CALIFORNIA HEALTH FACILITY CONSTRUCTION LOAN INSURANCE LAW

& RELATED LAWS

(Revised to Include Changes Effective January 1, 2003)

Arnold Schwarzenegger, Governor
State of California

Kimberly Belshé, Secretary
Health and Human Services Agency

David M. Carlisle, M.D., Ph.D., Director
Office of Statewide Health
Planning and Development

Carl A. McLaney, Deputy Director
Cal-Mortgage Loan Insurance Division
400 R Street, Suite 470
Sacramento, CA 95814
Phone 916.916-8800
Fax 916.445.2837
http://www.oshpd.ca.gov/CalMort/
e-mail: cminsure@oshpd.ca.gov

CALIFORNIA HEALTH FACILITY CONSTRUCTION LOAN INSURANCE LAW

CONSTITUTION

	Page
Art. XVI, § 4	1

STATUTES

HEALTH AND SAFETY CODE

DIVISION 107. STATEWIDE HEALTH PLANNING AND DEVELOPMENT

PART 6. FACILITIES LOAN INSURANCE AND FINANCING

Chapter 1. HEALTH FACILITY CONSTRUCTION LOAN INSURANCE (Added by Stats.1969, c. 970. Added by Stats.1995, c. 415 (S.B.1360), § 9.)

Article 1. GENERAL PROVISIONS

§ 129000.	Short title	1
§ 129005.	Purpose	2
§ 129010.	Definitions	2
§ 129015.	Administration of chapter; rules and regulations	4
§ 129020.	Duties of office	5
§129022.	Applications to office; signature; perjury	5
§129030.	Disbursements of proceeds of insured loans	5
§129035.	Project inspections for progress payments	6
§129040.	Annual premium charge	6
§ 129045.	Financial status of program; report	6

Article 1.5 HOSPITAL CONSTRUCTION ASSISTANCE

§ 129048.	Legislative findings and declarations	6
§ 129049.	Market need and feasibility studies related to federal projects	7

Article 2. INSURABLE LOANS AND APPLICATIONS THEREFOR

§129050.	Eligibility of loan for insurance	8
§ 129051.	Financial risk of applicant; assessment system; maximum risk level; exception	10
§ 129052.	Pledge or grant of security interest by or to office; grant to office; validity and binding effect; liens; recording or perfection of pledge instrument	10
§ 129055.	Utilization of facilities by Medi-Cal patients	11
§ 129060.	Alcoholism or drug abuse recovery or treatment program or facility	11
§ 129065.	Availability of services to persons residing or employed in service areas; actions to assure compliance	12
§ 129070.	Eligibility upon presentation of plan for utilization of facilities by Medi-Cal patients	13
§ 129075.	Annual report on compliance with requirements of availability of services	13
§ 129080.	Remedies and sanctions upon determination of noncompliance	13
§ 129085.	Eligibility despite inability to contract under Medi-Cal	14
§ 129087.	Borrower financial difficulties; monitoring system	14
§ 129090.	Eligibility of established facilities; applications	15
§ 129092.	Proposed project feasibility study; cost	15
§ 129095.	Professionals used by applicants for initial application for loan insurance; nonregulation	15
§ 129100.	Hearing	16
§ 129105.	Authority to insure loans	16

§ 129110. Incontestability 16

Article 3. DEFAULTS

§ 129125. Insurance benefits after foreclosure; transfer of title; determination of value 17

§ 129130. Bond defaults; replacement with state bonds 17

§ 129135. Alternative method of transferring title 18

§ 129140. Acquisition of loan and security interests 18

§ 129145. Cure of default 19

§ 129150. Consent to release from liability 19

§ 129152. Failure to submit report or other default; actions by office; remedies 19

§ 129155. Form and denomination of debentures 20

§ 129160. Execution of debenture; negotiability; interest; tax exemption; payment; default 20

§ 129165. Power to deal with and dispose of acquired property 21

§ 129170. Loss of rights to property conveyed 21

§ 129172. Judicial proceeding or action taken prior to foreclosing on collateral; application of specified Code of Civil Procedure sections 21

§ 129173. Managerial or financial control of borrower; conditions warranting; methods 22

§ 129174. Loan payments; defeasance of bonds 23

§ 129174.1 Bankruptcy; loan insured by office; plans 24

Article 4. TERMINATION OF INSURANCE

§ 129175. Delinquent payment of premiums and inspection fees 24

§ 129180. Foreclosure without conveyance to office; payment of debt 25

§ 129185. Joint request 25

Article 5. HEALTH FACILITY CONSTRUCTION LOAN INSURANCE FUND

§ 129200. Establishment 25

§ 129205. Investment of surplus funds 25

§ 129210. Limit on authorized insurance 26

§ 129215. Nature of fund; use of funds and interest 26

Article 5.5 ADVISORY LOAN INSURANCE COMMITTEE

§ 129220. Advisory Loan Insurance Committee 26

§ 129221. Duties of the Committee 27

Article 6. COMMUNITY MENTAL HEALTH FACILITIES LOAN INSURANCE

§ 129225. Short title 27

§ 129230. Development of mental health facilities; legislative intent; special provisions 27

§ 129235. Loans under $300,000; priority 28

§ 129240. Total amount of loans which may be insured pursuant to this article 29

§ 129245. Loan insurance for providing certain psychiatric inpatient services; prohibition 29

§ 129250. Utilization and effectiveness of article; review and comment by legislative analyst 29

§ 129255. Conflicts with other provisions; prevailing provisions 29

§ 129260. Severability 29

Article 7. SMALL FACILITY LOAN GUARANTEE FOR DEVELOPMENTAL DISABILITY PROGRAMS

§ 129275. Short title 30

§ 129280. Development of facilities for developmentally disabled clients; legislative intent; special provisions 30

§ 129285. Loans under $300,000; priority; maximum aggregate amount insurable 31

§ 129290. Severability 31

§ 129295. Pilot loan guarantee program; limitations; report 31

Article 9. RURAL HOSPITALS GRANT PROGRAM

§ 129325. Assisting rural health delivery systems; Legislative intent 32

§ 129330. Actuarial study; contracts 32

§ 129335. Grant program; administration 32

Article 10. COMMUNITY HEALTH CENTER FACILITIES LOAN INSURANCE

§ 129350. Short title 33

§ 129355. Community health center facilities; construction loan insurance; valuation of equity; impediments; specific programmatic remedies 33

RELATED STATUTES

CODE OF CIVIL PROCEDURE

§ 564.	Appointment; cases in which authorized; definitions	34

GOVERNMENT CODE

§ 15432.	Definitions	34
§ 15433.	Membership of authority; terms; vacancies; compensation expenses	38
§ 15434.	Vice chairman; secretary-treasurer; election; executive director; appointment; compensation	38
§ 15435.	Record of proceedings; books; documents; and papers; copies	39
§ 15436.	Quorum; open meetings; publications of resolutions; delegation of powers	39
§ 15437.	Duty of administration; establishment of financial eligibility standards	39
§ 15438.	Powers	39
§ 15438.1	Certificate of need; suspension of section	43
§ 15438.2.	Child day care facility; term of lease to be as long as or greater than term of loan; insurable under California health facility construction loan insurance law	43
§ 15438.5.	Legislative intent; revenue bonds and other financing; self-insurance pooling program; bond rating guidelines; enforcement conditions	43
§ 15439.	Funds; security for payment of bonds; separate accounts; deposits and investments; interest and other increments	45
§ 15440.	Expenses	46
§ 15441.	Revenue Bonds	47
§ 15442.	Revenue bonds; security; trust agreement; indenture; or resolution	48
§ 15443.	Revenue bonds; payment; liability of state or political subdivision	48
§ 15444.	Revenue bonds; holders and trustees; enforcement of rights	48

§ 15445.	Revenue bonds; proceeds; other revenue; obligations of dispositaries	49
§ 15446.	Refunding bonds; proceeds; placement in escrow impending use; investment; application of balance, interest income, or profits	49
§ 15447.	Bonds as legal investments	50
§ 15448.	Bonds; freedom from taxation	50
§ 15449.	State pledge to bondholders and contracting parties; no limitations, alteration, or restriction of invested rights	50
§ 15450.	Revenues, moneys, accounts, accounts receivable, etc.; subject to pledge; lien	50
§ 15451.	Participating health institutions; pledges to be contained in instruments; sufficiency of charges payable by them to pay obligations on bonds issued in respect to such project, to maintain reserves, and to pay share of administrative expenses; pledge of authority; additional bonds	51
§ 15451.5	Repayment of loan	51
§ 15452.	Release of security, rights, title and interests in project upon payment of bonds and other obligations	51
§ 15455.	Construction of part; supplemental and additional nature; exception for issuance of bonds; financing project pursuant to part, not exemption from other applicable law	52
§ 15456.	Construction of part; controlling law	52
§ 15457.	Excess earnings	52
§ 15458.	Dissolution of authority; title to property to vest in successor	53
§ 15459.	Health facilities; assurance regarding availability of services as condition of bond issuance	53
§ 15459.1.	Assurance regarding availability of services; compliance requirements	53
§ 15459.2.	Assurance regarding availability of services; alternative plan for compliance	55
§ 15459.3.	Assurance regarding availability of services; compliance reports	55

§ 15459.4.	Failure to adhere to assurance regarding availability of services; remedies and sanctions	55
§ 15460.	Reimbursement for services under Medi-Cal program; consideration of interest savings	56
§ 15461.	Bonds; health maintenance organizations; financing of projects	56
§ 15462.	Issuance of bonds to or borrowing from authority to secure financing of projects or working capital	56
§ 15462.5.	Sale or lease from and to authority of health facilities; purpose	57
§ 15463.	County health facilities financing assistance fund	57
§ 87104.	Conflict of interest by public official, including member of advisory committee	59

HEALTH AND SAFETY CODE

§ 129450.	Office of statewide health planning and development; agency of state	59
§ 129455.	Powers and duties of department	59
§ 129460.	Health Policy and Data Advisory Committee; advising and consulting with department; succession to functions and responsibilities of Advisory Hospital and Health Planning Councils	60
§ 124840.	"Small and rural hospital"	60
§ 1200.	Clinic; primary care clinic; specialty clinic	61
§ 1204.	Clinic[s] eligible for licensure, primary care clinics and specialty clinics; classes as defined	61
§ 1206.	Exemptions	63
§ 1206.1.	Exemptions; clinic or office of psychologist	66
§ 1207.	Inspection and licensing; approval to offer special services	66
§ 1208.	Consultation to clinics	66
§ 1209.	Operation of chapter; authorization to practice medicine, surgery, dentistry, etc.	66

§ 1250.	Health Facility	67
§ 1250.8.	Single consolidated general acute care hospital license; criteria; location of supplemental service and category of beds; requirements; transfer approval and regulations; facility; Medi-Cal program; report; application of amendments; authorized actions; facilities located more than 15 miles from health facility	70
§ 1251.5.	Special permit	74
§ 1500.	Short title	74
§ 1502.	Definitions (California Community Care Facilities Act)	74
§ 1570.7.	Definitions (California Adult Day Health Care Act)	77
§ 1572.	Transfer of functions and duties; interagency agreement; long-term care committee	78
§ 1572.5	Planning Council	80
§ 1596.750	"Child day care facility"	82
§ 11834.02	Definitions (Licensing)	82
§ 32127.2	Insurance program; borrowing money or credit or issuing bonds; security interests	83

RELATED CASE – (Not Attached)

Methodist Hospital of Sacramento vs. Saylor (1971) 5 Cal.3d 689 (97 Cal.Rptr. 1)

CALIFORNIA CONSTITUTION

Article XVI, Section 4

[Loan Guarantees re Nonprofit Corporations and Public Agencies]

Sec. 4. The Legislature shall have the power to insure or guarantee loans made by private or public lenders to nonprofit corporations and public agencies, the proceeds of which are to be used for the construction, expansion, enlargement, improvement, renovation or repair of any public or nonprofit hospital, hospital facility, or extended care facility, facility for the treatment of mental illness, or all of them, including any outpatient facility and any other facility useful and convenient in the operation of the hospital and any original equipment for any such hospital or facility, or both.

No provision of this Constitution, including but not limited to, Section 1 of Article XVI and Section 14 of Article XI, shall be construed as a limitation upon the authority granted to the Legislature by this section. *(This successful narrative was added as Article 13, Section 21.5 in 1968. The new section was adopted November 5, 1974.)*

HEALTH AND SAFETY CODE

DIVISION 107. STATEWIDE HEALTH PLANNING AND DEVELOPMENT
(Division 107 was added by Stats.1995, c. 415, (S.B.1360), § 9,
eff. Jan. 1, 1996.)

PART 6. FACILITIES LOAN INSURANCE AND FINANCING
(Renumbered by Stats.1995, c. 415, p. 902, (S.B.1360), § 9, eff. Jan. 1, 1996.)

Chapter 1. HEALTH FACILITY CONSTRUCTION LOAN INSURANCE
(Chapter 1 was added by Stats.1969, c. 970, p. 1919, § 1, and Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

Article 1. GENERAL PROVISIONS
(Added by Stats.1969, c. 970, p. 1920, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), §§ 1, 2, 3, 4, 5, and 6.)

§ 129000. Short title

This chapter may be cited as the "California Health Facility Construction Loan Insurance Law."

(Added by Stats.1969, c. 970, p. 1920, § 1, and Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129005. Purpose

The purpose of this chapter is to provide, without cost to the state, an insurance program for health facility construction, improvement, and expansion loans in order to stimulate the flow of private capital into health facilities construction, improvement, and expansion and in order to rationally meet the need for new, expanded and modernized public and nonprofit health facilities necessary to protect the health of all the people of this state. The provisions of this chapter are to be liberally construed to achieve this purpose.

(Added by Stats.1969, c. 970, p. 1920, § 1. Amended by Stats.1979, c. 1047, p. 3689, § 1, eff. Sept. 26, 1979. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129010. Definitions

Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation that has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any of these buildings.

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land where the buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of the construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of the construction or acquisition.

(d) “Commission" means the California Health Policy and Data Advisory Commission.

(e) “Committee” means the Advisory Loan Insurance Committee.

(f) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Section 4 of Article XVI of the California Constitution.

(g) "Fund" means the Health Facility Construction Loan Insurance Fund.

(h) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including, but not limited to, public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, facilities for the treatment of chemical dependency, including a community care facility, licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2, a clinic, as defined pursuant to Chapter 1 (commencing with Section 1200) of Division 2, an alcoholism recovery facility, defined pursuant to former Section 11834.11, and a structure located adjacent or attached to another type of health facility and that is used for storage of materials used in the treatment of chemical dependency, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. "Health facility" also means an adult day health center and a multilevel facility. Except for facilities for the developmentally disabled, facilities for the treatment of chemical dependency, or a multilevel facility, or as otherwise provided in this subdivision, "health facility" does not include any institution furnishing primarily domiciliary care.

"Health facility" also means accredited nonprofit work activity programs as defined in subdivision (e) of Section 19352 and Section 19355 of the Welfare and Institutions Code, and nonprofit community care facilities as defined in Section 1502, excluding foster family homes, foster family agencies, adoption agencies, and residential care facilities for the elderly.

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation that operates a facility included within the definition set forth in this subdivision.

(i) "Office" means the Office of Statewide Health Planning and Development.

(j) "Lender" means the provider of a loan and its successors and assigns.

(k) "Loan" means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim or short-term loans, and long-term loans. A duly authorized bond or bond issue, or an installment sale agreement, may constitute a "loan."

(l) "Maturity date" means the date that the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(m) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(n) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(o) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(p) "Nonprofit corporation" means any corporation formed under or subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) that is organized for the purpose of owning and operating a health facility and that also meets the requirements of Section 501(c)(3) of the Internal Revenue Code.

(q) "Political subdivision" means any city, county, joint powers entity, local hospital district, or the California Health Facilities Authority.

(r) "Project property" means the real property where the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in that health facility.

(s) "Public health facility" means any health facility that is or will be constructed for and operated and maintained by any city, county, or local hospital district.

(t) "Adult day health center" means a facility defined under subdivision (b) of Section 1570.7, that provides adult day health care, as defined under subdivision (a) of Section 1570.7.

(u) "Multilevel facility" means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this subdivision, means a person 62 years of age or older.

(v) “State plan” means the plan described in Section 129020.

(Added by Stats.1969, c. 970, p. 1920, § 1. Amended by Stats.1979, c. 1047, p. 3691, § 3, eff. Sept. 26, 1979, operative Jan. 1, 1980. Amended by Stats.1980, c. 911, p. 2886, § 2, eff. Sept. 17, 1980; Stats.1983, c. 1228, § 4, eff. Sept. 30, 1983; Stats.1983, c. 1242, § 7.5; Stats.1988, c. 1621, § 1; Stats.1989, c. 759, § 1; Stats.1989, c. 1373, § 2; Stats.1991, c. 753 § 1. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), §1.)

§ 129015. Administration of chapter; regulations

The office shall administer this chapter and shall make all regulations necessary to implement the provisions and achieve the purposes stated herein. The commission, as authorized by this chapter and by Section 129460, shall advise and consult with the office in carrying out the administration of this chapter.

(Added by Stats.1969, c. 970, p. 1921, § 1. Amended by Stats.1978, c. 429, § 92, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129020. Duties of office

The office shall implement the loan insurance program for the construction, improvement, and expansion of public and nonprofit corporation health facilities so that, in conjunction with all other existing facilities, the necessary physical facilities for furnishing adequate health facility services will be available to all the people of the state.

