bear such terms and conditions as authorized by this chapter and the loan agreement.

(f) The agency shall adopt rules, regulations, procedures, and guidelines for the proper administration of its financial assistance programs and the provision of financial assistance under this chapter. The rules, regulations, procedures, and guidelines shall be consistent with the requirements of title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and any rules, regulations, procedures, and guidelines adopted by the department, and may include, without limitation, forms of financial assistance applications, loan agreements, and other instruments, and provision for submission to the agency and the department by a local governmental unit, person or corporation of the information regarding the proposed water pollution abatement project, the wastewater system of which it is a part, and the local governmental unit or corporation as the agency or the department shall deem necessary, to determine the eligibility of a project for financial assistance under this chapter, the financial feasibility of a project, and the sufficiency of general revenues or wastewater system revenues to secure and pay the loan and the local governmental obligations or non-governmental obligations issued to evidence the project. The agency shall, no later than December 31, 2015, enter into an agreement with the Rhode Island commerce corporation to ensure collaboration for brownfields and energy efficiency related projects to which the agency provides financial assistance to corporations.

(g) Subject to the provisions of any trust agreement securing bonds of the agency, when the agency shall have awarded a loan eligible for subsidy assistance from funds held by the agency for the credit of the local interest subsidy trust fund, the agency shall credit to the applicable account in the fund maintained in accordance with § 46-12.2-6(e), the amount, if any, as provided in the loan agreement to defray all or a portion of the interest otherwise payable by the local governmental unit, person or corporation on the loan.

(h) In addition to other remedies of the agency under any loan agreement or otherwise provided by law, the agency may also recover from a local governmental unit, person or corporation, in an action in superior court, any amount due the agency together with any other actual damages the agency shall have sustained from the failure or refusal of the local governmental unit or corporation to make the payments.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 1993, ch. 259, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-9. Authorization to expend funds available for local grants.

In addition to the financial assistance provided by the agency to local governmental units, persons or corporations for approved projects in accordance with this chapter, the department is hereby authorized to expend funds otherwise available for grants to local governmental units, persons or corporations to the extent permitted by federal and state law.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-10. Powers of local governmental units.

Notwithstanding any provision of general law, special law or municipal charter to the contrary:

(1) In addition to authority granted otherwise by this chapter and in any bond act or other law, a local governmental unit, acting by and through the officer or officers, board, committee, or other body authorized by law, if any, or otherwise the chief executive officer, shall have the power to:

(i) Issue local governmental obligations as provided herein: (A) if and to the amount authorized by a bond act; (B) without limitation as to the amount, if issued as limited obligations, pursuant to § 46-12.2-12 or § 46-12.2-12.1; or (C) without limitation as to the amount, if issued as a financing lease or other appropriation obligation;

(ii) Plan, design, acquire, construct, operate, maintain, and otherwise undertake any project subject to the rules, regulations, procedures, and guidelines of the department, if applicable, in effect from time to time and the requirements of any other applicable law;

(iii) Apply for, accept, and expend, financial assistance and grants for the purpose of financing costs of projects subject to the rules, regulations, procedures, and guidelines of the agency and the department, if applicable, in effect from time to time, the provisions of the applicable loan agreement, and the requirements of other applicable law;

(iv) Authorize, execute, deliver, and comply with loan agreements, trust agreements, grant agreements, financing leases, appropriation agreements, and other agreements, and instruments with the agency, the department, and other persons relating to financial assistance and grants hereunder, and the issue of local governmental obligations to evidence loans, and perform the same;

(v) Receive, apply, pledge, assign, and grant security interests in its general revenues and wastewater system revenues to secure its obligations under local governmental obligations and other financial assistance; and

(vi) Fix, revise, charge, and collect such fees, rates, rents, assessments, and other charges of general or special application for the costs and/or use of any approved project, any wastewater system and any other revenue producing facilities from which the local governmental unit may derive wastewater system revenues, or for the services provided thereby, as it shall deem necessary to meet its obligations under any loan agreement or local governmental obligations outstanding or otherwise to provide for the costs and/or operation of the project and any wastewater system.