Every odd-numbered year the office shall develop a state plan for use under this chapter. The plan shall include an overview of the changes in the health care industry, an overview of the financial status of the fund and the loan insurance program implemented by the office, a statement of the guiding principles of the loan insurance program, an evaluation of the program's' success in meeting its mission as outlined in Section 129005, a discussion of administrative, procedural, or statutory changes that may be needed to improve management of program risks or to ensure the program effectively addresses the health needs of Californians, and the priority needs to be addressed by the loan insurance program.

The health facility construction loan insurance program shall provide for health facility distribution throughout the state in a manner that will make all types of health facility services reasonably accessible to all persons in the state according to the state plan.

(Added by Stats.1969, c. 970, p. 1921, § 1. Amended by Stats.1978, c. 429, § 93, eff. July 17, 1978, operative July 1, 1978; Stats.1979, c. 1047, p. 3693, § 4, eff. Sept. 26, 1979; Stats.1983, c. 1105, § 1; Stats.1989, c. 898, § 2; Stats.1991, c. 753, § 2. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 2.)

§ 129022. Applications to office; signature; perjury

Applications submitted to the office shall be signed under penalty of perjury by the applicant.

(Added by Stats.1994, c. 414, p. 6, § 4, eff. Sept. 1, 1994, Senate Bill No. 1705. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

(§ 129025 of the Health and Safety Code was repealed by Stats.1999, c. 848 (A.B.282), § 3.)

§ 129030. Disbursements of proceeds of insured loans

The proceeds of all loans insured pursuant to this chapter shall be disbursed only upon order of the office or its designated agent. The office shall make regulations to insure the security of these proceeds.

(Added by Stats.1969, c. 970, p. 1922, § 1. Amended by Stats.1978, c. 429, § 94, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129035. Project inspection of progress payments

From time to time the office or its designated agent shall inspect each project for which loan insurance was approved, as needed, and if the inspection so warrants, the office or agent shall certify that the work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of the loan proceeds is due to the borrower. The office shall charge the borrower a fee for these inspections and certifications, that in no instance shall exceed four dollars ($4) for each one thousand dollars ($1,000) of the borrower's loan that is insured. These fees shall be deposited in the fund.

(Added by Stats.1969, c. 970, p. 1922, § 1. Amended by Stats.1978, c. 429, § 95 eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848 (A.B.282) § 4.)

§ 129040. Annual premium charge

The office shall establish a premium charge for the insurance of loans under this chapter, and this charge shall be deposited in the fund. A one-time nonrefundable premium charge shall be paid at the time the loan is insured. The premium rate may vary based upon the assessed level of relative financial risk determined pursuant to Section 129051, but shall in no event be greater than 3 percent. The amount of premium shall be computed on the basis of the application of the rate to the total amount of principal and interest payable over the term of the loan. Amendments made to this section by this bill shall take effect on January 1, 2001.

(Added by Stats.1969, c. 970, p. 1923, § 1. Amended by Stats.1978, c. 429, § 96 eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 5, operative Jan. 1, 2001.)

§ 129045. Financial status of program; report

The office shall annually report to the Legislature the financial status of the program and its insured portfolio, including the status of all borrowers in each stage of default and the office's efforts to collect from borrowers that have defaulted on their debt service payments.

(Amended by Stats.1999, c. 848, (A.B.242), § 6.)

Article 1.5 Hospital Construction Assistance

Added by Stats.1999, c. 825, (A.B.549), §1.

§ 129048. Legislative findings and declarations

The Legislature finds and declares all of the following:

(a) The State of California has a compelling interest in ensuring that adequate health facilities that are able to withstand seismic events are available to care for patients, especially in the event of a disaster.

(b) Hospitals are required, under the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1 (commencing with Section 129675) of Part 7), to improve, or remove from acute care service, buildings that pose a significant safety risk of collapse and danger to the public by January 1, 2008.

(c) Hospitals are also required by that act to repair, rebuild, or remove from service, buildings that may not be repairable or functional following strong ground motion, by January 1, 2030.

(d) California hospitals should be enabled to participate in programs that provide financial assistance for hospital construction and retrofitting.

(e) The United States Department of Housing and Urban Development operates a HUD 242 loan insurance program, through which hospitals can access facility mortgage insurance and lower interest rates.

(f) As a condition for participating in the HUD 242 program, a hospital must have a state-commissioned or conducted feasibility study of a hospital construction project.

(Added by Stats.1999, c. 825, (A.B.549), § 1.)

§ 129049. Market need and feasibility studies related to federal projects

(a) The office may, at the request of a hospital, commission an independent study of market need and feasibility, as required by the United States Department of Housing and Urban Development, as part of an application for mortgage insurance for hospitals pursuant to Section 1715z-7 of Title 12 of the United States Code, or any other federal mortgage insurance program for health-related facilities.

(b) The cost of the feasibility study permitted pursuant to subdivision (a) shall be paid for by the office from reimbursements received from the applicant.

(c) Notwithstanding any other provision of law, the office may directly retain independent feasibility consultants and require a deposit from the applicant for the entire cost of the services at the time they are requested.

(d) The office shall charge applicants a fee for the reasonable costs of administering this article.

(e) The program provided for in this article shall be administered in conformance with the requirements of the United States Department of Housing and Urban Development for feasibility studies authorized by this section and the applicable requirements of state law pertaining to contracts.

(Added by Stats.1999, c. 825, (A.B.549), § 1.)

Article 2. INSURABLE LOANS AND APPLICATIONS THEREFOR

(Added by Stats.1969, c. 970, p. 1923, § 1. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), §§ 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18.)

§ 129050. Eligibility of loan for insurance

A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) The loan shall be secured by a first mortgage, first deed of trust, or other first priority lien on a fee interest of the borrower or by a leasehold interest of the borrower having a term of at least 20 years, including options to renew for that duration, longer than the term of the insured loan. The security for the loan shall be subject only to those conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office, and other liens securing debt insured under this chapter. The office may require additional agreements in security of the loan.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with additional endorsements that the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the office under Section 129020. However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the office determines that the prior loan would have been eligible for insurance under this chapter at the time it was made. The office may not insure a loan for a health facility that the office determines is not needed pursuant to subdivision (k).

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office's estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower's best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, "interest" does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate the bonds may legally bear.

(g) The loan shall provide for the application of the borrower's periodic payments to amortization of the principal of the loan.

(h) The loan shall contain those terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost.

(j) The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

(k) The office has determined that the facility is needed by the community to provide the specified services. In making this determination, the office shall do all of the following:

(1) Require the applicant to describe the community needs the facility will meet and provide data and information to substantiate the stated needs.

(2) Require the applicant, if appropriate, to demonstrate participation in the community needs assessment required by Section 127350.

(3) Survey appropriate local officials and organizations to measure perceived needs and verify the applicant's needs assessment.

(4) Use any additional available data relating to existing facilities in the community and their capacity.

(5) Contact other state and federal departments that provide funding for the programs proposed by the applicant to obtain those departments' perspectives regarding the need for the facility. Additionally, the office shall evaluate the potential effect of proposed health care reimbursement changes on the facility's financial feasibility.

(6) Consider the facility's consistency with the Cal-Mortgage state plan.

(l) In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition.

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure, that shall be utilized during the office's review of a loan guarantee application:

(1) Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the office, before closing a loan on the project.

(2) Evaluation of the appraisal in conjunction with the book value of the acquisition by the office. When acquisitions involve additional construction, the office shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of

a facility, including improvements, then the acquisition cost shall be deemed in excess of fair market value.

(m) Notwithstanding subdivision (i), any loan in the amount of five million dollars ($5,000,000) or less may be insured up to 95 percent of the total construction cost.

In determining financial feasibility of projects of counties pursuant to this section, the office shall take into consideration any assistance for the project to be provided under Section 14085.5 of the Welfare and Institutions Code or from other sources. It is the intent of the Legislature that the office endeavor to assist counties in whatever ways are possible to arrange loans that will meet the requirements for insurance prescribed by this section.

(n) The project's level of financial risk meets the criteria in Section 129051.

(Added by Stats.1969, c. 970, p. 1923, § 1. Amended by Stats.1978, c. 429, § 97 eff. July 17, 1978, operative July 1, 1978; Stats.1978, c. 1290, § 1; Stats.1979, c. 1047, p. 3694, § 5, eff. Sept. 26, 1979; Stats.1980, c. 1351, p. 4791, § 7; Stats.1983, c. 1105, § 1.5; Stats.1988, c. 1621, §2; Stats.1988, c. 1635, § 1; Stats.1991, c. 1094, § 1. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 7.) Amended by Stats 2002, c. 93, (A.B. 2917), § 1.

§ 129051. Financial risk of applicant; assessment system; maximum risk level; exception

(a) The office shall develop and implement a system for assessing the relative financial risk of the applicant. The system shall include, but is not limited to, an assessment of the applicant's financial strength, credit history, security for the loan, cash-flow, and ability to repay the debt.

(b) The office shall establish a maximum acceptable level of financial risk for the projects it insures. The office may only approve a project if its risk level is below the established maximum, except as provided in subdivision (c).

(c) The office may approve a project with a level of insurance risk that exceeds the established maximum if the office determines that the project meets significant community need or will be a sole community provider.

(Added by Stats.1999, c. 848, (A.B.282), § 8.)

§ 129052. Pledge or grant of security interest by or to office; grant to office; validity and binding effect; liens; recording or perfection of pledge instrument

A pledge by or to the office of, or the grant to the office of a security interest in, revenues, moneys, accounts, accounts receivable, contract rights, general intangibles, documents, instruments, chattel paper, and other rights to payment of whatever kind made by or to the office pursuant to the authority granted in this chapter shall be valid and binding from the time the pledge

is made for the benefit of pledgees and successors thereto. The revenues, moneys, accounts, accounts receivable, contract rights, general intangibles, documents, instruments, chattel paper, and other rights to payment of whatever kind pledged by or to the office or its assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of such pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the lien. The indenture, trust agreement, resolution, or another instrument by which such pledge is created need not be recorded or the security interest otherwise perfected.

(Added by Stats.1994, c. 414, p. 6, § 5, eff. Sept. 1, 1994, Senate Bill No. 1705. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129055. Utilization of facilities by Medi-Cal patients

In order to comply with subdivision (j) of Section 129050, any borrower that is certified for reimbursement for cost of care under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code shall demonstrate that its facility is used by persons for whom the cost of care is reimbursed under that chapter, in a proportion that is reasonable based upon the proportion of Medi-Cal patients in the community served by the borrower and by persons for whom the costs of care is reimbursed under Title XVIII of the federal Social Security Act in a proportion that is reasonable based upon the proportion of Medicare patients in the community served by the borrower.

For the purposes of this chapter, the community means the service areas or patient populations for which the health facility provides health care services, unless the office determines that, or the borrower demonstrates to the satisfaction of the office that, a different definition is more appropriate for the borrower's facility.

(Added by Stats.1978, c. 1290, § 2. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 9.)

§ 129060. Alcoholism or drug abuse recovery or treatment program or facility

Subdivisions (b) and (c) of Section 129355 shall apply to any residential or nonresidential alcoholism or drug abuse recovery or treatment program or facility, as certified under Section 11831.5, or licensed under former Section 11834.19; and any facility that provides an organized program of therapeutic, social, and health activities and services to persons with functional impairments, as licensed under Section 1576.

(Added by Stats.1991, c. 1094, § 3. Amended by Stats.1992, c. 427, § 81. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129065. Availability of services to persons residing or employed in service areas; actions to assure compliance

As part of its assurance under subdivision (j) of Section 129050, any borrower that is a general acute care hospital or acute psychiatric hospital shall agree to the following actions:

(a) To advise each person seeking services at the borrower's facility as to the person's potential eligibility for Medi-Cal and Medicare benefits or benefits from other governmental third party payers.

(b) To make available to the office and to any interested person a list of physicians with staff privileges at the borrower's facility, that includes:

(1) Name.

(2) Speciality.

(3) Language spoken.

(4) Whether takes Medi-Cal and Medicare patients.

(5) Business address and phone number.

(c) To inform in writing on a periodic basis all practitioners of the healing arts having staff privileges in the borrower's facility as to the existence of the facility's community service obligation. The required notice to practitioners shall contain a statement, as follows:

"This hospital has agreed to provide a community service and to accept Medi-Cal and Medicare patients. The administration and enforcement of this agreement is the responsibility of the Office of Statewide Health Planning and Development and this facility."

(d) To post notices in the following form, that shall be multilingual where the borrower serves a multilingual community, in appropriate areas within the facility, including but not limited to, admissions offices, emergency rooms, and business offices:

NOTICE OF COMMUNITY SERVICE OBLIGATION

"This facility has agreed to make its services available to all persons residing or employed in this area. This facility is prohibited by law from discriminating against Medi-Cal and Medicare patients. Should you believe you may be eligible for Medi-Cal or Medicare, you should contact our business office (or designated person or office) for assistance in applying. You should also contact our business office (or designated person or office) if you are in need of a physician to provide you with services at this facility. If you believe that you have been refused services at this facility in

violation of the community service obligation you should inform (designated person or office) and the Office of Statewide Health Planning and Development."

The borrower shall provide copies of this notice for posting to all welfare offices in the county where the borrower's facility is located.

(Added by Stats.1978, c. 1290, § 3. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 10.)

§ 129070. Eligibility upon presentation of plan for utilization of facilities by Medi-Cal patients

In the event the borrower cannot demonstrate that it meets the requirement of Section 129055, it may nonetheless be eligible for a loan under this chapter if it presents a plan that is satisfactory to the office, that details the reasonable steps and timetables that the borrower agrees to take to bring the facility into compliance with Section 129055.

(Added by Stats.1978, c. 1290, § 4. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129075. Annual report on compliance with requirements of availability of services

(a) Each borrower shall provide any reports as may be required of it by Part 5 (commencing with Section 128675), from which the office shall determine the borrower's compliance with subdivision (j) of Section 129050.

(b) If a report indicates noncompliance with subdivision (j) of Section 129050, Section 129055, or Section 129065, the office shall require the borrower to submit a plan detailing the steps and timetables the borrower will take to bring the facility into compliance.

(c) The office shall annually report to the Legislature the extent of the borrowers' compliance with their community service obligations pursuant to subdivision (j) of Section 129050, Section 129055, and Section 129065.

(Amended by Stats.1999, c. 848, (A.B.282), § 12.)

§ 129080. Remedies and sanctions upon determination of noncompliance

The office may impose additional appropriate remedies and sanctions against a borrower when any of the following occurs:

(a) The office determines that the annual compliance report required in Section 129075 indicates that the borrower is out of compliance with subdivision (j) of Section 129050.

(b) A facility fails to carry out the actions agreed to in a plan approved by the office pursuant to Section 129070.

(c) The facility fails to submit compliance reports as required by Section 129075. The additional remedies include referring the violation to the office of Attorney General of California for legal action authorized under existing law or other remedy at law or equity.

However, the remedies obtainable by legal action shall not include withdrawal or cancellation of the loan insurance provided under this chapter.

(Added by Stats.1978, c. 1290, § 6. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 13.)

§ 129085. Eligibility despite inability to contract under Medi-Cal

(a) If a borrower is unable to comply with subdivision (j) of Section 129050 due to selective provider contracting under the Medi-Cal program, and the office has determined the borrower has negotiated in good faith but was not awarded a contract, the borrower may be eligible for insurance under this chapter as provided in subdivision (b).

(b) The office may determine that a noncontracting borrower shall be considered as meeting the requirements of subdivision (j) of Section 129050 if the borrower otherwise provides a community service in accordance with regulations adopted by the office. The regulations shall describe alternative methods of meeting the obligation, that may include, but not be limited to, providing free care, charity care, trauma care, community education, or primary care outreach and care to the elderly, in amounts greater than the community average. The regulations shall include a requirement that a general acute care hospital, that is not a small and rural hospital as defined in Section 124840, shall have, and continue to maintain, a 24-hour basic emergency medical service with a physician on duty, if it provided this service on January 1, 1990. The office shall have the authority to waive this requirement upon a determination by the director that this requirement would create a hardship for the hospital, be inconsistent with regionalization of emergency medical services, or not be in the best interest of the population served by the hospital.

(Added by Stats.1989, c. 896, § 2. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129087. Borrower financial difficulties; monitoring system

The office shall develop and maintain a formal system of monitoring borrowers, in order to assist the office in detecting at the earliest possible date those borrowers who are experiencing financial difficulties. This system shall include, but shall not be limited to, all of the following:

(a) A method of tracking the receipt of information that borrowers are required by law and regulatory agreement to submit to the office.

(b) A process for thoroughly reviewing borrowers' financial statements, budgets, auditor's management letters, and health facility utilization trends.

(c) Timely and structured site visits to insured facilities.

(Added by Stats.1999, c. 848, (A.B.282), § 14.)

§ 129090. Eligibility of established facilities; applications

Pursuant to this chapter, political subdivisions and nonprofit corporations may apply for state insurance of needed construction, improvement, or expansion loans for construction, remodeling, or acquisition of health facilities to be or already owned, established, and operated by them as provided in this chapter.

Applications shall be submitted to the office by the nonprofit corporation or political subdivision authorized to construct and operate a health facility. Each application shall conform to the requirements of the office, shall be submitted in the manner and form prescribed by the office, and shall be accompanied by an application fee of one-half of 1 percent of the amount of the loan applied for, but in no case shall the application fee exceed five hundred dollars ($500). The fees shall be deposited by the office in the fund and used to defray the office's expenditures in the administration of this chapter.

(Added by Stats.1969, c. 970, p. 1924, § 1. Amended by Stats.1973, c. 1203, p. 2580, § 2; Stats.1978, c. 429, § 98, eff. July 17, 1978, operative July 1, 1978; Stats.1979, c. 1047, p. 3696, § 6,eff. Sept. 26, 1979. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 15.)

§ 129092. Proposed project feasibility study; cost

Notwithstanding any other provision of law, upon the application of a borrower for insurance, the office shall perform a feasibility study relating to the proposed project, the cost of which shall be paid by the applicant. The office may retain independent consultants and require a deposit from the applicant for such services, upon submission of the application. This section shall take effect on January 1, 2001.

(Added by Stats.1999, c. 848, (A.B.282), § 16, operative Jan. 1, 2001.)

§ 129095. Professionals used by applicants for initial application for loan insurance; nonregulation

(a) The office shall not regulate, impose requirements on, or require approval by the office of a professional, or a fee charged by a professional, used by applicants for the initial application for loan insurance. The choice of any professional and the funding source used shall be left entirely to the participants.

(b) For purposes of this section, "professional" includes, but is not limited to, an underwriter, bond counsel, or consultant.

(c) Nothing in this section shall prohibit the office, in the event of defaults, from taking any action authorized under this chapter to protect the financial interest of the state.

(Added by Stats.1992 c. 988, § 1. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129100. Hearing

Every applicant for insurance shall be afforded an opportunity for a fair hearing before the commission upon 10 days' written notice to the applicant. If the office, after affording reasonable opportunity for development and presentation of the application and after receiving the advice of the commission, finds that an application complies with the requirements of this article and of Section 129020 and is otherwise in conformity with the state plan, it may approve the application for insurance. The office shall consider and approve applications in the order of relative need set forth in the state plan in accordance with Section 129020. Judicial review of a final decision made under this section may be had by filing a petition for writ of mandate. Any petition shall be filed within 30 days after the date of the final decision of the office.

(Added by Stats.1969, c. 970, p. 1924, § 1. Amended by Stats.1978, c. 429, § 99, eff. July 17, 18, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1996, c. 411, (S.B.1922), § 1. Amended by Stats.1999, c. 848, (A.B.282), § 17.)

§ 129105. Authority to insure loans

The office may upon application of the borrower insure any loan that is eligible for insurance under this chapter; and upon the terms prescribed by the office, may make commitments for the insuring of the loans prior to their date of execution or disbursement thereon. The decision to grant loan insurance upon an application of the borrower is within the discretion of the director of the office. Showing need for the project or meeting the eligibility requirements for loan insurance and establishing financial feasibility of the project or recommendation for approval from the committee does not create any entitlement to loan insurance.

(Added by Stats.1969, c. 970, p. 1925, § 1. Amended by Stats.1978, c. 429, § 100, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 18.)

§ 129110. Incontestability

Any contract of insurance executed by the office under this chapter shall be conclusive evidence of the eligibility of the loan for insurance and the validity of any contract of insurance so executed shall be incontestable from the date of the execution of the contract, except in case of fraud or misrepresentation on the part of the lender.

(Added by Stats.1969, c. 970, p. 1925, § 1. Amended by Stats.1978, c. 429, § 101, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

Article 3. DEFAULTS

(Added by Stats.1969, c.970, p. 1925, § 1. Renumbered by Stats.1995, c.415 (S.B.1360), § 9. Amended by Stats.1999, c. 848, (S.B.282), § 19, § 20, and, § 21.)

§ 129125. Insurance benefits after foreclosure; transfer of title; determination of value

In any case when the lender under a loan to a nonprofit corporation insured under this chapter shall have foreclosed and taken possession of the property under a mortgage in accordance with regulations of, and within a period to be determined by the office, or shall, with the consent of the office, have otherwise acquired the property from the borrower after default, the lender shall be entitled to receive the benefit of the insurance as provided in this section, upon (a) the prompt conveyance to the office of title to the property that meets the requirements of the regulations of the office in force at the time the loan was insured, and that is evidenced in the manner prescribed by the regulations, and (b) the assignment to the office of all claims of the lender against the borrower or others arising out of the loan transaction or foreclosure proceedings except claims that may have been released with the consent of the office. Upon the conveyance and assignment, the office shall notify the Treasurer, who shall issue to the lender debentures having a total face value equal to the outstanding value of the loan.

For the purposes of this section, the outstanding value of the loan shall be determined, in accordance with the regulations prescribed by the office, by (a) adding to the amounts of the original principal obligation of the loan and interest that are accrued and unpaid the amount of all payments that have been made by the lender for the following: taxes and assessments, ground rents, water rates, and other liens that are prior to the mortgage; charges for the administration, operation, maintenance and repair of the health facility property; insurance on the project property, loan insurance premiums, and any tax imposed by a city or county upon any deed or other instrument by which the property was acquired by the lender and transferred or conveyed to the office; and the costs of foreclosure or of acquiring the property by other means actually paid by the lender and approved by the office; and by (b) deducting from the total amount any amounts received by the lender after the borrower's default on account of the loans or as rent or other income from the property.

(Added by Stats.1969, c. 970, p. 1925, § 1. Amended by Stats.1978, c. 429, § 102, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129130. Bond Defaults; replacement with state bonds

In any case when a political subdivision defaults on the payment of interest or principal accrued and due on bonds or other evidences of indebtedness insured under this chapter, debentures in an amount equal to the outstanding original principal obligation and interest on the bonds that were accrued and unpaid on the date of default and bearing interest at a rate equal to and payment

schedule identical with those of the bonds shall be issued by the Treasurer upon notification thereof by the office to the bondholders upon the surrender of the bonds to the office.

In any case in which a hospital district defaults on the payment of interest or principal accrued and due on an insured loan secured by a first mortgage, first deed of trust, or other security agreement as authorized by Section 32127.2, debentures in an amount equal to the outstanding original principal obligation and interest on the bonds that were accrued and unpaid on the date of default and bearing interest at a rate equal to and payment schedule identical with those of the bonds shall be issued by the Treasurer upon notification thereof by the office to the bondholders upon surrender of the bonds to the office after the state has enforced its rights under the first mortgage, first deed of trust, or other security agreement.

(Added by Stats.1969, c. 970, p. 1926, § 1. Amended by Stats.1978, c. 429, § 103, eff. July 17, 1978, operative July 1, 1978; Stats.1982, c. 1513, p. 5866, § 1. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129135. Alternative method of transferring title

Notwithstanding any requirement contained in this chapter relating to acquisition of title and possession of the project property by the lender and its subsequent conveyance and transfer to the office, and for the purpose of avoiding unnecessary conveyance expense in connection with payment of insurance benefits under the provisions of this chapter, the office may, subject to regulations that it may prescribe, permit the lender to tender to the office a satisfactory conveyance of title and transfer of possession direct from the borrower or other appropriate grantor and to pay to the lender the insurance benefits to which it would otherwise be entitled if the conveyance had been made to the lender and from the lender to the office.

(Added by Stats.1969, c. 970, p. 1926, § 1. Amended by Stats.1978, c. 429, § 104, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129140. Acquisition of loan and security interests

Upon receiving notice of the default of any loan insured under this chapter, the office, in its discretion and for the purpose of avoiding foreclosure under Section 129125 and notwithstanding the fact that it has previously approved a request of the lender for extensions of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the project property, or has approved a modification of the loan for the purpose of changing the amortization provisions by recasting the unpaid balance, may acquire the loan and security agreements securing the loans upon the issuance to the lender of debentures in an amount equal to the unpaid principal balance of the loan plus any accrued unpaid loan interest plus reimbursement for the costs and attorney's fees of the lender enumerated in Section 129125.

After the acquisition of the loan and security interests therefor by the office, the lender shall have no further rights, liabilities, or obligations with respect thereto. The provisions of Section 129125 relating to the issuance of debentures incident to the acquisition of foreclosed properties

shall apply with respect to debentures issued under this section, and the provisions of this chapter relating to the rights, liabilities, and obligations of a lender shall apply with respect to the office when it has acquired an insured loan under this section, in accordance with and subject to any regulations prescribed by the office modifying the provisions to the extent necessary to render their application for these purposes appropriate and effective.

(Added by Stats.1969, c. 970, p. 1926, § 1. Amended by Stats.1978, c. 429, § 105, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129145. Cure of default

Notwithstanding any other provision of this chapter, after the office determines that the lender and borrower have exhausted all reasonable means of curing any default, the office within its discretion may, when it is in the best interests of the state, the borrower, and the lender, cure the default of the borrower by making payment from the fund directly to the lender of any amounts of the original principal obligation and interest of the loan that are accrued and unpaid. The payment shall be secured by an assignment to the office of a pro rata share of the security agreements made to the lender and, upon the payment, the borrower shall become liable for repayment of the amount thereof to the office over a period and at a rate of interest as shall be determined by the office.

(Added by Stats.1969, c. 970, p. 1927, § 1. Amended by Stats.1978, c. 429, § 106, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129150. Consent to release from liability

The office may at any time, under the terms and conditions that it may prescribe, consent to the lender's release of the borrower from its liability under the loan or the security agreement securing the loan, or consent to the release of parts of the project property from the lien of any security agreement.

(Added by Stats.1969, c. 970, p. 1927, § 1. Amended by Stats.1978, c. 429, § 108, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129152. Failure to submit report or other default; actions by office; remedies

If a borrower fails to submit a required report, or upon any other default of any regulatory or contractual term or covenant, whether or not a default has been declared, the office first shall informally communicate with the borrower. If the borrower fails to submit the required report or otherwise cure the default, the office shall issue a formal demand in writing stating the nature of the default and requiring the borrower to submit a detailed plan of correction that is acceptable to the office. If the borrower fails to either submit a plan, or timely cure the default, the office shall perform an onsite visit. If the office determines the borrower is not making sufficient progress in

submitting any required reports or otherwise curing any default, the office may require the borrower, at the borrower's expense, to employ an independent consultant or professional, acceptable to the office, to conduct a program audit. If the borrower fails to adopt the recommendations of the independent consultant or professional made in the program audit, of if the borrower fails to otherwise timely cure the default, the office shall have all the remedies set forth in the Section 129173.

(Added by Stats.1999, c. 848, (A.B.282), § 19)

§129155. Form and denomination of debentures

Debentures issued under this chapter shall be in the form and denomination, subject to the terms and conditions, and include provisions for redemption, if any, as may be prescribed by the office with the approval of the Treasurer, and may be in coupon or registered form.

(Added by Stats.1969, c. 970, p. 1927, § 1. Amended by Stats.1978, c. 429, § 107, eff. July 17, 1978, operative July 1, 1978; Stats.1990, c. 726, § 1. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§129160. Execution of debenture; negotiability; interest; tax exemption; payment; default

(a) All debentures issued under this chapter to any lender or bondholder shall be executed in the name of the fund as obligor, shall be signed by the State Treasurer, and shall be negotiable. Pursuant to Sections 129125 and 129130, all debentures shall be dated as of the date of the institution of foreclosure proceedings or as of the date of the acquisition of the property after default by other than foreclosure, or as of another date as the office, in its discretion, may establish. The debentures shall bear interest from that date at a rate approved by the State Treasurer, equal to either the rate applicable to the most recent issue of State General Fund bonds or that specified in Section 129130, which shall be payable on the dates as the office, in its discretion, may establish except in the case of bonds or other evidences of indebtedness as specified in Section 129130, and shall have the same maturity date as the loan which they insured. All debentures shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the state or local taxing agencies, shall be paid out of the fund, which shall be primarily liable therefor, and shall be, pursuant to Section 4 of Article XVI of the California Constitution, fully and unconditionally guaranteed as to principal and interest by the State of California, which guaranty shall be expressed on the face of the debentures. In the event that the fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this chapter, the State Treasurer shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the State Treasurer shall succeed to all the rights of the holders of the debentures. The fund shall be liable for repayment to the Treasury of any money paid therefrom pursuant to this section in accordance with procedures jointly established by the State Treasurer and the office.

(b) In the event of a default, any debenture issued under this article shall be paid on a par with general obligation bonds issued by the state.

(Added by Stats.1969, c. 970, p. 1928, § 1. Amended by Stats.1978, c. 429, § 109, eff. July 17, 1978, operative July 1, 1978; Stats.1990, c. 726, § 2; Stats.1994, c. 414, p. 6, § 6, eff. Sept. 1, 1994, Senate Bill 1705. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129165. Power to deal with and dispose of acquired property

Notwithstanding any other provision of law relating to the acquisition, management or disposal of real property by the state, the office shall have power to deal with, operate, complete, lease, rent, renovate, modernize, insure, or sell for cash or credit, in its discretion, any properties conveyed to it in exchange for debentures as provided in this chapter; and notwithstanding any other provision of law, the office shall also have power to pursue to final collection by way of compromise or otherwise all claims against borrowers assigned by lenders to the office as provided in this chapter. All income from the operation, rental, or lease of the property and all proceeds from the sale thereof shall be deposited in the fund and all costs incurred by the office in its exercise of powers granted in this section shall be met by the fund.

The power to convey and to execute in the name of the office deeds of conveyance, deeds of release, assignments and satisfactions of loans and mortgages, and any other written instrument relating to real or personal property or any interest therein acquired by the office pursuant to the provisions of this chapter may be exercised by the office or by any officer of the office appointed by it.

(Added by Stats.1969, c. 970, p. 1926, § 1. Amended by Stats.1978, c. 429, § 110, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129170. Loss of right to property conveyed

No lender or borrower shall have any right or interest in any property conveyed to the office or in any claim assigned to it, nor shall the office owe any duty to any lender or borrower with respect to the management or disposal of this property.

(Added by Stats.1969, c. 970, p. 1928, § 1. Amended by Stats.1978, c. 429, § 111, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129172. Judicial proceeding or action taken prior to foreclosing on collateral; application of specified Code of Civil Procedure sections

Notwithstanding any other provision of law, if, prior to foreclosing on any collateral provided by a borrower, the office institutes a judicial proceeding or takes any action against a borrower to enforce compliance with the obligations set out in the regulatory agreement, the contract of

insurance, or any other contractual loan closing document or law, including, but not limited to, Section 129173, that remedy or action shall not constitute an action within the meaning of subdivision (a) of Section 726 of the Code of Civil Procedure, or in any way constitute a violation of the intent or purposes of Section 726 of the Code of Civil Procedure, or constitute a money judgment or a deficiency judgment within the meaning of Sections 580a, 580b, 580d, or subdivision (b) of Section 726 of the Code of Civil Procedure. However, these provisions of the Code of Civil Procedure shall apply to any judicial proceeding instituted, or nonjudicial foreclosure action taken by the office to collect the principal and interest due on the loan with the borrower.

(Added by Stats.1994, c. 414, p. 7 § 7, eff. Sept. 1, 1994, (Senate Bill 1705.) Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129173. Managerial or financial control of borrower; conditions warranting; methods

(a) In fulfilling the purposes of this article, as set forth in Section 129005, and upon making a determination that the financial status of a borrower may jeopardize a borrower's ability to fulfill its obligations under any insured loan transaction so as to threaten the economic interest of the office in the borrower or to jeopardize the borrower's ability to continue to provide needed health care services in its community, including, but not limited to, a declaration of default under any contract related to the transaction, the borrower missing any payment to its lender, or the borrower's accounts payable exceeding three months, the office may assume or direct managerial or financial control of the borrower in any or all of the following ways:

(1) The office may supervise and prescribe the activities of the borrower in the manner and under the terms and conditions as the office may stipulate in any contract with the borrower.

(2) Notwithstanding the provisions of the articles of incorporation or other documents of organization of a nonprofit corporation borrower, this control may be exercised through the removal and appointment by the office of members of the governing body of the borrower sufficient so that the new members constitute a voting majority of the governing body.

(3) In the event the borrower is a nonprofit corporation or a political subdivision, the office may request the Secretary of the California Health and Human Services Agency to appoint a trustee. The trustee shall have full and complete authority of the borrower over the insured project, including all property on which the office holds a security interest. No trustee shall be appointed unless approved by the office. A trustee appointed by the secretary pursuant to this subdivision may exercise all the powers of the officers and directors of the borrower, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the office or a trustee by reason of their exercising the powers of the officers and directors of a borrower pursuant to the direction of, or with the approval of, the secretary.

(4) The office may institute any action or proceeding, or the office may request the Attorney General to institute any action or proceeding against any borrower, to obtain injunctive or other equitable relief, including the appointment of a receiver for the borrower or the borrower's assets, in the superior court in and for the county in which the assets or a substantial portion of the assets

are located. The proceeding under this section for injunctive relief shall conform with the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the office shall not be required to allege facts necessary to show lack of adequate remedy at law, or to show irreparable loss or damage. Injunctive relief may compel the borrower, its officers, agents, or employees to perform each and every provision contained in any regulatory agreement, contract of insurance, or any other loan closing document to which the borrower is a party, or any obligation imposed on the borrower by law, and require the carrying out of any and all covenants and agreements and the fulfillment of all duties imposed on the borrower by law or those documents.