(2) In order to provide for the collection and enforcement of fees, rates, rents, assessments, and other charges for the operation of any approved project, any wastewater system, and any other revenue producing facilities from which the local governmental units may derive wastewater system revenues, in addition to any other authority provided by law or any bond act applicable to a particular local governmental unit, local governmental units are hereby granted all the powers and privileges granted to them by the general laws of the state with respect to any similar fee, rate, rent, assessment, or other charge. All unpaid fees, rates, rents, assessments, and other charges shall be a lien upon the real estate served for which the unpaid fees, rates, rents, assessments, or other charges have been made. A lien shall arise and attach as of the due date of each unpaid fee, rate, rent, assessment, or other charge. Subject to the provisions of § 39-26.5-6, the lien shall be superior to any other lien other than a tax lien, encumbrance, or interest in the real estate, whether by way of mortgage, attachment, or otherwise, except easements and restrictions. In the case of a life estate, the interest of the tenant for life shall first be liable for the unpaid fees, rates, rents, assessments, or other charges. The local governmental unit may enforce the lien by advertising and selling any real estate liable for unpaid fees, rents, assessments, and other charges in the manner provided for the enforcement of liens for unpaid taxes by chapter 9 of title 44, as amended from time to time.

(3) Any city or town and any other local governmental unit acting by and through the officer or officers, board, committee, other body authorized by law, or otherwise the chief executive officer, may enter into agreements with the agency or the department, if applicable, regarding the operation of a pricing system adopted under any applicable law for the services provided by any approved project, the wastewater system of which it is a part, and any other revenue producing facilities from which the local governmental unit may derive wastewater system revenues. The agreements may include, without limitation, provisions defining the costs of services, the approved project, and the wastewater system and other facilities, and covenants or agreements, regarding the fixing and collection of fees, rates, rents, assessments and other charges for the costs and the maintenance of the pricing system at levels sufficient to pay or provide for all the costs and any payments due the agency under any loan agreement or local governmental obligations.

(4) Any city or town and any other local governmental unit acting by and through the officer or officers, board, committee, or other body authorized by law, or otherwise the chief executive officer, may enter into agreements with the agency and the department, if applicable, regarding

the operation of an enterprise fund established for any approved project, any wastewater system, and any other revenue producing facilities from which the local governmental unit may derive wastewater system revenues. The agreements may include, without limitation, fiscal and accounting controls and procedures, provisions regarding the custody, safeguarding, and investment of revenues, and other amounts credited thereto, the establishment of reserves and other accounts and funds, and the application of any surplus funds.

(5) The provisions of any charter, other laws or ordinances, general, special, or local, or of any rule or regulation of the state or any municipality, restricting or regulating in any manner the power of any municipality to lease (as lessee or lessor) or sell property, real, personal, or mixed, shall not apply to leases and sales made with the agency pursuant to this chapter.

(6) Any municipality, notwithstanding any contrary provision of any charter, other laws or ordinances, general, special or local, or of any rule or regulations of the state or any municipality, is authorized and empowered to lend, pledge, grant, convey to, or lease from the agency, at its request, upon terms and conditions that the chief executive officer, if any, or where no chief executive officer exists, the city or town council of the municipality, may deem reasonable and fair and without the necessity for any advertisement, order of court, or other action or formality, any real property or personal property which may be necessary or convenient to effectuation of the authorized purpose of the agency, including other real property already devoted to public use.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-11. Authority of local governmental units to issue obligations – Terms.

(a) In addition to the powers of any local governmental unit provided in any bond act, whenever a local governmental unit has applied for and accepted a loan from the agency and entered into a loan agreement therefor, any local governmental obligations issued by the local governmental unit to evidence the loan may be issued in accordance with, and subject to the limitations of this chapter, notwithstanding the provisions of the bond act authorizing the obligation or any other general or special law or provision of municipal charter to the contrary. The provisions of this chapter shall apply to the issuance of local governmental obligations under authority of any bond act heretofore enacted and under authority of any bond act hereafter enacted unless the bond act expressly provides that the provisions of this chapter shall not so apply. Notwithstanding the foregoing, no local governmental obligation issued as a general obligation bond shall be issued unless authorized by a vote of the body or bodies required by the charter, ordinances, or laws governing the local governmental unit, or the applicable bond act for the authorization of indebtedness of the local governmental unit.

(b) Local governmental obligations issued by any local governmental unit shall be dated, may bear interest at such rate or rates, including rates variable, from time to time, subject to such minimum or maximum rate, if any, as may be determined by such index or other method of determination provided in the applicable loan agreement, shall mature in such amount or

amounts and at such time or times, not later than the maximum dates, if any, provided herein, and may be made redeemable in whole or in part before maturity at the option of the local governmental unit or at the option of the agency, at such price or prices and under such terms and conditions as may be fixed in the loan agreement prior to the issue of the local governmental obligations. Local governmental obligations may be issued as serial bonds or term bonds or any combination thereof with such provision, if any, for sinking funds for the payment of bonds as the local governmental unit and the agency may agree. The local governmental obligations may be sold at private sale and may be in such form, payable to the bearer thereof or the registered owner, whether certificated or uncertificated, be in such denominations, payable at such place or places, within or without the state, and otherwise bear such terms and conditions, not inconsistent with this chapter, as provided in the applicable loan agreement or as the agency and the local governmental unit shall otherwise agree. The local governmental obligations may be issued in principal amount equal to the loan evidenced thereby or at such discount as the agency and the local governmental unit shall agree.

(c) Local governmental obligations shall be payable within a period not exceeding the greater of the period, if any, specified in the applicable bond act or the useful life of the approved project financed by such obligations as determined by the department, or, if incurred to finance more than one project, the average useful life of the projects. Except as otherwise provided in this chapter, the local governmental obligations shall be payable by such equal, increasing, or decreasing installments of principal, annual or otherwise, as will extinguish the obligations at maturity, the first installment to be payable no later than three (3) years after the date of issuance of the obligations or one year after the date of completion of the approved project financed by the obligations, as determined by the department, whichever date is later, and the remaining installments of principal, if any, to be in such amounts and payable on such dates as the agency and the local governmental unit shall agree.

(d) If a local governmental unit has authorized borrowing in accordance with this chapter and the issuance of local governmental obligations to evidence the borrowing under any bond act, the local governmental unit may, subject to the applicable loan agreement and with the approval of the agency, issue notes to the agency to evidence the loan. The issuance of the notes shall be governed by the provisions of this chapter relating to the issue of bonds other than notes, to the extent applicable, provided the maturity date of the notes shall not exceed five (5) years from the date of issue of the notes. Notes issued for less than the maximum maturity date may be renewed by the issue of other notes maturing no later than the maximum maturity date.

(e) A local governmental unit may issue local governmental obligations to refund or pay at maturity or earlier redemption any local governmental obligations outstanding under any loan agreement, or to refund or pay any other debt of the local governmental unit issued to finance the approved project to which the loan agreement pertains. The refunding local governmental obligations may be issued in sufficient amounts to pay or provide for the principal of the obligations refunded, any redemption premium thereon, any interest accrued and to accrue to the date of payment of the obligations, the costs of issuance of the refunding obligations and any reserves required by the applicable loan agreement. The issue of refunding local governmental obligations, the amount and dates of maturity or maturities and other details thereof, the security therefor, and the rights, duties, and obligations of the local governmental unit in respect to the

same shall be governed by the provisions of this chapter relating to the issue of local governmental obligations other than refunding obligations as this chapter may be applicable.

(f) Except as otherwise provided in § 46-12.2-12 and § 46-12.2-12.1, the applicable bond act, or by agreement between the agency and a local governmental unit, all local governmental obligations issued in accordance with this section shall be general obligations of the local governmental unit issuing the obligations for which its full faith and credit are pledged and for the payment of which all taxable property in the local governmental unit shall be subject to ad valorem taxation without limit as to rate or amount except as otherwise provided by law.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 1993, ch. 259, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-12. Power of local governmental units to issue limited obligations payable from wastewater system revenues.

(a) If required by the applicable loan agreement, and notwithstanding any general or special law or municipal charter to the contrary, local governmental obligations shall be issued as limited obligations payable solely from wastewater system revenues pledged to their payment in accordance with § 46-12.2-13. If required by the applicable loan agreement, local governmental obligations issued in accordance with this section shall also be general obligations of the local governmental unit and secured by a pledge of its full faith and credit. Notwithstanding § 45-12-2 or any general or special law or municipal charter to the contrary, all local governmental units shall have the power to issue local governmental obligations payable solely from wastewater system revenues pursuant to this section without limit as to amount, and the amount of principal and premium, if any, and interest on the obligations shall not be included in the computation of any limit on the indebtedness of the local governmental unit or on the total taxes which may be levied or assessed by the local governmental unit in any year or on any assessment, levy, or other charge made by the local governmental unit on any other political subdivision or instrumentality of the state. This chapter shall constitute the bond act for the issuance of the local governmental obligations payable solely from wastewater system revenues by local governmental units. Any local governmental obligations issued in accordance with this section that is payable solely from wastewater system revenues shall recite on its face that it is a limited obligation payable solely from wastewater system revenues pledged to its payment.