A receiver may be appointed pursuant to Chapter 5 (commencing with Section 564) of Title 7 of Part 2 of the Code of Civil Procedure. In cooperation with the Attorney General, the office shall develop and maintain a list of receivers who have demonstrated experience both in the health care field and as a receiver. Upon a proper showing, the court shall grant the relief provided by law and requested by the office or the Attorney General. No receiver shall be appointed unless approved by the office. The office shall establish reporting requirements for receivers to ensure that the office is fully apprised of all costs incurred and progress made by the receiver. A receiver appointed by the superior court pursuant to this subdivision and Section 564 of the Code of Civil Procedure may, with the approval of the court, exercise all of the powers of the officers and directors of the borrower, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the office, the Attorney General, or a receiver by reason of their exercising the powers of the officers and directors of a borrower pursuant to the order of, or with the approval of, the superior court.

(5) The borrower shall inform the office in advance of all meetings of its governing body. The borrower shall not exclude the office from attending any meeting of the borrower's governing body.

(b) Other than the loan insured under this chapter, the office shall not be liable for any debt of a borrower, or to a borrower, as a result of the office asserting its legal remedies against a borrower insured under this chapter.

(c) It is the intent of the Legislature that this section is remedial in nature, and is applicable retroactively to any health facility construction loans in existence at the time of its enactment, to the extent that the application of this section does not lawfully impair existing contract rights.

(Added by Stats.1994, c. 414, p. 7 § 8, eff. Sept. 1, 1994, (S.B.1705.) Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1996, c. 411 (S.B.1922), § 2. Amended by Stats.1999, c. 848, (A.B.282), § 20.)

§ 129174. Loan payments; defeasance of bonds

(a) In the event a borrower has defaulted in making its payments on the loan insured by the office to the lender or to the borrower's bond trustee, at any time thereafter, the office may do any of the following:

(1) Defease a portion or all of the bonds or may purchase a portion or all of the bonds at a private or public sale or on the open market. For this purpose, the office may use any funds

available, including, but not limited to, funds in the Health Facility Construction Loan Insurance Fund, funds that the office may receive either from settlement or recoveries from lawsuits, funds from the sale of assets of the borrower, or funds held by the borrower's bond trustee. If requested by the office, the Treasurer shall purchase the bonds on behalf of the office. Upon the purchase of any bonds under this section, the office shall direct the borrower's bond trustee to cancel the bonds purchased.

(2) Issue bonds used for the sole purpose of refunding any part or all of the defaulted bonds, provided that, in the opinion of the office, there are adequate present value savings to refund all or part of the defaulted bonds. If requested by the office, the Treasurer shall act as the issuer for this purpose.

(3) Require the lender or borrower's bond trustee to accelerate the borrower's debt and the maturity dates of the bonds, if any. If the bond trustee accelerates the bond debt and the maturity dates, the office shall pay from the fund to the lender or borrower's bond trustee the full amount of the remaining principal of the loan, any interest accrued and unpaid on this amount, and any costs enumerated in Section 129125.

(b) For the purposes of this section, "bonds" mean bonds, certificate of participation, notes, or other evidence of indebtedness of a loan insured by the office.

(Added by Stats.1996, c. 411 (S.B.1922), § 3. Amended by Stats.1999, c. 848, (A.B.282), § 21.)

§ 129174.1. Bankruptcy; loan insured by office; plans

In the event a loan insured by the office has gone into bankruptcy and that a plan has been proposed for adoption, upon a certification by the office that the insurance is in place and would be in place if the plan were adopted, then the office shall have the right to vote on the plan on behalf of the holders of the loan insured by the office.

(Added by Stats.1996, c. 411 (S.B.1922), § 4.)

Article 4. TERMINATION OF INSURANCE

(Added by Stats.1969, c. 970, p. 1929, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129175. Delinquent payment of premiums and inspection fees

Should a borrower be more than 10 days delinquent in paying the premium charges or inspection fees for insurance under this chapter, the office shall notify the borrower in writing. If that payment remains delinquent more than 30 days after the sending of the office's notice to the borrower, the office shall make every reasonable effort to notify the lender in writing. If that delinquency continues, on the 31st day after sending of the office's notice to the lender, the insurance shall be terminated and become null and void.

(Added by Stats.1969, c. 970, p. 1929, § 1. Amended by Stats.1978, c. 429, § 112, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129180. Foreclosure without conveyance to office; payment of debt

The obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the lender and the borrower under this chapter shall terminate as of the date of the notice, as herein provided, in the event that (a) any lender under a loan forecloses on the mortgaged property, or has otherwise acquired the project property from the borrower after default, but does not convey the property to the office in accordance with this chapter, and the office is given written notice thereof, or (b) the borrower pays the obligation under the loan in full prior to the maturity thereof, and the office is given written notice thereof.

(Added by Stats.1969, c. 970, p. 1929, § 1. Amended by Stats.1978, c. 429, § 113, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129185. Joint request

The office is authorized to terminate any insurance contract upon joint request by the borrower and the lender and upon payment of a termination charge that the office determines to be equitable, taking into consideration the necessity of protecting the fund. Upon the termination, borrowers and lenders shall be entitled to the rights, if any, that they would be entitled to under this chapter if the insurance contract were terminated by payment in full of the insured loan.

(Added by Stats.1969, c. 970, p. 1924, § 1. Amended by Stats.1978, c. 429, § 114, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

Article 5. HEALTH FACILITY CONSTRUCTION LOAN INSURANC FUND

(Added by Stats.1969, c 970, p. 1929, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 22 and § 23.)

§ 129200. Establishment

There is hereby established a Health Facility Construction Loan Insurance Fund, that shall be used by the office as a revolving fund for carrying out the provisions and administrative costs of this chapter. Notwithstanding Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated to the office without regard to fiscal years for the purposes of this chapter.

(Added by Stats.1969, c. 970, p. 1929, § 1. Amended by Stats.1978, c. 429, § 115, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 22.)

§ 129205. Investment of surplus funds

Moneys in the fund not needed for the current operations of the office under this chapter shall be invested pursuant to law. The office may, with the approval of the State Treasurer, purchase the debentures issued under this chapter. Debentures so purchased shall be canceled and not reissued.

(Added by Stats.1969, c. 970, p. 1930, § 1. Amended by Stats.1978, c. 429, § 116, eff. July 17, 1978, operative July 1, 1978. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

§ 129210. Limit on authorized insurance

(a) The office's authorization to insure health facility construction, improvement, and expansion loans under this chapter shall be limited to a total of not more than three billion dollars ($3,000,000,000).

(b) Notwithstanding the limitation in subdivision (a), the office may exceed the specific dollar limitation in either of the following instances:

(1) Refinancing a preexisting loan, if the refinancing results in savings to the health facility and increases the probability that a loan can be repaid.

(2) The need for financing results from earthquakes or other natural disasters.

(Amended by Stats.1991, c. 753, § 3; Stats.1992, c. 1031, § 1; Stats.1993, c. 473, § 1. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9. Amended by Stats.1999, c. 848, (A.B.282), § 23.)

§ 129215. Nature of fund; use of funds and interest

The Health Facility Construction Loan Insurance Fund, established pursuant to Section 129200, shall be a trust fund and neither the fund nor the interest or other earnings generated by the fund shall be used for any purpose other than those purposes authorized by this chapter.

(Added by Stats.1994, c. 414, p. 9, § 9, eff. Sept. 1, 1994, Senate Bill 1705. Renumbered by Stats.1995, c. 415, (S.B.1360), § 9.)

Article 5.5. Advisory Loan Insurance Committee

(Added by Stats.1999, c. 848, (A.B.282), § 24.)

§ 129220. Advisory Loan Insurance Committee

The office shall establish an Advisory Loan Insurance Committee which shall be comprised of nine members, eight of whom shall be appointed by the director of the office. Of the nine

members, seven shall be appointed from outside state government and two shall be appointed from inside state government. The Director of Finance shall appoint one of the members chosen from inside state government. The members of the committee shall be qualified in the field of financial analysis, management, operations, or construction, improvement, or expansion of health facilities. Those members appointed from outside state government shall be reimbursed one hundred dollars ($100) for each day spent in the performance of official duties. All members shall be reimbursed for reasonable and necessary expenses.

(Added by Stats.1999, c. 848, (A.B.282), § 24.)

§ 129221. Duties of the Committee

The duties of the committee shall include, but not be limited to, the following:

(a) The committee shall assist the director of the office in formulating policy concerning financial analysis, management, operation, or construction, improvement, or expansion of health of health facilities, and shall, at the request of the director of the office, provide overall policy advice, guidance, and recommendations. The committee shall also provide the office with advice and comment on the state plan prepared pursuant to Section 129020.

(b) The committee shall also review and analyze the feasibility, level of financial risk, and community benefit assessments made by the office on applications submitted for approval. The committee shall recommend to the director whether an application should be approved and whether any conditions should be attached to that approval. Loans that are currently insured by the office and subsequently are refinanced to obtain a lower interest rate or emergency working capital loans insured pursuant to Section 129091 shall not require the review of the committee.

(Added by Stats.1999, c. 848, (A.B.282), § 24.)

Article 6. COMMUNITY MENTAL HEALTH FACILITIES LOAN INSURANCE

(Added by Stats.1978, c. 1230, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129225. Short title

This article shall be known as, and may be cited as, the Community Mental Health Facilities Loan Insurance Law.

(Added by Stats.1978, c. 1230, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129230. Development of mental health facilities; legislative intent; special provisions

It is the intent of the Legislature in enacting this article to encourage the development of facilities for community-based programs that assist mental health clients living in any institutional

setting, including state and local inpatient hospitals, skilled nursing homes, intermediate care facilities, and community care facilities to move to more independent living arrangements. It is further the intent of the Legislature to encourage local programs to seek funding for facility development from private sources and with the assistance provided pursuant to this chapter.

To achieve this purpose in determining eligibility for loan insurance pursuant to this chapter, the following special provisions apply to facilities approved in the county Short-Doyle plan and meeting the intentions of this article:

(a) Facilities shall not require approval pursuant to Section 129295 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, unless specifically required for the facilities by the facility category of licensure.

(b) Notwithstanding subdivision (i) of Section 129050, any loan of under three hundred thousand dollars ($300,000) for a nonprofit corporation as well as a political subdivision may be fully insured equal to the total construction cost, except a loan to any proprietary corporation that is insured pursuant to subdivision (d) of this section.

(c) The State Department of Mental Health or the local mental health program may provide all application fees, inspection fees, premiums and other administrative payments required by this chapter, except with respect to any loan to a proprietary corporation that is insured pursuant to subdivision (d) of this section.

(d) The borrower may be a proprietary corporation, provided that the facility is leased to the local mental health program for the duration of the insurance agreement. In these instances, all provisions in this chapter and this article that apply to a nonprofit corporation shall apply to the proprietary corporation, except as provided in subdivisions (b) and (c) of this section.

(e) For the purposes of this article, subdivision (c) of Section 129010 shall include the purchase of existing buildings.

(f) Facilities shall not require approval pursuant to Section 129020 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, until the director of the office and the Director of the Department of Mental Health determine that the state plan developed pursuant to Section 129020 adequately and comprehensively addresses the need for community mental health facilities and that finding is reported to the appropriate policy committees of the Legislature.

(Amended by Stats.1979, c. 1230, § 1. Amended by Stats.1979, c. 373, p. 1329, § 181. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129235. Loans under $300,000; priority

Loans of under three hundred thousand dollars ($300,000) for any single facility shall have priority for obtaining loan insurance under the special provisions established pursuant to Section 129230.

(Added by Stats.1978, c. 1230, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129240. Total amount of loans, which may be insured pursuant to this article

The total amount of loans that may be insured pursuant to this article shall not exceed fifteen million dollars ($15,000,000).

(Added by Stats.1978, c. 1230, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129245. Loan insurance for providing certain psychiatric inpatient services; prohibition

No loan insurance shall be provided pursuant to this article for the purpose of providing psychiatric inpatient services in an acute psychiatric hospital or a general acute care hospital.

(Added by Stats.1978, c. 1230, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129250. Utilization and effectiveness of article; review and comment by legislative analyst

The Legislative Analyst shall review and comment on the utilization and effectiveness of this article in the annual budget analysis and in hearings.

(Added by Stats.1978, c. 1230, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129255. Conflicts with other provisions; prevailing provisions

If, in construing Article 6 (commencing with Section 129225) of this chapter as applied to the other provisions of this chapter, any conflict arises, this article shall prevail over the other provisions of this chapter.

(Added by Stats.1978, c. 1230, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129260. Severability

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(Added by Stats.1978, c. 1230, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

Article 7. SMALL FACILITY LOAN GUARANTEE FOR DEVELOPMENTAL DISABILITY PROGRAMS

(Added by Stats.1978, c. 896, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129275. Short title

This article shall be known and may be cited as the Small Facility Loan Guarantee for Developmental Disability Programs.

(Added by Stats.1978, c. 896, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129280. Development of facilities for developmentally disabled clients; legislative intent; special provisions

It is the intent of the Legislature in enacting this article to encourage the development of facilities for community-based programs that assist developmentally disabled clients living in any institutional setting, including state and local inpatient hospitals, skilled nursing homes, intermediate care facilities, and community care facilities to move to more independent living arrangements. It is further the intent of the Legislature to encourage local programs to seek funding for facility development from private sources and with the assistance provided pursuant to this chapter.

To achieve this purpose in determining eligibility for loan insurance pursuant to this chapter, the following special provisions apply to facilities approved by area developmental disabilities boards and meeting the intentions of this article:

(a) Facilities shall not require approval pursuant to Section 129295 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, unless specifically required for the facilities by the facility category of licensure.

(b) Notwithstanding subdivision (i) of Section 129050, any loan of under three hundred thousand dollars ($300,000) for a nonprofit corporation as well as a political subdivision may be fully insured equal to the total construction cost.

(c) Facilities shall not require approval pursuant to Section 129020 by the statewide system of health facility planning, the area health planning agency, or the Health Advisory Council, for the issuance of loan insurance, until the director of the office and the Director of the Department of Developmental Services determine that the state plan developed pursuant to Section 129020 adequately and comprehensively addresses the need for community developmental services facilities and that finding is reported to the appropriate policy committees of the Legislature.

(Added by Stats.1978, c. 896, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129285. Loans under $300,000; priority; maximum aggregate amount insurable

(a) Loans of under three hundred thousand dollars ($300,000) for any single facility for six or fewer developmentally disabled shall have priority for obtaining loan insurance.

(b) The total amount of loans that may be insured pursuant to this article shall not exceed fifteen million dollars ($15,000,000).

(Added by Stats.1978, c. 896, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129290. Severability

If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

(Added by Stats.1978, c. 896, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129295. Pilot loan guarantee program; limitations; report

The office shall establish a pilot program under this article of insuring loans to nonprofit borrowers that are not licensed to operate the facilities for which the loans are insured. The number of facilities for which loans are insured under this section shall not exceed 30 and the aggregate amount of loans insured under this section shall not exceed six million dollars ($6,000,000), that may be in addition to the maximum loan insurance amount otherwise authorized by subdivision (b) of Section 129285. Construction of all projects assisted under this section shall be commenced on or before January 1, 1990.

The office may delay processing or decline acceptance of loan guarantee applications under this section if the volume of applications becomes too large for existing staff to process in a timely manner or if risks associated with the pilot program are determined by the office to be unreasonable.

The office shall submit a report to the Legislature, on or before January 1, 1991, specifically identifying potential problems and financial risks associated with insuring loans authorized by this section.

(Added by Stats.1988, c. 1319, § 1. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9. Amended by Stats.1996, c. 1023 (S.B.1497), § 370, eff. Sept. 29, 1996.)

[§ 436.45. Insurance; pilot program; report]

Article 9. RURAL HOSPITAL GRANT PROGRAM
(Added by Stats.1989, c. 898, § 3. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129325. Assisting rural health delivery systems; Legislative intent

It is the intent of the Legislature in enacting this article to assist rural hospitals that play a vital role in the health delivery system. The Legislature recognizes the difficulties rural hospitals encounter meeting urban hospital standards while serving a small, rural, or tourist patient base. However, it is not the intent of the Legislature to provide assistance to facilities that can only survive with continuous subsidies. Rather, it is the intent of the Legislature, through this program, to encourage the development and transition to an alternative rural hospital model, and to provide essential access to services not available at the alternative rural hospital level.

(Added by Stats.1989, c. 898, § 3. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129330. Actuarial study; contracts

In each even-numbered year, the office shall contract for an actuarial study to determine the reserve sufficiency of funds in the Health Facility Construction Loan Insurance Fund. The study shall examine the portfolio of existing insured loans and shall estimate the amount of reserve funds that the office should reasonably have available to be able to respond adequately to potential foreseeable risks, including extraordinary administrative expenses and actual defaults. Actuarial study contracts shall be exempt from Section 10373 of the Public Contract Code and shall be considered sole-source contracts.

(Added by Stats.1989, c. 898, § 3. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129335. Grant Program; administration

(a) In each odd-numbered year when the reserve balance in the fund is projected to be in excess of that actuarially needed, the office may, subject to authority in the Budget Act, grant excess reserve funds to rural hospitals.

(b) Whenever the office administers the grant program, it shall do so by a competitive process where potential grantees have sufficient time to apply. Priority for funds shall be given to alternative rural hospitals and rural hospitals that are sole community providers. Priority shall also be given to applicants that are otherwise financially viable, but request one-time financial assistance for equipment expenditures or other capital outlays. The maximum amount of any grant for a single project in any one grant year shall be two hundred fifty thousand dollars ($250,000).