(b) The issue of local governmental obligations in accordance with this section, the maturity or maturities and other terms thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the local governmental unit in respect of the same shall be governed by the provisions of this chapter relating to the issue of local governmental obligations to the extent applicable and not inconsistent with this section.

History of Section.

(P.L. 1989, ch. 303, § 2.)

§ 46-12.2-12.1. Power of local governmental units to issue limited obligations payable from energy efficiency savings.

(a) If required by the applicable loan agreement, and notwithstanding any general or special law or municipal charter to the contrary, local governmental obligations shall be issued as limited obligations payable solely from an appropriation of general revenues in an amount not to exceed the projected energy savings of the project. Notwithstanding § 45-12.2-2 or any general or special law or municipal charter to the contrary, all local governmental units shall have the power to issue such local governmental obligations pursuant to this section without limit as to amount, and the amount of principal and premium, if any, and interest on the obligations shall not be included in the computation of any limit on the indebtedness of the local governmental unit or on the total taxes which may be levied or assessed by the local governmental unit in any year or on any assessment, levy, or other charge made by the local governmental unit on any other political subdivision or instrumentality of the state. This section shall constitute the bond act for the issuance of such local governmental obligations by local governmental units. Any local governmental obligations issued in accordance with this section shall recite on its face that it is a limited obligation payable solely from an appropriation of general revenues in an amount not to exceed the projected energy savings pledged to its payment.

(b) The issuance of local governmental obligations in accordance with this section, the maturity or maturities and other terms thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligation of the local governmental unit in respect of the same shall be governed by the provisions of this chapter relating to the issue of local governmental obligations to the extent applicable and not inconsistent with this section.

(c) A local governmental unit may appropriate general revenues on an annual basis to pay any local governmental obligation provided that an event of non-appropriation shall not be an event of default under any local governmental obligation.

History of Section.

(P.L. 2015, ch. 141, art. 14, § 18.)

§ 46-12.2-13. Trust agreements pertaining to local governmental obligations.

(a) Notwithstanding any general or special law to the contrary, local governmental obligations issued in accordance with this chapter may be secured by one or more trust agreements, including, or in addition to the applicable loan agreement, between the local governmental unit and a corporate trustee, which may be a trust company or bank having the powers of a trust company within or without the state, or directly between the agency and the local governmental unit. Any trust agreement shall be in such form and shall be executed as provided in the applicable loan agreement or as otherwise agreed to between the agency and the local governmental unit.

(b) Any trust agreement directly or indirectly securing local governmental obligations may, in addition to other security provided by law, pledge or assign, and create security interests in, all or any part of the general revenues of the local governmental unit. Any trust agreement may contain such provisions for protecting and enforcing the rights, security, and remedies of the agency, or other holders of the local governmental obligations, as may be determined by the agency including, without limitation, provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities to the extent permitted by law, and covenants setting forth the duties of, and limitations on, the local governmental unit in relation to the custody, safeguarding, investment, and application of moneys, including general revenues and wastewater system revenues, the issue of additional and refunding local governmental obligations and other bonds, notes, or obligations on a parity or superior thereto, the establishment of reserves, the establishment of sinking funds for the payment of local governmental obligations, and the use of surplus proceeds of local governmental obligations. A trust agreement securing local governmental obligations issued in accordance with § 46-12.2-12 may also include covenants and provisions not in violation of law regarding the acquisition, construction, operation, and carrying out of the approved project financed by the local governmental obligations, the wastewater system of which it is a part, and any other revenue producing facilities from which the local governmental unit may derive wastewater system revenues or other general revenues, the fixing and collection of wastewater system revenues or other general revenues, and the making and amending of contracts relating thereto.

(c) In addition to other security provided herein or otherwise by law, any local governmental obligations issued under authority of this chapter may be secured, in whole or in part, by insurance or by letters or lines of credit or other credit facilities issued by any insurance company, bank, trust company, or other financial institution, within or without the state, and a local governmental unit may pledge subject to applicable voter approval requirements, assign, or appropriate any of its general revenues or wastewater system revenues, as appropriate, as security for the reimbursement to the issuers of insurance, letters, or lines of credit or other credit facilities of any payments made thereunder.

(d) Any trust agreement may set forth the rights and remedies of the agency or other holders of the local governmental obligations secured thereby and of any trustee or other fiduciary thereunder.

(e) In addition to any other remedies provided under the applicable loan agreement or otherwise by law, the agency and any other holder of local governmental obligations issued under the provisions of this chapter, and any trustee under any trust agreement securing the obligations may bring suit in the superior court upon the local governmental obligations, and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, including, in the case of local governmental obligations issued in accordance with § 46-12.2-12, proceedings for the appointment of a receiver to take possession and control of the approved project financed thereby, the wastewater system of which it is a part, or any other revenue producing facilities from which the local governmental unit may derive wastewater system revenues or other general revenues, to operate and maintain the system or facility in compliance with law, to make any necessary repairs, renewals, and replacements and to fix, revise, and collect wastewater system revenues, protect, and enforce any and all rights under the laws of the

state or granted in this chapter or under any trust agreement, and may enforce and compel the performance of all duties required by this chapter, the loan agreement, the applicable bond act, or the trust agreement to be performed by the local governmental unit or any officer thereof.

(f) A pledge of general revenues or wastewater system revenues in accordance with this chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation for so long as the pledge shall be in effect, and, notwithstanding any general or special law or municipal charter to the contrary, the revenues shall be applied as required by the pledge and the trust agreement evidencing the revenues without further appropriation.

(g) A pledge or assignment of general revenues, other than wastewater system revenues, may be made only to secure general obligations of a local governmental unit.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-14. Bonds of the agency.

(a) The agency may provide by resolution of the board of directors for the issuance, from time to time, of bonds of the agency for any of its corporate purposes, including those set forth in this chapter and chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39, or for the borrowing of money in anticipation of the issuance of the bonds. Bonds issued by the agency may be issued as general obligations of the agency or as special obligations payable solely from particular revenues or funds as may be provided for in any trust agreement or other agreement securing bonds. The agency may also provide by resolution of the board of directors for the issuance, from time to time, of temporary notes in anticipation of the revenues to be collected or received by the agency, including, without limitation, in anticipation of any payments to the agency from the state pursuant to § 46-12.2-7, or in anticipation of the receipt of other grants or aid. The issue of notes shall be governed by the provisions of this chapter and chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39, as applicable, relating to the issue of bonds of the agency other than temporary notes as these chapters may be applicable; provided, however, that notes issued in anticipation of revenues shall mature no later than one year from their respective dates, or the date of expected receipt of the revenues, if later, and notes issued in anticipation of grants, or other aid and renewals thereof, shall mature no later than six (6) months after the expected date of receipt of the grant or aid.

(b) The bonds of each issue shall be dated, may bear interest at such rate or rates, including rates variable from time to time as determined by such index, banker's loan rate, or other method determined by the agency, and shall mature or otherwise be payable at such time or times, as may be determined by the agency, and may be made redeemable before maturity at the option of the agency or the holder thereof at such price or prices and under such terms and conditions as may be fixed by the agency. The agency shall determine the form of bonds, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds, and the place or places of payment of principal, redemption premium, if any, and interest, which may be

paid at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be the officer before the delivery thereof, the signature or facsimile shall nevertheless be valid and sufficient for all purposes as if the officer had remained in office until delivery. The agency may provide for authentication of bonds by a trustee, fiscal agent, registrar, or transfer agency. Bonds may be issued in bearer or in registered form, or both, and, if notes, may be made payable to the bearer or to order, as the agency may determine. The agency may also establish and maintain a system of registration for any bonds whereby the name of the registered owner, the rights evidenced by the bonds, the transfer of the bonds, and the rights and other similar matters, are recorded in books or other records maintained by or on behalf of the agency, and no instrument evidencing the bond or rights need be delivered to the registered owner by the agency. A copy of the books or other records of the agency pertaining to any bond registered under a registration system certified by an authorized officer of the agency or by the agent of the agency maintaining the system shall be admissible in any proceeding without further authentication. The board of directors may by resolution delegate to any member or officer of the agency, or any combination thereof, the power to determine any of the matters set forth in this section. In the discretion of the agency, bonds of the agency may be issued with such terms as will cause the interest thereon to be subject to federal income taxation. The agency may sell its bonds in such manner, either at public or private sale, for the price, at the rate or rates of interest, or at discount in lieu of interest, as it may determine will best effect the purposes of this chapter or chapter 24-18, as applicable.