(c) For the purposes of this article, "rural hospital" shall have the same meaning as contained in subdivision (a) of Section 124840.

(Added by Stats.1989, c. 898, § 3. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

Article 10. COMMUNITY HEALTH CENTER FACILITIES LOAN INSURANCE
(Added by Stats.1991, c. 1094, § 2. Renumbered by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129350. Short title

This article shall be known and may be cited as the Community Health Center Facilities Loan Insurance Law.

(Formerly § 436.70 added by Stats.1991, c. 1094, § 2. Renumbered § 436.495 and amended by Stats.1992, c. 427, § 79. Added by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129355. Community health center facilities; construction loan insurance; valuation of equity; impediments; specific programmatic remedies

(a) "Community health center facilities," as used in this article, means those licensed, nonprofit primary care clinics as defined in paragraph (1) of subdivision (a) of Section 1204.

(b) Notwithstanding subdivision (i) of Section 129050, any loan in the amount of five million dollars ($5,000,000) or less for a community health center facility pursuant to this chapter may be insured up to 95 percent of the total construction cost.

(c) Community health center facilities applying for any loan insurance pursuant to this chapter, may use existing equity in buildings, equipment, and donated assets, including, but not limited to, land and receipts from expenses related to the capital outlay for the project, notwithstanding the date of occurrence to meet the equity requirements of this chapter. In determining the value of the equity in any donated property, the office may use the original purchase price or the current appraised value.

(d) Any state plan referred to in Section 129020 developed by the office shall include a chapter identifying any impediments that preclude small facilities from utilizing the California Health Facility Construction Loan Insurance Program. The state plan shall also include specific programmatic remedies to enable small projects to utilize the program if impediments are found.

(Formerly § 436.75 added by Stats.1991, c. 1094, § 2. Renumbered § 436.496 and amended by Stats.1992, c. 427, § 80. Added by Stats.1995, c. 415 (S.B.1360), § 9.)

CODE SECTIONS WHICH RELATE TO
CALIFORNIA HEALTH FACILITY CONSTRUCTION LOAN INSURANCE LAW

CODE OF CIVIL PROCEDURE

§ 564. Appointment; cases in which authorized; definitions

(a) A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which the court is empowered by law to appoint a receiver.

(b) In superior court a receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases, other than in a limited civil case:

(1) …

(9) At the request of the Office of Statewide Health Planning and Development, or the Attorney General, pursuant to Section 129015 of the Health and Safety Code.

(Enacted 1872. Amended by Stats.1919, c. 166, p. 524, § 1; Stats.1933, c. 744, p. 1867, § 85a; Stats.1941, c. 444, p. 1736, § 1. Amended by Stats.1980, c. 1078, p. 3438, § 1; Stats.1982, c. 497, p. 2155, § 2; Stats.1994, c. 414 (S.B.1705), § 2, eff. Sept. 1, 1994; Stats.1995, c. 384 (A.B.1110), § 1; Stats.1996, c. 1023 (S.B.1497), § 29, eff. Sept. 29, 1996; Stats.1996, c. 49 (S.B.947), § 4; Stats.1996, c. 1154 (A.B.3020), § 2, eff. Sept. 30, 1996; Stats.1996, c. 1154 (A.B.3020), § 2.1, eff. Sept. 30, 1996, operative Jan. 1, 1997; Stats.1998, c. 931 (S.B.2139), § 75, eff. Sept. 28, 1998).

GOVERNMENT CODE
PART 7.2 HEALTH FACILITIES FINANCING AUTHORITY ACT

Part 7.2 was added by Stats.1979, c. 1033, § 1.

Heading of Part 7.2 was amended by Stats.1985, c. 349, § 1, eff. July 29, 1985, to read as it now appears.
Amended by Stats.1999, c. 842, (A.B.844), § 1 and § 3.

§ 15432. Definitions

As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing or necessary or incident to determining the feasibility of constructing, any project or incident to the construction or acquisition or financing of any project.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, or developmental disability, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities, adult day care facilities, as defined under paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code, which provide services to developmentally disabled or mentally impaired persons, community clinics, as defined in paragraph (6), and child day care facilities, as defined in paragraph (10), and includes all of the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for

skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A community clinic which is a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended[1], or a statutory successor thereof, shall operate a community clinic. However, the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An adult day health center which is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, "child" means a minor from birth to 18 years of age.

(11) An intermediate care facility/developmentally disabled habilitative which is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.

(12) An intermediate care facility/developmentally disabled-nursing which is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.

(13) A community care facility which is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, which provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.

---

[1] 26 U.S.C.A. § 501.

(14) A nonprofit community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, other than a facility which, as defined in that subdivision, is a residential facility for the elderly, a foster family agency, a foster family home, a full service adoption agency, or a noncustodial adoption agency.

(15) A nonprofit accredited community work-activity program, as specified in subdivision (e) of Section 19352 and Section 19355 of the Welfare and Institutions Code.

"Health facility" includes a clinic which is described in subdivision (l) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses or interns residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" also includes: (i) an insurance company or insurance program organized pursuant to subdivision (q) of Section 15438; or (ii) the funding of reserves (including insurance or capital reserves), or payment of premiums to, a reciprocal insurance company or one or more participating health institutions if the funds are used in connection with one or more of the above types of facilities: liability insurance or self-insurance, for a participating health institution, including reserves therefor, and other funds necessary or usual and appropriate in connection therewith.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping, or funding or financing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

(g) "Working capital" means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made

pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1980, c. 911, § 1, eff. Sept. 17, 1980; Stats.1982, c. 1351, § 2.1, operative Jan. 1, 1981; Stats.1982, c. 156, p. 519, § 1, eff. April 9, 1982; Stats.1983, c. 665, § 1; Stats.1983, c. 1228, § 1, eff. Sept. 30, 1983; Stats.1983, c. 1242, § 1.7, operative Jan. 1, 1984; Stats.1985, c. 349, § 4, eff. July 29, 1985; Stats.1985, c. 829, § 1, eff. Sept. 19, 1985; Stats.1985, c. 1346, § 1, eff. Oct. 1, 1985; Stats.1986, c. 39, § 1, eff. March 31, 1986; Stats.1987, c. 1426, § 2, eff. Sept. 30, 1987; Stats.1988, c. 691, § 1; Stats.1989, c. 505, § 1.)

§ 15433. Membership of authority; terms; vacancies; compensation; expenses

The authority shall consist of nine members, including the State Treasurer, who shall serve as chairman, the State Controller, the Director of Finance, two members appointed by the Senate Rules Committee, two members appointed by the Speaker of the Assembly, and two members appointed by the Governor subject to confirmation by a majority vote of the Senate. Of the members appointed by the Senate Rules Committee, one member shall be a licensed physician and surgeon, and one shall serve or have served in an executive capacity to a health facility. Of the members appointed by the Speaker of the Assembly, one member shall be a person qualified by training and experience in the field of investment or finance, and one member shall be representative of the general public. The members appointed by the Governor shall be representative of the general public. The terms of appointed members shall be four years, expiring on March 31.

Each member shall hold office for the term of his or her appointment and shall continue to serve until a successor shall have been appointed and qualified. Any vacancy among the members shall be filled by appointment for the unexpired term only. A member of the authority shall be eligible for reappointment.

Members of the authority shall serve without compensation, but the authority may reimburse its members for necessary expenses incurred in the discharge of their duties.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1980, c. 885, § 1; Stats.1984, c. 1737,§ 1.)

§15434. Vice chairman; secretary-treasurer; election; executive director; appointment; compensation

The authority, upon the first appointment of its members and thereafter on or after March 31 in each year, shall annually elect from its members a vice chairman and a secretary-treasurer who shall hold office until the next ensuing March 31 and shall continue to serve until their respective successors shall have been elected.

The chairman of the authority on its behalf shall appoint an executive director, who shall not be a member of the authority and who shall serve at the pleasure of the authority. The executive director shall receive such compensation as shall be fixed by the authority.

(Added by Stats.1979, c. 1033, § 1.)

§15435. Record of proceedings; books, documents, and papers; copies

The executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or other person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

(Added by Stats.1979, c. 1033, § 1.)

§ 15436. Quorum; open meetings; publication of resolutions; delegation of powers

Five members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with the provisions of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1). Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1983, c. 1242, § 2; Stats.1991, c. 919, (S.B.1181), § 6. Amended by Stats.1992, c. 509, (S.B.1481), § 4; Stats.1993, c. 589, (A.B.2211), § 70.)

§ 15437. Duty of administration; establishment of financial eligibility standards

The provisions of this part shall be administered by the authority, which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under this part.

The authority shall establish financial eligibility standards by studying the creditworthiness and earning capacity of each project, together with the amount of pledged revenues, debt service coverage, and basic security. In establishing the financial eligibility standards, the authority shall not take into consideration the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part.

(Added by Stats.1979, c. 1033, § 1.)

§ 15438. Powers

Subject to the conditions, restrictions, and limitations of Section 15438.1, the authority may do any of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept from any agency of the United States or any agency of the State of California or any municipality, county or other political subdivision thereof, or from any individual, association, or corporation gifts, grants, or donations of moneys for achieving any of the purposes of this chapter.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this part.

(f) Determine the location and character of any project to be financed under this part, and to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, fund, finance, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, to enter into contracts for any or all of those purposes, to enter into contracts for the management and operation of a project or other health facilities owned by the authority, and to designate a participating health institution as its agent to determine the location and character of a project undertaken by that participating health institution under this chapter and as the agent of the authority, to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor and regulate the same, and as the agent of the authority, to enter into contracts for any or all of those purposes, including contracts for the management and operation of that project or other health facilities owned by the authority.

(g) Acquire, directly or by and through a participating health institution as its agent, by purchase solely from funds provided under the authority of this part, or by gift or devise, and to sell, by installment sale or otherwise, any lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, which are located within the state the authority determines necessary or convenient for the acquisition, construction, or financing of a health facility or the acquisition, construction, financing, or operation of a project, upon the terms and at the prices considered by the authority to be reasonable and which can be agreed upon between the authority and the owner thereof, and to take title thereto in the name of the authority or in the name of a participating health institution as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of a project or any portion of a project in money, property, labor, or other things of value.

(i) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in connection with the financing of a project or working capital in accordance with an agreement between the authority and the participating health institution.

However, no loan to finance a project shall exceed the total cost of the project, as determined by the participating health institution and approved by the authority. Funds for secured loans may be provided from the California Health Facilities Financing Fund pursuant to subdivision (b) of Section 15439 to small or rural health facilities pursuant to authority guidelines.

(j) Make secured or unsecured loans to, or purchase secured or unsecured loans of, any participating health institution in accordance with an agreement between the authority and the participating health institution to refinance indebtedness incurred by that participating health institution in connection with projects undertaken or for health facilities acquired or for working capital financed prior to or after January 1, 1980. Funds for secured loans may be provided from the California Health Facilities Financing Fund pursuant to subdivision (b) of Section 15439 to small or rural health facilities pursuant to authority guidelines.

(k) Mortgage all or any portion of interest of the authority in a project or other health facilities and the property on which that project or other health facilities are located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible, and to assign or pledge all or any portion of the interests of the authority in mortgages, deeds of trust, indentures of mortgage or trust or similar instruments, notes, and security interests in property, tangible or intangible, of participating health institutions to which the authority has made loans, and the revenues therefrom, including payments or income from any thereof owned or held by the authority, for the benefit of the holders of bonds issued to finance the project or health facilities or issued to refund or refinance outstanding indebtedness of participating health institutions as permitted by this part.

(l) Lease to a participating health institution the project being financed or other health facilities conveyed to the authority in connection with that financing, upon the terms and conditions the authority determines proper, and to charge and collect rents therefor and to terminate the lease upon the failure of the lessee to comply with any of the obligations of the lease; and to include in that lease, if desired, provisions granting the lessee options to renew the term of the lease for the period or periods and at the rent, as determined by the authority, to purchase any or all of the health facilities or that upon payment of all of the indebtedness incurred by the authority for the financing of that project or health facilities or for refunding outstanding indebtedness of a participating health institution, then the authority may convey any or all of the project or the other health facilities to the lessee or lessees thereof with or without consideration.

(m) Charge and equitably apportion among participating health institutions, the administrative costs and expenses incurred by the authority in the exercise of the powers and duties conferred by this part.

(n) Obtain, or aid in obtaining, from any department or agency of the United States or of the State of California or any private company, any insurance or guarantee as to, or of, or for the payment or repayment of, interest or principal, or both, or any part thereof, on any loan, lease, or obligation, or any instrument evidencing or securing the loan, lease, or obligation, made or entered into pursuant to this part; and notwithstanding any other provisions of this part, to enter into any agreement, contract, or any other instrument whatsoever with respect to that insurance or guarantee, to accept payment in the manner and form as provided therein in the event of default by a participating health institution, and to assign that insurance or guarantee as security for the authority's bonds.

(o) Enter into any and all agreements or contracts, including agreements for liquidity and credit enhancement, interest rate swaps or hedges, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly granted by this part.

(p) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in any obligations authorized by there solution authorizing the issuance of the bonds secured thereof or authorized by law for the investment of trust funds in the custody of the Treasurer.

(q) Establish and maintain a reciprocal insurance company or an insurance program that shall be treated and licensed as a reciprocal insurance company for regulatory purposes under the Insurance Code on behalf of one or more participating health institutions, to provide for payment of judgments, settlement of claims, expense, loss and damage that arises, or is claimed to have arisen, from any act or omission of, or attributable to, the participating health institution or any nonprofit organization controlled by, or controlling or under common control with, the participating health institution, their employees, agents or others for whom they may be held responsible, in connection with any liability insurance (including medical malpractice); set premiums, ascertain loss experience and expenses and determine credits, refunds, and assessments; and establish limits and terms of coverage; and engage any expert or consultant it deems necessary or appropriate to manage or otherwise assist with the insurance company or program; and pay any expenses in connection therewith; and contract with the participating health institution or institutions for insurance coverage from the insurance company or program and for the payment of any expenses in connection therewith including any bonds issued to fund or finance the insurance company or program.

(r) Provide funding for self-insurance for participating health institutions. However, there shall be no pooling of liability risk among participating health institutions except as provided in subdivision (f) of Section 15438.5.

(s)(1) Make grants-in-aid to any participating small or rural hospital, as defined in Section 124840 of the Health and Safety Code, in connection with the financing of a project or for working capital in accordance with an agreement between the authority and the hospital. However, no grant to finance a project shall exceed the total cost of the project, as determined by the hospital and approved by the authority.

(2) Make grants-in-aid to any small or rural hospital, as defined in Section 124840 of the Health and Safety Code, in accordance with an agreement between the authority and the hospital to discharge indebtedness incurred by the hospital in connection with projects undertaken, for health facilities acquired, or for working capital financed prior to the effective date of this subdivision.

(3) Grants shall be made pursuant to this subdivision only from HELP Program funds, not to exceed eight hundred seventy thousand dollars ($870,000). In consultation with representatives of the hospital industry and other affected parties, the authority shall develop a process and criteria for making grants under this subdivision, including obtaining legal opinions on appropriateness of grants to private facilities for capital outlay purposes.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1985, c. 1346, § 2, eff. Oct. 1, 1985; Stats. 1986, c. 842, § 1, eff. Sept. 17, 1986; Stats.1987, c. 1426, § 3, eff. Sept. 30, 1987; Stats.1989, c. 1125, § 1, eff. Sept. 30, 1989. Amended by Stats.1996, c. 1023 (S.B.1497), § 90, eff. Sept. 29, 1996. Amended by Stats.1999, c. 842 (A.B.844) § 1.)

§ 15438.1. Certificate of need; suspension of section

(a) No project shall be eligible for approval under this part unless a certificate of need has first been obtained pursuant to Chapter 1 (commencing with Section 127125) of Part 2 of Division 107 of the Health and Safety Code, a certificate of exemption has been obtained pursuant to those provisions, or the project is otherwise exempt from certificate of need or certificate of exemption review and approval.

(b) Notwithstanding any other provision of law, on and after January 1, 1987, subdivision (a) is indefinitely suspended. The suspension shall remain in effect for as long as the suspension specified in subdivision (a) of Section 127300 of the Health and Safety Code continues in existence.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1984, c. 1745, § 1. Amended by Stats.1996, c. 1023 (S.B.1497) § 91, eff. Sept. 29, 1996.)

Subdivision (a) of § 15438.1 was suspended on Jan. 1, 1987, under the provisions of subdivision (b).

§ 15438.2. Child day care facility; term of lease to be as long as or greater than the term of loan; insurability under California health facility construction loan insurance law

(a) When capital outlay funds are granted on property which is leased for a child day care facility, the term of the lease shall be as long as, or greater than, the term of the loan.

(b) Child day care facilities shall be insurable under the California Health Facility Construction Loan Insurance Law.

(Added by Stats.1985, c. 829, § 2, eff. Sept. 19, 1985.)

§ 15438.5. Legislative intent; revenue bonds and other financing; self insurance pooling program; bond rating guidelines; enforcement conditions

(a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivisions (b), (c), and (d), only to health facilities which can demonstrate the financial feasibility of their projects without regard to the more favorable interest rates anticipated through the issuance of revenue bonds under this part. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of that tax-

exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs or appears likely to occur.

(b) When determining the financial feasibility of projects for county health facilities, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist counties to arrange projects which will meet the financial feasibility standards developed under this part.