(c) The agency may issue interim receipts or temporary bonds, exchangeable for definitive bonds, when the bonds shall have been executed and are available for delivery. The agency may also provide for the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost. The agency, by itself or through such agency as it may select, may purchase and invite offers to tender for purchase any bonds of the agency at any time outstanding; provided, however, that no purchase by the agency shall be made at a price, exclusive of accrued interest, if any, exceeding the principal amount thereof or, if greater, the redemption price of the bonds when next redeemable at the option of the agency, and may resell any bonds so purchased in such manner and for such price as it may determine will best effect the purposes of this chapter or chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39, as applicable.

(d) In the discretion of the board of directors, any bonds issued under this section may be secured by a trust agreement in such form and executed in such manner as may be determined by the board of directors, between the agency and the purchasers or holders of the bonds, or between the agency and a corporate trustee which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement may pledge or assign, in whole or in part, any loan agreements, local governmental obligations and non-governmental obligations, and the revenues, funds, and other assets or property held or to be received by the agency, including without limitation all moneys and investments on deposit from time to time in the water pollution control revolving fund, the Rhode Island water pollution control revolving fund, and the local interest subsidy trust fund, or the municipal road and bridge revolving fund, as applicable, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the agency, and the proceeds thereof. The trust agreement may contain such provisions for protecting and

enforcing the rights, security, and remedies of the bondholders as may be reasonable and proper including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities, restrictions on the individual right of action by bondholders, and covenants setting forth the duties of and limitations on the agency in relation to the custody, safeguarding, investment, and application of moneys, the enforcement of loan agreements, local governmental obligations and non-governmental obligations, the issue of additional or refunding bonds, the fixing, revision, charging, and collection of charges, the use of any surplus bond proceeds, the establishment of reserves, and the making and amending of contracts.

(e) In the discretion of the board of directors, any bonds issued under authority of this chapter or chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39 may be issued by the agency in the form of lines of credit or other banking arrangements under terms and conditions, not inconsistent with this chapter or chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39, and under such agreements with the purchasers or makers thereof or any agent or other representative of such purchasers or makers, as the board of directors may determine to be in the best interests of the agency. In addition to other security provided herein or otherwise by law, bonds issued by the agency under any provision of this chapter or chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39 may be secured, in whole or in part, by financial guarantees, by insurance, or by letters or lines of credit issued to the agency or a trustee or any other person, by any bank, trust company, insurance or surety company, or other financial institution, within or without the state, and the agency may pledge or assign, in whole or in part, any loan agreements, local governmental obligations and non-governmental obligations, and the revenues, funds, and other assets and property held or to be received by the agency, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the agency, and the proceeds thereof, as security for the guarantees or insurance or for the reimbursement by the agency to any issuer of the line or letter of credit.

(f) It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues, or other moneys under a trust agreement of the agency, and to furnish indemnification and to provide security as may be required by the agency. It is hereby declared that any pledge or assignment made by the agency under this chapter or chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39 is an exercise of the governmental powers of the agency, and loan agreements, local governmental obligations and non-governmental obligations, revenues, funds, assets, property, and contract or other rights to receive the same and the proceeds thereof, which are subject to the lien of a pledge or assignment created under this chapter or chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39, shall not be applied to any purposes not permitted by the pledge or assignment.

(g) Any holder of a bond issued by the agency under the provisions of this chapter or chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39 and any trustee or other representative under a trust agreement securing the trustee or representative, except to the extent the rights herein given may be restricted by the trust agreement, may bring suit upon the bonds in the superior court and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, protect and enforce any and all rights under the laws of

the state or granted hereunder or under the trust agreement, and may enforce and compel performance of all duties required by this chapter, chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39, or by the trust agreement, to be performed by the agency or by any officer thereof.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-14.1. Repealed.

History of Section.

(P.L. 2015, ch. 141, art. 14, § 18; Repealed by P.L. 2017, ch. 480, § 5, effective October 13, 2017.)

§ 46-12.2-15. Refunding bonds.

The agency may issue refunding bonds for the purpose of paying any of its bonds, issued pursuant to this chapter or chapter 24-18, at or prior to maturity or upon acceleration or redemption or purchase and retirement. Refunding bonds may be issued at such times at or prior to the maturity, redemption, or purchase and retirement of the refunded bonds as the board of directors deems to be in the interest of the agency. Refunding bonds may be issued in sufficient amounts to pay or provide for payment of the principal of the bonds being refunded, together with any redemption premium thereon, any interest or discount accrued or to accrue to the date of payment of the bonds, the costs of issuance of the refunding bonds, the expenses of paying, redeeming, or purchasing the bonds being refunded, the costs of holding and investing proceeds of refunding bonds pending payment, redemption, or purchase and reserves for debt service or other expenses from the proceeds of refunding bonds as may be required by a trust agreement securing the bonds. Pending application, the proceeds of the refunding bonds may be placed in escrow. The issue and sale of refunding bonds, the maturities, and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the agency in respect of the same shall be governed by the provisions of this chapter and chapter 24-18, as applicable, relating to the issue of bonds other than refunding bonds insofar as these chapters may be applicable.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2.)