(c) The authority may issue revenue bonds pursuant to this part to finance the development of a multilevel facility, or any portion of a multilevel facility, including the portion licensed as a residential facility for the elderly, if the skilled nursing facility, intermediate care facility, or general acute care hospital is operated or provided by an eligible participating health institution.

(d) The authority may issue revenue bonds pursuant to this part, if the bonds rank in either of the two highest rating categories established by a nationally recognized bond rating organization, to finance working capital for a participating health institution provided or operated by a city, city and county, county, or district hospital authorized by the laws of this state to provide or operate a health facility and which, pursuant to this part, undertakes financing or refinancing as provided in this part.

(e) The financing or refinancing of projects or working capital for cities, cities and counties, counties, or hospital districts may be provided pursuant to this part by means other than revenue bonds, at the discretion of the authority, including, without limitation, through certificates of participation, or other interests, in bonds, loans, leases, installment sales or other agreements of the cities, city and county, counties or hospital districts. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable in connection with issuance of the certificates of participation or other means of financing or refinancing.

(f) Any self-insurance pooling program entered into by participating health institutions which are cities, counties, cities and counties, or hospital districts which is funded or financed in whole or in part with proceeds of the sale of revenue bonds or certificates of participation pursuant to this part shall not be subject to regulation of any kind under the Insurance Code or otherwise as insurance, but only any conditions and restrictions as may be imposed by the authority.

(g) If a health facility seeking financing for a project pursuant to this part does not meet the guidelines established by the authority with respect to bond rating, the authority may nonetheless give special consideration, on a case-by-case basis, to financing the project if the health facility demonstrates to the satisfaction of the authority the financial feasibility of the project, and the performance of significant community service. For the purposes of this part, a health facility which performs a significant community service is one that contracts with Medi-Cal or that can demonstrate, with the burden of proof being on the health facility, that it has fulfilled at least two of the following criteria:

(1) On or before January 1, 1991, has established, and agrees to maintain, a 24-hour basic emergency medical service open to the public with a physician and surgeon on duty, or is a children's hospital as defined in Section 14087.21 of the Welfare and Institutions Code, which jointly provides basic or comprehensive emergency services in conjunction with another licensed hospital. This criterion shall not be utilized in a circumstance where a small and rural hospital, as defined in Section 442.2 of the Health and Safety Code, has not established a 24-hour basic emergency medical service with a physician and surgeon on duty; or will operate a designated trauma center on a continuing basis during the life of the revenue bonds issued by the authority.

(2) Has adopted, and agrees to maintain on a continuing basis during the life of the revenue bonds issued by the authority, a policy, approved and recorded by the facility's board of directors, of treating all patients without regard to ability to pay, including, but not limited to, emergency room walk-in patients.

(3) Has provided and agrees to provide care, on a continuing basis during the life of the revenue bonds issued by the authority, to Medi-Cal and uninsured patients in an amount not less than 5 percent of the facility's adjusted inpatient days as reported on an annual basis to the Office of Statewide Health Planning and Development.

(4) Has budgeted at least 5 percent of its net operating income to meeting the medical needs of uninsured patients and to providing other services, including, but not limited to, community education, primary care outreach in ambulatory settings, and unmet nonmedical needs, such as food, shelter, clothing, or transportation for vulnerable populations in the community, and agrees to continue that policy during the life of the revenue bonds issued by the authority.

On or before January 1, 1992, the authority shall report to the Legislature regarding the implementation of this subdivision. The report shall provide information on the number of applications for financing sought under this subdivision, the number of applications approved and denied under this subdivision, and a brief summary of the reason for any denial of an application submitted under this subdivision.

(h) Enforcement of the conditions under which the authority issues bonds pursuant to this section shall be governed by the enforcement conditions under Section 15459.4.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1980, c. 1351, § 3; Stats.1983, c. 1228, § 2, eff. Sept. 30, 1983; Stats.1985, c. 1346, § 3, eff. Oct. 1, 1985; Stats.1986, c. 842, § 2, eff. Sept. 17, 1986; Stats.1987, c. 1426, § 4, eff. Sept. 30, 1987; Stats.1990, c. 628, (S.B.2865), § 1.)

§ 15439. Funds; security for payment of bonds; separate accounts; deposits and investments; interest and other increments

(a) The California Health Facilities Authority Fund is continued in existence in the State Treasury as the California Health Facilities Financing Authority Fund. All money in the fund is hereby continuously appropriated to the authority for carrying out the purposes of this division. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this part, and, for that purpose or as necessary or convenient to the accomplishment of any other purpose of the

authority, may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this part from whatever source shall be deposited in the fund.

(b) Subject to the priorities which may be created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and subject further to the cost of loans provided by the authority pursuant to subdivisions (i) and (j) of Section 15438, and subject further to any reasonable costs which may be incurred by the authority in administering the program authorized by this division, all moneys in the fund derived from any source shall be held in trust for the security and payment of bonds of the authority and shall not be used or pledged for any other purpose so long as such bonds are outstanding and unpaid. However, nothing in this section shall limit the power of the authority to make loans with the proceeds of bonds in accordance with the terms of the resolution authorizing the same.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage assets, revenues, or moneys in the manner set forth in the agreements.

(d) The authority may, from time to time, direct the State Treasurer to invest moneys in the fund which are not required for its current needs, including proceeds from the sale of any bonds, in the eligible securities specified in Section 16430 as the agency shall designate. The authority may direct the State Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4. All interest or other increment resulting from an investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4, excepting the Surplus Money Investment Fund.

(e) All moneys accruing to the authority from whatever source shall be deposited in the fund.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1985, c. 349, § 5, eff. July. 29, 1985. Amended by Stats.1999, c. 842 (A.B.844) § 2.)

§ 15440. Expenses

All expenses of the authority incurred in carrying out the provisions of this part shall be payable solely from funds provided pursuant to this part, and no liability shall be incurred by the authority beyond the extent to which moneys shall have been provided under this part; except that for the purposes of meeting the necessary expenses of initial organization and operation of the authority for the period commencing on January 1, 1980, and continuing until such date as the authority derives moneys from funds provided to it under the provisions of this part, the authority may borrow such moneys as the authority may require. Such moneys borrowed by the authority shall subsequently be charged to and apportioned among participating health facilities in an equitable manner and the moneys repaid with appropriate interest over a reasonable period of time.

(Added by Stats.1979, c. 1033, § 1.)

§ 15441. Revenue Bonds

(a) The authority is authorized, from time to time, to issue its negotiable revenue bonds in order to provide funds for achieving any of its purposes under this part.

(b) Except as may otherwise be expressly provided by the authority, each of its revenue bonds shall be payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that such revenue bonds may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds for registration.

(c) The authority's revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as the indenture, trust agreement, or resolution relating to such revenue bonds may provide. The authority's revenue bonds or notes may be sold by the Treasurer at public or private sale, after giving due consideration to the recommendation of the participating health institution, for such price or prices and upon such terms and conditions as the authority shall determine. The Treasurer may sell any such revenue bonds at a price below the par value thereof. However, the discount on any bonds so sold shall not exceed 6 percent of the par value thereof, except in the case of any bonds payable in whole or in part from moneys held under one or more outstanding resolutions or indentures. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing the issuance of any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds.

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

(f) The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1983, c. 1242, § 3; Stats.1987, c. 1426, § 5, eff. Sept. 30, 1987.)

§ 15442. Revenue bonds; security; trust agreement, indenture, or resolution

In the discretion of the authority, any revenue bonds issued under the provisions of this part may be secured by a trust agreement or indenture by and between the authority and a corporate trustee or trustees, which may be the State Treasurer or any trust company or bank having the powers of a trust company within or without the state. Such trust agreement, indenture, or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received from a participating health institution. Such indenture, trust agreement, or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any such trust agreement or indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action of bondholders. In addition to the foregoing, any such indenture, trust agreement, or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders.

(Added by Stats.1979, c. 1033, § 1.)

§ 15443. Revenue bonds; payment; liability of state or political subdivision

Revenue bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof or a pledge of the faith and credit of the state or of any such political subdivision, other than the authority, but shall be payable solely from the funds herein provided. All such bonds shall contain on the face thereof a statement to the effect that neither the State of California nor the authority shall be obligated to pay the principal of, or the interest thereon, except from revenues of the authority, and that neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this part shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(Added by Stats.1979, c. 1033, § 1.)

§ 15444. Revenue bonds; holders and trustees; enforcement of rights

Any holder of revenue bonds issued under the provisions of this part or any of the coupons appertaining thereto, and the trustee or trustees under any indenture or trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such indenture or trust agreement securing, such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or indenture or trust agreement, and may enforce and compel the performance of all duties required by this part or by such resolution, indenture, or trust agreement to be performed by the authority or by any officer, employee or agent thereof.

(Added by Stats.1979, c. 1033, § 1.)

§15445. Revenue bonds; proceeds; other revenue; obligations of depositaries

All moneys received pursuant to this part, whether as proceeds from the sale of revenue bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part. Until the funds are applied as provided in this part, and notwithstanding any other provision of law, the moneys may be invested in any obligations or securities authorized by resolutions of the authority authorizing the issuance of the bonds. Any officer with whom, or any bank or trust company with which, the moneys are deposited shall act as trustee of the moneys and shall hold and apply the moneys for the purposes hereof, subject to any regulations adopted pursuant to this part and the resolution authorizing the issuance of the bonds or the indenture or trust agreement securing the bonds.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1985, c. 1033, § 4, eff. Sept. 27, 1985.)

§ 15446. Refunding bonds; proceeds; placement in escrow pending use; investment; application of balance, interest income, or profits

(a) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds or any series or issue of bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption, purchase, or maturity of the bonds.

(b) The proceeds of any bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase, redemption prior to maturity, or retirement at maturity of any outstanding bonds on their earliest redemption date or dates, upon their purchase or maturity, or paid to a third person to assume the authority's obligation to make the payments, and may, pending that application, be placed in escrow to be applied to the purchase, retirement at maturity, or redemption on the date or dates determined by the authority.

(c) Any proceeds placed in escrow may, pending their use, be invested and reinvested in obligations or securities authorized by resolutions of the authority, payable or maturing at the time or times as are appropriate to assure the prompt payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded at maturity or redemption of the bonds to be refunded either at their earliest redemption date or dates or any subsequent redemption date or dates or for payment of interest on the refunding bonds on or prior to the final date of redemption or payment of the bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by the authority.

(d) All of the refunding bonds are subject to this part in the same manner and to the same extent as other bonds issued pursuant to this part.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1985, c. 1033, § 5, eff. Sept. 27, 1985; Stats.1987, c. 1426, § 6, eff. Sept. 30, 1987.)

§ 15447. Bonds as legal investments

Bonds issued by the authority under the provisions of this part are hereby made securities in which all banks, bankers, savings banks, trust companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control; and such bonds, notes or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

(Added by Stats.1979, c. 1033, § 1.)

§ 15448. Bonds; freedom from taxation

Any bonds issued under the provisions of this part, their transfer, and the income therefrom shall at all times be free from taxation of every kind by the state and by all political subdivisions in the state.

(Added by Stats.1979, c. 1033, § 1.)

§ 15449. State pledge to bondholders and contracting parties; no limitations, alteration, or restriction of vested rights

The State of California does pledge to and agree with the holders of the bonds issued pursuant to this part, and with those parties who may enter into contracts with the authority pursuant to the provisions of this part, that the state will not limit, alter or restrict the rights hereby vested in the authority to finance health care facilities and to fulfill the terms of any agreements made with the holders of bonds authorized by this part, and with the parties who may enter into contracts with the authority pursuant to the provisions of this part, or in any way impair the rights or remedies of the holders of such bonds or such parties until the bonds, together with interest thereon, are fully paid and discharged and such contracts are fully performed on the part of the authority. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

(Added by Stats.1979, c. 1033, § 1.)

§ 15450. Revenues, moneys, accounts, accounts receivable, etc.; subject to pledge; lien

A pledge by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights and other rights to payment of whatever kind made by or to the authority pursuant to the

authority granted in this part shall be valid and binding from the time the pledge is made for the benefit of pledges and successors thereto. The revenues, moneys, accounts, accounts receivable, contract rights and other rights to payment of whatever kind pledged by or to the authority or its assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of such pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The indenture, trust agreement, resolution or another instrument by which such pledge is created need not be recorded.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1986, c. 842, § 3, eff. Sept. 17, 1986.)

§ 15451. Participating health institutions; pledges to be contained in instruments; sufficiency of charges payable by them to pay obligations on bonds issued in respect to such project, to maintain reserves, and to pay share of administrative expenses; pledge of authority; additional bonds

The authority shall fix, revise, charge and collect rents for the use of each project owned by the authority and contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. Each lease entered into by the authority with a participating health institution and each agreement, note, mortgage or other instrument evidencing the obligations of a participating health institution to the authority shall provide that the rents or principal, interest and other charges payable by the participating health institution shall be sufficient at all times, (a) to pay the principal of, sinking fund payments, if any, the premium, if any, and the interest on outstanding bonds of the authority issued in respect of such project as the same shall become due and payable, (b) to create and maintain reserves which may but need not be required or provided for in the resolution relating to such bonds of the authority, and (c) to pay its share of the administrative costs and expenses of the authority. The authority shall pledge the revenues derived and to be derived from a project or other related health facilities or from a participating health institution for the purposes specified in (a), (b), and (c) of the preceding sentence and additional bonds may be issued which may rank on a parity with other bonds relating to the project to the extent and on the terms and conditions provided in the bond resolution.

(Added by Stats.1979, c. 1033, § 1.)

§ 15451.5. Repayment of loan

A participating health institution that is a private nonprofit corporation or association and that borrows money to finance working capital pursuant to this part, other than as part of the cost of a project, shall be required to repay and discharge the loan within 15 months of the loan date.

(Added by Stats.1987, c. 1426, § 6, eff. Sept. 30, 1987.)

§ 15452. Release of security, rights, title, and interests in project upon payment of bonds and other obligations

When the principal of and interest on bonds issued by the authority to finance the cost of a project or working capital or to refinance outstanding indebtedness of one or more participating health institutions, including any refunding bonds issued to refund and refinance those bonds, have been fully paid and retired or when adequate provision has been made to fully pay and retire those bonds, and all other conditions of the resolution, the lease, the trust indenture and any mortgage or deed of trust, security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied and the lien of the mortgage, deed of trust or security interest has been released in accordance with the provisions thereof, the authority shall promptly do all things and execute those releases, release deeds, reassignments, deeds, and conveyances necessary and required to convey or release any rights, title, and interest of the authority in the project so financed, and any other health facilities mortgaged or securities or instruments pledged or transferred to secure the bonds, to the participating health institution or institutions.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1985, c. 1346, § 4, eff. Oct. 1, 1985.)

[Sections 15453 to 15454 in previous Cal-Mort Statutes repealed by Stats.1998, c. 1035 (A.B.2128), §§ 2 to 9, eff. Sept. 30, 1998]

§ 15455. Construction of part; supplemental and additional nature; exception for issuance of bonds; financing project pursuant to part, not exemption from other applicable law

(a) This part shall be deemed to provide a complete, additional, and alternative method for doing the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided, that the issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds, including without limitation the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as provided in subdivision (a), the financing of a project pursuant to this part shall not exempt a project from any requirement of law which otherwise would be applicable to the project.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1983, c. 1242, § 5.)

§ 15456. Construction of part; controlling law

To the extent that the provisions of this part are inconsistent with any other provisions of any general statute or special act or parts thereof, the provisions of this part shall be deemed controlling.

(Added by Stats.1979, c. 1033, § 1.)

§ 15457. Excess earnings

Any net earnings of the authority beyond that necessary for retirement of any obligations issued by the authority or to implement the purposes of this chapter may inure to the benefit only of the State of California or the authority.

(Added by Stats.1979, c. 1033, § 1.)

§ 15458. Dissolution of authority; title to property to vest in successor

Upon dissolution of the authority, title to all property owned by the authority shall vest in the successor authority created by the Legislature, if any, if such successor authority qualifies under Section 103 of the federal Internal Revenue Code of 1954[2], as amended, and the regulations promulgated thereunder, as an authority entitled to issue obligations on behalf of the State of California the interest on which is exempt from federal income taxation. If no such successor authority is so created, title to such property shall vest in the State of California.

(Added by Stats.1979, c. 1033, § 1.)

§ 15459. Health facilities; assurance regarding availability of services as condition of bond issuance

As a condition of the issuance of revenue bonds, whether by the authority or any local agency, to finance the construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or the acquisition of a health facility, each borrower shall give reasonable assurance to the authority that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

For the purposes of this section and Sections 15459.1, 15459.2, 15459.3, and 15459.4, all of the following definitions apply:

(a) "Borrower" means each local agency or nonprofit corporation or association which operates or provides the health facility and receives the benefit of the issuance of revenue bonds.

(b) "Local agency" means any public district, public corporation, authority, agency, board, commission, county, city and county, city, school district, or any other public entity.

(c) "Revenue bond" means any bonds, warrants, notes, lease, or installment sale obligations evidenced by certificates of participation, or other evidence of indebtedness issued by the authority or by a local agency payable from funds other than the proceeds of ad valorem taxes or the proceeds of assessments levied without limitation as to rate or amount by the local agency upon property in the local agency.

(Added by Stats.1979, c. 1033, § 1. Amended by Stats.1986, c. 842, § 7, eff. Sept. 17, 1986.)