§ 46-12.2-16. Bonds eligible for investment.

Bonds issued by the agency under this chapter or chapter 24-18 and local governmental obligations issued hereunder are hereby made securities in which all public officers and agencies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly invest funds, including capital in their control or belonging to them. The bonds and local governmental obligations are hereby made securities which may properly be deposited with and received by any state or municipal officer of any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state or any political subdivision is now or may hereafter be authorized by law.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2.)

§ 46-12.2-17. No additional consent required.

Except as provided in this section, bonds and local governmental obligations, and non-governmental obligations may be issued under this chapter or chapter 24-18 without obtaining the consent of any executive office, department, division, commission, board, bureau, or agency of the state or any political subdivision thereof, and without any other proceedings or the happening of any condition, or acts other than those proceedings, conditions, or acts which are specifically required therefor hereunder or under any applicable bond act, and the validity of and security for any bonds issued by the agency pursuant to this chapter or chapter 24-18, and any local governmental obligations, and non-governmental obligations issued in accordance herewith, shall not be affected by the existence or nonexistence of any consent or other proceedings, conditions, or acts. Nothing in this chapter or chapter 24-18 shall exempt the agency from the provisions of chapter 10.1 of title 42 entitled "Public Finance Management Board," and the Narragansett Bay commission shall not issue any bonds, notes, or other indebtedness without the approval of the division of public utilities as required by § 39-3-15.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-18. Bonds not obligations of the state.

Bonds issued by the agency under the provisions of this chapter or chapter 24-18 shall not be deemed to be a debt or a pledge of the faith and credit of the state or of any of its political subdivisions, but shall be payable solely from the revenues, funds, assets, and other property of the agency from which they are made payable pursuant to this chapter or chapter 24-18. Bonds issued by the agency under the provisions of this chapter and chapter 24-18 shall recite that

neither the state nor any political subdivisions thereof shall be obligated to pay the bonds, and that neither the faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal of or interest on the bonds. Further, every bond shall recite whether it is a general obligation of the agency, or a special obligation thereof payable solely from particular revenues, funds, assets, or other property pledged to its payment.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2.)

§ 46-12.2-19. Lien status – Recording.

(a) Notwithstanding any provision of any other law, including the Uniform Commercial Code:

(1) Any pledge or assignment of revenues of any kind, funds, loan agreements, local governmental obligations, property, or assets made pursuant to the provisions of this chapter or chapter 24-18 by the agency, or any local governmental unit hereunder, shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise, whether or not the parties have notice thereof, and shall be deemed continuously perfected from the time it is made;

(2) No filing of any kind with respect to a pledge or assignment need be made under the Uniform Commercial Code, as amended, or otherwise;

(3) Unless otherwise provided in the loan agreement, a pledge of revenues of any kind shall be deemed to include a pledge of any accounts or general intangibles from which the pledged revenues are derived, whether existing at the time of the pledge or thereafter coming into existence, and whether held at the time of the pledge or thereafter acquired by the agency or local governmental unit, and the proceeds of the accounts or general intangibles; and

(4) The pledge of revenues of any kind, accounts, and general intangibles shall be subject to the lien of the pledge without delivery or segregation, and the lien of the pledge shall be valid and binding against all parties having claims of contract or tort or otherwise against the agency or local governmental unit.

(b) A pledge of revenues of any kind under this chapter or chapter 24-18 shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation, and the revenues may be applied as required by the pledge without further appropriation.

(c) For the purposes of this section, the word "pledge" shall be construed to include the grant of a security interest under the Uniform Commercial Code.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2.)

§ 46-12.2-20. Bonds and local government obligations as investment securities.

Notwithstanding any of the provisions of this chapter, chapter 24-18, or any recitals in any bonds or local governmental obligations issued hereunder, all bonds and local governmental obligations shall be deemed to be investment securities under the Uniform Commercial Code.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2.)

§ 46-12.2-21. Proceeds received by agency as trust funds.

All moneys received by the agency pursuant to the provisions of this chapter or chapter 24-18, whether as proceeds from the issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in these chapters.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2.)

§ 46-12.2-22. Tax exemption.

Bonds issued by the agency and local governmental obligations issued by any local governmental unit in accordance with this chapter or chapter 24-18, their transfer and the income therefrom, including any profit made on the sale thereof, shall, at all times, be exempt from taxation by and within the state. The agency shall not be required to pay any taxes, assessments, or excises upon its income, existence, operation, or property.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2.)

§ 46-12.2-23. Duration of agency – Termination.

The agency and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the agency shall have bonds outstanding, unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the agency, the title to all funds and other properties owned by it, which remain after provision for the payment or satisfaction of all bonds of the agency, shall vest in the state. The obligations, debts, and liabilities of the agency shall be assumed by and imposed upon the state, and shall be transferred to the state general treasurer or to such other successor as the

general assembly may designate.

History of Section.

(P.L. 1989, ch. 303, § 2.)

§ 46-12.2-24. Record keeping – Financial statements.

The agency shall, at all times, keep full and accurate accounts of its receipts, expenditures, disbursements, assets, and liabilities which shall be open to inspection by any officer or duly appointed agent of the state.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2001, ch. 180, § 148; P.L. 2005, ch. 316, § 1; P.L. 2005, ch. 320, § 1.)

§ 46-12.2-24.1. Reporting requirements.

Within ninety (90) days after the end of each fiscal year, the agency shall submit an annual report to the governor, the speaker of the house of representatives, the president of the senate, and the secretary of state of its activities during that fiscal year. The report shall provide: a summary of the agency's meetings including when the agency met, subjects addressed, decisions rendered and meeting minutes; a summary of the agency's actions including a listing of rules, regulations, or procedures adopted or amended, applications received for financial assistance for water pollution abatement projects, contracts or agreements entered into, applications and intended use plans submitted to federal agencies for capitalization grants, properties acquired or leased, and bonds issued; a synopsis of any complaints, suspensions, or other legal matters related to the authority of the agency; a consolidated financial statement of all funds received and disbursed by the agency including the source of and recipient of the funds which shall be audited by an independent certified public accountant firm; copies of audits or reports required under federal law; a listing of the staff and/or consultants employed by the agency; a listing of findings and recommendation derived from agency activities; and a summary of performance during the previous fiscal year including accomplishments, shortcomings and remedies. The report shall be posted as prescribed in § 42-20-8.2. The director of the department of administration shall be responsible for the enforcement of this provision.

History of Section.

(P.L. 2005, ch. 316, § 2; P.L. 2005, ch. 320, § 2.)

§ 46-12.2-25. Supplemental powers – Inconsistent laws.

The provisions of this chapter and chapter 19.16 of title 23, chapter 18 of title 24, and chapter 26.5 of title 39 shall be deemed to provide an additional, alternative, and complete method for accomplishing the purposes of these chapters, and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the agency, the department, and local governmental units by other laws; provided, however, that insofar as the provisions of these chapters are inconsistent with the provisions of any general or special law, municipal charter, administrative order or regulations, the provisions of these chapters shall be controlling. Any amounts appropriated by these chapters to the agency or the department shall be in addition to any other amounts appropriated to the agency or the department by any other law.

History of Section.

(P.L. 1989, ch. 303, § 2; P.L. 2013, ch. 144, art. 20, § 2; P.L. 2015, ch. 141, art. 14, § 17.)

§ 46-12.2-25.1. Administrative procedures.

The agency shall be subject to the provisions of chapter 35 of title 42.

History of Section.

(P.L. 1993, ch. 259, § 3.)

§ 46-12.2-26. Compliance with federal law.

Notwithstanding anything to the contrary herein, the provisions of this chapter are limited to the extent required by applicable federal law.

History of Section.

(P.L. 1989, ch. 303, § 2.)

§ 46-12.2-27. Severability – Liberal construction.

The provisions of this chapter are severable, and if any provision hereof shall be held invalid in any circumstances, any invalidity shall not affect any other provisions or circumstances. This chapter shall be construed in all respects so as to meet any constitutional requirements. In carrying out the purposes and provisions of this chapter, all steps shall be taken which are necessary to meet constitutional requirements. This chapter shall be construed liberally in aid of its purpose and legislative findings.

History of Section.

(P.L. 1989, ch. 303, § 2.)