§ 15459.1. Assurance regarding availability of services; compliance requirements

As part of its assurance under Section 15459, the borrower shall agree to all of the following actions:

---

[2] 26 U.S.C.A § 103.

(a) To advise each person seeking services at the borrower's facility as to the person's potential eligibility for Medi-Cal and Medicare benefits or benefits from other governmental third-party payers.

(b) To make available to the authority and to any interested person a list of physicians with staff privileges at the borrower's facility, which includes all of the following:

(1) Name.

(2) Specialty.

(3) Language spoken.

(4) Whether the physician takes Medi-Cal and Medicare patients.

(5) Business address and phone number.

(c) To inform in writing on a periodic basis all practitioners of the healing arts having staff privileges in the borrower's facility as to the existence of the facility's community service obligation. The required notice to practitioners shall contain a statement, as follows:

"This hospital has agreed to provide a community service and to accept Medi-Cal and Medicare patients. The administration and enforcement of this agreement is the responsibility of the California Health Facilities Financing Authority and this facility."

(d) To post notices in the following form, which shall be multilingual where the borrower serves a multilingual community, in appropriate areas within the facility, including, but not limited to, admissions offices, emergency rooms, and business offices:

"This facility has agreed to make its services available to all persons residing or employed in this area. This facility is prohibited by law from discriminating against Medi-Cal and Medicare patients. Should you believe you may be eligible for Medi-Cal or Medicare, you should contact our business office (or designated person or office) for assistance in applying. You should also contact our business office (or designated person or office) if you are in need of a physician to provide you with services at this facility. If you believe that you have been refused services at this facility in violation of the community service obligation you should inform (designated person or office) and the California Health Facilities Financing Authority."

The borrower shall provide copies of this notice for posting to all welfare offices in the county where the borrower's facility is located.

(e) For all facilities in areas, and of a type, not subject to Medi-Cal contracting and for all borrowers which have negotiated in good faith to obtain a Medi-Cal contract but were not awarded a contract by the California Medi-Cal Assistance Commission, the authority shall make modifications to the requirements contained in this section to reflect the absence of a Medi-Cal contract. Nothing in this section relieves a hospital of its obligations under Section 1317 of the Health and Safety Code.

(Added by Stats.1986, c. 842, § 8, eff. Sept. 17, 1986.)

§ 15459.2. Assurance regarding availability of services; alternative plan for compliance

If the borrower cannot demonstrate that it meets the requirements of Section 15459, it may nonetheless be eligible for financing through the issuance of revenue bonds if it presents a plan that is satisfactory to the authority which details the reasonable steps and timetables that the borrower agrees to take to bring the facility into compliance with Section 15459.

(Added by Stats.1986, c. 842, § 9, eff. Sept. 17, 1986.)

§ 15459.3. Assurance regarding availability of services; compliance reports

Each borrower shall make available to the authority and to the public upon request an annual report substantiating compliance with the requirements of Section 15459. The annual report shall set forth sufficient information and verification therefor to indicate the borrower's compliance. The report shall include at least the following:

(a) By category for inpatient admissions, emergency admission, and where the facility has a separate identifiable outpatient service:

(1) The total number of patients receiving services.

(2) The total number of Medi-Cal patients served.

(3) The total number of Medicare patients served.

(4) The total number of patients who had no financial sponsor at the time of service.

(5) The dollar volume of services provided to each patient category listed in paragraphs (1), (2), and (3).

(b) Where appropriate, the actions taken pursuant to Section 15459.2 and the effect the actions have had on the data specified in subdivision (a).

(c) Any other information which the authority may reasonably require.

(Added by Stats.1986, c. 842, § 10, eff. Sept. 17, 1986.)

§ 15459.4. Failure to adhere to assurance regarding availability of services; remedies and sanctions

The remedies and sanctions available to the authority against the borrower for failure to adhere to the assurance given to the authority under Section 15459 shall include all of the following:

(a) Rendering the borrower ineligible for federal and state financial assistance under the Hill-Burton Program.

(b) Requiring a borrower that had originally met the conditions of community service to submit a plan that is satisfactory to the authority which details the reasonable steps and timetables that the borrower agrees to take to bring the facility back into compliance with the assurances given to the authority.

(c) Referring the violation to the office of the Attorney General of California for legal action authorized under existing law or other remedy at law or equity, when a facility fails to carry out the actions agreed to in a plan approved by the authority pursuant to subdivision (b) of this section. However, the remedies obtainable by the legal action shall not include withdrawal or cancellation of the project or projects financed or to be financed through the issuance of revenue bonds.

(Added by Stats.1986, c. 842, § 11, eff. Sept. 17, 1986.)

§ 15460. Reimbursement for services under Medi-Cal program; consideration of interest savings

The State Department of Health Services, in establishing reimbursement for services rendered under the Medi-Cal program by facilities financed under this part, shall reflect those interest savings allocable to Medi-Cal services to the extent feasible and in a manner consistent with federal law.

(Added by Stats.1979, c. 1033, § 1.)

§ 15461. Bonds; health maintenance organizations; financing of projects

Of the initial seven hundred sixty-seven million dollars ($767,000,000) of bonds outstanding, as authorized by this part, not less than one hundred seventeen million dollars ($117,000,000) shall be made available to participating health institutions which seek the financing or refinancing of projects providing services predominantly to existing members and reasonably anticipated members of health maintenance organizations which are qualified pursuant to Title XIII of the Public Health Service Act (42 U.S.C., Sec. 300e et seq.).[3]

(Added by Stats.1980, c. 663, § 2.)

§ 15462. Issuance of bonds to or borrowing from authority to secure financing of projects or working capital

Exclusively for the purpose of securing the financing of projects or working capital pursuant to this part through the issuance of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, any city, city and county, county, or local hospital district may issue bonds to the authority or borrow money from the authority at the interest rate or rates, with the maturity date or dates, payment, security, default, remedy, and other terms as

[3] 42 U.S.C.A. § 300e et seq.

specified in the bonds of the city, city and county, county, or local hospital district or a loan, loan purchase, or other agreement between the authority and the city, city and county, county, or hospital district, and the city, city and county, county or hospital district may enter into any agreement for liquidity or credit enhancement or any other agreement or instrument that may be necessary or appropriate in connection with any of the foregoing. This section provides a complete, additional, and alternative method for performing the acts authorized by this section, and the borrowing of money from the authority, and any provisions for payment or security or any agreement for liquidity or credit enhancement in connection with the borrowing of money pursuant to this section need not comply with the requirements of any other law applicable to borrowing by a city, county, city and county, or hospital district.

(Added by Stats.1983, c. 1242, § 6. Amended by Stats.1985, c. 1346, § 6, eff. Oct. 1, 1985; Stats.1986, c. 842, § 12, eff. Sept. 17, 1986; Stats.1987, c. 1426, § 9, eff. Sept. 30, 1987.)

§ 15462.5. Sale or lease from and to authority of health facilities; purpose

Exclusively for the purpose of securing the financing of projects pursuant to this part or through the issuance of revenue bonds, certificates of participation, or other means, and notwithstanding any other law, any city, city and county, county, or hospital district may buy or lease health facilities from the authority, and in connection therewith, sell or lease health facilities to the authority, in each case with the installment payment or rental provisions, term, payment, security, default, remedy, and other terms or provisions as may be specified in the installment sale, lease, or other agreement or agreements, between the authority and the city, city and county, county, or hospital district, and the city, city and county, county, or hospital district may enter into any agreement for liquidity or credit enhancement it may deem necessary or appropriate in connection therewith. This section provides a complete, additional, and alternative method for performing the acts authorized by this section, and any sale or lease of health facilities to the authority, any purchase or lease of health facilities from the authority, and any provisions for payment and security or any agreement for liquidity or credit enhancement in connection therewith, pursuant to this section, need not comply with the requirements of any other law applicable to sale, purchase, lease, pledge, encumbrance, or credit, as the case may be, by a city, city and county, county, or hospital district.

(Added by Stats.1985, c. 119, § 1, eff. Sept. 28, 1985. Amended by Stats.1986, c. 842, § 13, eff. Sept. 17, 1986; Stats.1987, c. 1426, § 10, eff. Sept. 30, 1987.)

§ 15463. County health facilities financing assistance fund

(a) There is hereby created in the State Treasury, the County Health Facilities Financing Assistance Fund which, notwithstanding Section 13340, is continuously appropriated for the purposes of this section.

(b) (1) The Controller shall transfer the following amounts to the fund:

(A) The unencumbered balances from appropriations pursuant to Sections 16702 and 16703 of the Welfare and Institutions Code from the 1981-82, 1982 -83, and 1983-84 fiscal years, and each fiscal year thereafter, except any funds appropriated by the Legislature to the State

Department of Health Services pursuant to subdivisions (a) and (e) of Section 16707 of the Welfare and Institutions Code and any funds contained in the County Medical Services Program Account or the County Medical Services Program Reserve Account established pursuant to Section 16709 of the Welfare and Institutions Code.

(B) Ten million dollars ($10,000,000) from that portion of the funds in the Special Account for Capital Outlay in the General Fund which is designated for county health authority local assistance.

(2) Notwithstanding any other provision of law, out of the amounts received from the settlement pursuant to Section 8(g) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. Sec. 1337(g)), the Controller shall transfer ten million dollars ($10,000,000) to the fund.

(c) Moneys in the fund shall be utilized by the authority to provide assistance to counties to pay the debt service on loans for, or otherwise assist in the financing of, facilities, as defined in paragraph (8) of subdivision (d) of Section 15432, by doing any of the following:

(1) Paying not more than 50 percent of the debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities, as determined by the authority.

(2) Paying the cost of insurance, letters of credit, lines of credit, or by utilizing other financial devices to enhance the credit of counties in order to secure the payment of debt service on loans for those facilities or on revenue bonds issued by the authority to finance those facilities.

(3) Paying costs, fees, and expenses incurred by counties or the authority in connection with issuing, carrying, or repaying the revenue bonds or financing, acquiring, or constructing those facilities.

(4) Providing any other financial assistance or support for those facilities, including, but not limited to, payment of any outstanding indebtedness of the county for, or secured by, those facilities, as determined necessary by the authority to carry out the purpose of this subdivision.

(d) The authority may create separate accounts within the fund for each facility assisted pursuant to subdivision (c) or for each assistance program.

(e) Any moneys in the fund which are not required for immediate use or disbursement, as determined by the authority, may be invested in any obligations, as specified, by the authority, including, but not limited to, obligations that are exempt from federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1954, as amended, and direct obligations of the United States issued in book entry form.

(f) Notwithstanding any other provision of law, interest earned on the investment of moneys in the fund shall be credited to the fund and shall be available for the purposes specified in subdivision (c).

(Added by Stats.1984, c. 1556, § 1. Amended by Stats.1985, c. 1119, § 1.5, eff. Sept. 28, 1985; Stats.1985, c. 1440, § 9, eff. Oct. 1, 1985; Stats.1985, c. 1449, § 2; Stats.1986, c. 419, § 1, eff. July 17, 1986; Stats.1986, c. 852, § 1; Stats.1986, c. 1127, § 1.)

[Section 15464 Repealed by Stats.1989, c. 1422, § 2, operative Jan. 1, 1994.]

§ 87104. Conflict of interest by public official, including member of advisory committee

(a) No public official of a state agency shall, for compensation, act as an agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance before, or any oral or written communication to, his or her state agency or any officer or employee thereof, if the appearance or communication is for the purpose of influencing a decision on a contract, grant, loan, license, permit, or other entitlement for use.

(b) For purposes of this section, "public official" includes a member officer, employee, or consultant of an advisory body to a state agency, whether the advisory body is created by statute or otherwise, except when the public official is representing his or her employing state, local, or federal agency in an appearance before, or communication to, the advisory body.

(Added by Stats. 1994, c. 274 (A.B.3444), § 1; Stats.1994, c. 414 (S.B.1075), § 3, eff. Sept. 1, 1994. Amended by Stats.1997, c. 145 (A.B.937), § 1.)

HEALTH AND SAFETY CODE

Chapter 3. HOSPITAL SURVEY AND CONSTRUCTION

Article 2. ADMINISTRATION

Article 2 was added by Stats.1995, c. 415 (S.B.1360), § 9.

§ 129450. Office of statewide health planning and development; agency of state

The office shall constitute the sole agency of the state for the following purposes:

(a) Making an inventory of existing hospitals, surveying the need for construction of hospitals, and developing a program of hospital construction as provided in Article 3 (commencing with Section 129475) of this chapter.

(b) Developing and administering a state plan for the construction of public and other nonprofit hospitals as provided in Article 3 (commencing with Section 129475) of this chapter.

(Added by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129455. Powers and duties of department

In carrying out the purposes of this chapter, the department shall:

(a) Require reports, make inspections and investigations, and prescribe regulations as the department deems necessary.

(b) Provide methods of administration, appoint personnel, and take other action as may be necessary to comply with the requirements of the federal act, this chapter, and the regulations thereunder.

(c) Make an annual report to the Governor and to the Legislature on activities and expenditures pursuant to this chapter, including recommendations for additional legislation as the director considers appropriate to furnish adequate hospital, clinic, and similar facilities to the people of this state.

(Added by Stats.1995, c. 415 (S.B.1360), § 9.)

§ 129460. Health Policy and Data Advisory Commission; advising and consulting with department; succession to functions and responsibilities of Advisory Hospital and Health Planning Councils

The California Health Policy and Data Advisory Commission shall advise and consult with the department in carrying out the administration of this chapter and succeeds to and is vested with the functions, authority and responsibility of the Advisory Hospital Council and the Health Planning Council.

Any reference in any code to the Advisory Hospital Council or to the Health Planning Council shall be deemed a reference to the California Health Policy and Data Advisory Commission.

(Added by Stats.1971, c. 1593, p. 3249, § 99, operative July 1, 1973. Added by Stats.1995, c. 415 (S.B.1360), § 9.)

Part 1.75 SMALL AND RURAL HOSPITALS

Chapter 4.5 SMALL AND RURAL HOSPITALS

Article 1 GENERAL PROVISIONS

§ 124840. Small and rural hospital

"Small and rural hospital" means an acute care hospital that meets either of the following criteria:

(a) Meets the criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(b) Meets the criteria for designation within peer group five or seven and has no more than 76 acute care beds and is located in an incorporated place or census designated place of 15,000 or less population according to the 1980 federal census.

(Added by Stats.1987, c. 1476, § 1. Added by Stats.1995, c. 415 (S.B.1360), § 9.)

Chapter 1 CLINICS

Article 1. DEFINITIONS AND GENERAL PROVISIONS

§ 1200. Clinic; primary care clinic; specialty clinic

As used in this chapter, "clinic" means an organized outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of this division. A place, establishment, or institution which solely provides advice, counseling, information, or referrals on the maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where such advice, counseling, information, or referrals does not constitute the practice of medicine, surgery, dentistry, optometry, or podiatry, shall not be deemed a clinic for purposes of this chapter.

References in this chapter to "primary care clinics" shall mean and designate all the types of clinics specified in subdivision (a) of Section 1204, including community clinics and free clinics. References in this chapter to specialty clinics shall mean and designate all the types of clinics specified in subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, and rehabilitation clinics.

(Added by Stats.1978, c. 1147, § 4, eff. Sept. 26, 1978. Amended by Stats.1980, c. 133, p. 308, § 1; Stats.1980, c. 1316, p. 4563, § 1; Stats.1982, c. 859, p. 3207, § 1; Stats.1985, c. 700, § 1.)

§ 1204. Clinic[s] eligible for licensure, primary care clinics and specialty clinics; classes as defined

Clinics eligible for licensure pursuant to this chapter are primary care clinics and specialty clinics.

(a)(1) Only the following defined classes of primary care clinics shall be eligible for licensure:

(A) A "community clinic" means a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended,[4] or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on the effective date of this section shall not be required to obtain

[4] 26 U.S.C.A. § 501(c)(3)

tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a community clinic.

(B) A "free clinic" means a clinic operated by a tax-exempt, nonprofit corporation supported in whole by voluntary donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services. In a free clinic there shall be no charges directly to the patient for services rendered or for drugs, medicines, appliances, or apparatuses furnished. No corporation other than a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a free clinic; provided, that the licensee of any free clinic so licensed on the effective date of this section shall not be required to obtain tax-exempt status under either federal or state law in order to be eligible for, or as a condition of, renewal of its license. No natural person or persons shall operate a free clinic.

(2) Nothing in this subdivision shall prohibit a community clinic or a free clinic from providing services to patients whose services are reimbursed by third-party payers, or from entering into managed care contracts for services provided to private or public health plan subscribers, as long as the clinic meets the requirements identified in subparagraphs (A) and (B). For purposes of this subdivision, any payments made to a community clinic by a third-party payer, including, but not limited to, a health care service plan, shall not constitute a charge to the patient. This paragraph is a clarification of existing law.

(b) The following types of specialty clinics shall be eligible for licensure as specialty clinics pursuant to this chapter:

(1) A "surgical clinic" means a clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A surgical clinic does not include any place or establishment owned or leased and operated as a clinic or office by one or more physicians or dentists in individual or group practice, regardless of the name used publicly to identify the place or establishment, provided, however, that physicians or dentists may, at their option, apply for licensure.

(2) A "chronic dialysis clinic" means a clinic that provides less than 24-hour care for the treatment of patients with end-stage renal disease, including renal dialysis services.

(3) A "rehabilitation clinic" means a clinic that, in addition to providing medical services directly, also provides physical rehabilitation services for patients who remain less than 24 hours. Rehabilitation clinics shall provide at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology services. A rehabilitation clinic does not include the offices of a private physician in individual or group practice.

(4) An "alternative birth center" means a clinic that is not part of a hospital and that provides comprehensive perinatal services and delivery care to pregnant women who remain less than 24 hours at the facility.

(Added by Stats.1978, c. 1147, § 4, eff. Sept. 26, 1978. Amended by Stats.1980, c. 133, p. 308, § 2; Stats.1982, c. 1306, p. 4813, § 2, eff. Sept. 23, 1982; Stats.1985, c. 700, § 3; Stats.1992, c. 457, (S.B.1593) § 1. Amended by Stats.2000, c. 27 (A.B.2393), § 1.)

§ 1206. Exemptions

This chapter does not apply to the following:

(a) Except with respect to the option provided with regard to surgical clinics in paragraph (1) of subdivision (b) of Section 1204 and, further, with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify the place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision precludes the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.[5]

(c) Any clinic conducted, maintained, or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code,[6] and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under Chapter 2 (commencing with Section 1250).

(f) Any freestanding clinical or pathological laboratory licensed under Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic which is operated by a primary care community or free clinic and which is operated on separate premises from the licensed clinic and is only open for limited services of no more than 20 hours a week. An intermittent clinic as described in this paragraph shall, however, meet all other requirements of law, including administrative regulations and requirements, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

---

[5] 42 U.S.C.A. 21 1395 et seq. 1396 et. Seq.

[6] 25 U.S.C.A. 21 450, 1601.

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the director, who shall grant the exception to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(l) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, which conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

(m) Any clinic, limited to in vivo diagnostic services by magnetic resonance imaging functions or radiological services under the direct and immediate supervision of a physician and surgeon who is licensed to practice in California. This shall not be construed to permit cardiac catheterization or any treatment modality in these clinics.

(n) A clinic operated by an employer or jointly by two or more employers for their employees only, or by a group of employees, or jointly by employees and employers, without profit to the operators thereof or to any other person, for the prevention and treatment of accidental injuries to, and the care of the health of, the employees comprising the group.

(o) A community mental health center as defined in Section 5601.5 of the Welfare and Institutions Code.

[new 97/98]

(p)(1) A clinic operated by a nonprofit corporation exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, as an entity organized and operated exclusively for scientific and charitable purposes and that satisfies all of the following requirements:

(A) Commenced conducting medical research on or before January 1, 1982, and continues to conduct medical research.

(B) Conducted research in, among other areas, prostatic cancer, cardiovascular disease, electronic neural prosthetic devices, biological effects and medical uses of lasers, and human magnetic resonance imaging and spectroscopy.

(C) Sponsored publication of at least 200 medical research articles in peer-reviewed publications.

(D) Received grants and contracts from the National Institutes of Health.

(E) Held and licensed patents on medical technology.

(F) Received charitable contributions and bequests totaling at least five million dollars ($5,000,000).

(G) Provides health care services to patients only:

(i) In conjunction with research being conducted on procedures or applications not approved or only partially approved for payment (I) under the Medicare program pursuant to Section 1359y (a)(1)(A) of Title 42 of the United States Code, or (II) by a health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 or a disability insurer regulated under Chapter 1 (commencing with Section 10110) of Part 2 of Division 2 of the Insurance Code; provided that services may be provided by the clinic for an additional period of up to three years following such approvals, but only to the extent necessary to maintain clinical expertise in the procedure or application for purposes of actively providing training in the procedure or application for physicians and surgeons unrelated to the clinic.

(ii) Through physicians and surgeons who, in the aggregate, devote no more than 30 percent of their professional time for the entity operating, the clinic, on an annual basis, to direct patient care activities for which charges for professional services are paid.

(H) Makes available to the public the general results of its research activities on at least an annual basis, subject to good faith protection of proprietary rights in its intellectual property.

(I) Is a freestanding clinic, whose operations under this subdivision are not conducted in conjunction with any affiliated or associated health clinic or facility defined under Division 2 (commencing with Section 1200), except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as "affiliated" only if it directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a clinic or health facility defined under Division 2 (commencing with Section 1200), except a clinic exempt from licensure under subdivision (m). For purposes of this subparagraph, a freestanding clinic is defined as "associated" only if more than 20 percent of the directors or trustees of the clinic are also the directors or trustees of any individual clinic or health facility defined under Division 2 (commencing with Section 1200), except a clinic exempt from licensure under subdivision (m). Any activity by a clinic under this subdivision in connection with an affiliated or associated entity shall fully comply with the requirements of this subdivision. This subparagraph shall not apply to agreements between a clinic and any entity for purposes of coordinating medical research.

(2) This subdivision shall remain operative only until January 1, 2003. Prior to extending or deleting that operative date, the Legislature shall receive a report from each clinic meeting the criteria of this subdivision and any other interested party concerning the operation of the clinic's activities. The report shall include, but not be limited to, an evaluation of how the clinic impacted competition in the relevant health care market, and a detailed description of the clinic's research results and the level of acceptance by the payer community of the procedures performed at the clinic. The report shall also include a description of procedures performed both in clinics governed by this subdivision and those performed in other settings.

(Added by Stats.1978, c. 1147, § 4, eff. Sept. 26, 1978. Amended by Stats.1979, c. 478, p. 1634, § 2, eff. Sept. 5, 1979; Stats.1980, c. 133, p. 310, § 3; Stats.1980, c. 454, p. 962, § 1.5; Stats.1980, c. 1316, p. 4565, § 2.5; Stats.1982, c. 1306, p. 4814, § 3; Stats.1984, c. 1716, § 1; Stats.1985, c. 700, § 4; Stats.1989, c. 977, § 1; Stats.1997, c. 673 (S.B.1094), §3; Stats.1998, c. 485 (A.B.2803), § 105.)

§ 1206.1. Exemptions; clinic or office of psychologist

The provisions of this chapter do not require licensure of any place or establishment owned or leased and operated as a clinic or office by one or more licensed psychologists and used as an office for the practice of psychology, regardless of the name used publicly to identify such place or establishment.

(Added by Stats.1980, c.1315, p. 4562, § 4.)

§ 1207. Inspection and licensing; approval to offer special services

The state department shall inspect and license clinics, and shall inspect and approve clinics to offer special services.

(Added by Stats.1978, c. 1147, § 4, eff. Sept. 26, 1978.)

§ 1208. Consultation to clinics

The state department may provide consulting services upon request to any clinic to assist in the identification or correction of deficiencies or the upgrading of the quality of care provided by the clinic.

(Added by Stats.1978, c. 1147, § 4, eff. Sept. 26, 1978.)

§ 1209. Operation of chapter; authorization to practice medicine, surgery, dentistry, etc.

This chapter does not authorize any person other than a licensed practitioner of a healing art, or any corporation except charitable or professional corporations as expressly provided in this chapter, to furnish to any person any advice, services, or treatment within the scope of such professional licensure.

This chapter does not authorize any person, other than a licentiate of a healing art acting within the scope of his or her license, to engage directly or indirectly in the practice of medicine and surgery, dentistry, optometry, podiatry, psychology, or pharmacy.

This chapter does not regulate, govern, or affect in any manner the practice of medicine and surgery, pharmacy, dentistry, optometry, chiropractic, podiatry, psychology, or drugless healing by any person duly licensed to engage in such practice.

(Added by Stats.1978, c. 1147, § 4, eff. Sept. 26, 1978. Amended by Stats.1980, c. 1315, p. 4562, § 5.)

Chapter 2 HEALTH FACILITIES
Article 1 GENERAL

§ 1250. Health Facility

As used in this chapter, "health facility" means any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on separate premises as provided in Section 1250.8. A general acute care hospital that exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital that, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

A "general acute care hospital" includes a "rural general acute care hospital". However, a "rural general acute care hospital" shall not be required by the department to provide surgery and anesthesia services. A "rural general acute care hospital" shall meet either of the following conditions:

(1) The hospital meets criteria for designation within peer group six or eight, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982.

(2) The hospital meets the criteria for designation within peer group five or seven, as defined in the report entitled Hospital Peer Grouping for Efficiency Comparison, dated December 20, 1982, and has no more than 76 acute care beds and is located in a census dwelling place of 15,000 or less population according to the 1980 federal census.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff that provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility that provides skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility that provides inpatient care to ambulatory or nonambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician and surgeon as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff that provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility that provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

(h) "Intermediate care facility/developmentally disabled--nursing" means a facility with a capacity of 4 to 15 beds that provides 24-hour personal care, developmental services, and nursing supervision for developmentally disabled persons who have intermittent recurring needs for skilled nursing care but have been certified by a physician and surgeon as not requiring continuous skilled nursing care. The facility shall serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

(i) (1) "Congregate living health facility" means a residential home with a capacity, except as provided in paragraph (4), of no more than six beds, that provides inpatient care, including the following basic services: medical supervision, 24-hour skilled nursing and supportive care, pharmacy, dietary, social recreational, and at least one type of service specified in paragraph (2). The primary need of congregate living health facility residents shall be for availability of skilled nursing care on a recurring, intermittent, extended, or continuous basis. This care is generally less intense than that provided in general acute care hospitals but more intense than that provided in skilled nursing facilities.

(2) Congregate living health facilities shall provide one of the following services:

(A) Services for persons who are mentally alert, physically disabled persons, who may be ventilator dependent.

(B) Services for persons who have a diagnosis of terminal illness, a diagnosis of a life-threatening illness, or both. Terminal illness means the individual has a life expectancy of six months or less as stated in writing by his or her attending physician and surgeon. A "life-

threatening illness" means the individual has an illness that can lead to a possibility of a termination of life within five years or less as stated in writing by his or her attending physician and surgeon.

(C) Services for persons who are catastrophically and severely disabled. A catastrophically and severely disabled person means a person whose origin of disability was acquired through trauma or nondegenerative neurologic illness, for whom it has been determined that active rehabilitation would be beneficial and to whom these services are being provided. Services offered by a congregate living health facility to a catastrophically disabled person shall include, but not be limited to, speech, physical, and occupational therapy.

(3) A congregate living health facility license shall specify which of the types of persons described in paragraph (2) to whom a facility is licensed to provide services.

(4) (A) A facility operated by a city and county for the purposes of delivering services under this section may have a capacity of 59 beds.

(B) A congregate living health facility not operated by a city and county servicing persons who are terminally ill, persons who have been diagnosed with a life-threatening illness, or both, that is located in a county with a population of 500,000 or more persons may have not more than 25 beds for the purpose of serving terminally ill persons.

(C) A congregate living health facility not operated by a city and county serving persons who are catastrophically and severely disabled, as defined in subparagraph (C) of paragraph (2) that is located in a county of 500,000 or more persons may have not more than 12 beds for the purpose of serving catastrophically and severely disabled persons.

(5) A congregate living health facility shall have a noninstitutional, homelike environment.

(j) (1) "Correctional treatment center" means a health facility operated by the Department of Corrections, the Department of the Youth Authority, or a county, city, or city and county law enforcement agency that, as determined by the state department, provides inpatient health services to that portion of the inmate population who do not require a general acute care level of basic services. This definition shall not apply to those areas of a law enforcement facility that houses inmates or wards that may be receiving outpatient services and are housed separately for reasons of improved access to health care, security, and protection. The health services provided by a correctional treatment center shall include, but are not limited to, all of the following basic services: physician and surgeon, psychiatrist, psychologist, nursing, pharmacy, and dietary. A correctional treatment center may provide the following services: laboratory, radiology, perinatal, and any other services approved by the state department.

(2) Outpatient surgical care with anesthesia may be provided, if the correctional treatment center meets the same requirements as a surgical clinic licensed pursuant to Section 1204, with the exception of the requirement that patients remain less than 24 hours.

(3) Correctional treatment centers shall maintain written service agreements with general acute care hospitals to provide for those inmate physical health needs that cannot be met by the correctional treatment center.

(4) Physician and surgeon services shall be readily available in a correctional treatment center on a 24-hour basis.

(5) It is not the intent of the Legislature to have a correctional treatment center supplant the general acute care hospitals at the California Medical Facility, the California Men's Colony, and the California Institution for Men. This subdivision shall not be construed to prohibit the California Department of Corrections from obtaining a correctional treatment center license at these sites.

(k) "Nursing facility" means a facility licensed pursuant to this chapter that is certified to participate as a provider of care either as a skilled health facility in the federal Medicare program under Title XVIII of the federal Social Security Act or as a nursing facility in the federal medicaid program under Title XIX of the federal Social Security Act, or as both.

(l) Regulations defining a correctional treatment center described in subdivision (j) that is operated by a county, city, or city and county, the Department of Corrections, or the Department of the Youth Authority, shall not become effective prior to, or if effective, shall be inoperative until January 1, 1996, and until that time these correctional facilities are exempt from any licensing requirements.

(Added by Stats.1973, c. 1202, p. 2564, § 2. Amended by Stats.1974, c. 1444, p. 3151, § 1; Stats.1976, c. 854, p. 1950, § 34, eff. Sept. 9, 1976; Stats.1978, c. 1221, § 1, eff. Sept. 27, 1978; Stats.1978, c. 1226, § 1.5; Stats.1980, c. 676, p. 1937, § 152; Stats.1980, c. 569, p. 1558, § 1; Stats.1981, c. 714, p. 2675, § 213; Stats.1981, c. 743, p. 2908, § 3; Stats.1983, c. 695, § 1, eff. Sept. 11, 1983; Stats.1983, c. 1003, § 1; Stats.1984, c. 497, § 2, eff. July 17, 1984; Stats.1985, c. 1496, § 4; Stats.1986, c. 1111, § 1; Stats.1986, c. 1320, § 1; Stats.1986, c, 1459, § 1.5; Stats.1987, c. 1282, § 2; Stats.1988, c. 1478, § 3, eff. Sept. 28, 1988; Stats.1988, c. 1608, § 1.3; Stats.1989, c. 1393, § 1, eff. Oct. 2, 1989; Stats.1990, c. 1227 (A.B.3413), § 1, eff. Sept. 24, 1990; Stats.1990, c. 1329 (S.B.1524), § 3.5, eff. Sept. 26, 1990; Stats.1992, c. 697 (S.B.1559), § 11; Stats.1992, c. 1163 (S.B.1570), § 1; Stats.1992, c. 1164 (S.B.1003), § 1; Stats.1992, c. 1369 (A.B.3027), § 5, eff. Oct. 27, 1992, operative Jan. 1, 1993; Stats.1993, c. 589 (A.B.2211), § 84; Stats.1993, c. 70 (S.B.86), § 7, eff. June 30, 1993; Stats.1993, c. 930 (S.B.560), § 1; Stats.1993, c. 931 (A.B.972), § 1; Stats.1993, c. 932 (S.B.910), § 1, eff. Oct. 8, 1993; Stats.1993, c. 932 (S.B.910), § 1.7, eff. Oct. 8, 1993, operative Jan. 1, 1994; Stats.1995, c. 749 (A.B.1177, § 6, eff. Oct. 10, 1995. Amended by Stats.2000, c. 451 (A.B.1731), § 2.)

§ 1250.8. Single consolidated general acute care hospital license; criteria; location of supplemental service and category of beds; requirements; transfer approval and regulations; facility; Medi-Cal program; report; application of amendments; authorized actions; facilities located more than 15 miles from health facility

(a) Notwithstanding subdivision (a) of Section 437.10, the state department, upon application of a general acute care hospital which meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single consolidated license to a general acute care hospital which includes more than one physical plant maintained and operated on separate premises or which has multiple licenses for a single health facility on the same premises. A single consolidated

license shall not be issued where the separate freestanding physical plant is a skilled nursing facility or an intermediate care facility, whether or not the location of the skilled nursing facility or intermediate care facility is contiguous to the general acute care hospital unless the hospital is exempt from the requirements of subdivision (b) of Section 1254, or the facility is part of the physical structure licensed to provide acute care.

(b) The issuance of a single consolidated license shall be based on the following criteria:

(1) There is a single governing body for all of the facilities maintained and operated by the licensee.

(2) There is a single administration for all of the facilities maintained and operated by the licensee.

(3) There is a single medical staff for all of the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.

(4) Except as provided otherwise in this paragraph, the physical plants maintained and operated by the licensee which are to be covered by the single consolidated license are located not more than 15 miles apart. If an applicant provides evidence satisfactory to the department that it can comply with all requirements of licensure and provide quality care and adequate administrative and professional supervision, the director may issue a single consolidated license to a general acute care hospital that operates two or more physical plants located more than 15 miles apart under any of the following circumstances:

(A) One or more of the physical plants is located in a rural area, as defined by regulations of the director.

(B) One or more of the physical plants provides only outpatient services, as defined by the department.

(C) If Section 14105.986 of the Welfare and Institutions Code is implemented and the applicant meets all of the following criteria:

(i) The applicant is a nonprofit corporation.

(ii) The applicant is a children's hospital listed in Section 10727 of the Welfare and Institutions Code.

(iii) The applicant is affiliated with a major university medical school, and located adjacent thereto.

(iv) The applicant operates a regional tertiary care facility.

(v) One of the physical plants is located in a county that has a consolidated and county government structure.

(vi) One of the physical plants is located in a county having a population between 1 million and 2 million.

(vii) The applicant is located in a city with a population between 50,000 and 100,000.

(c) In issuing the single consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee. The single consolidated license shall be renewed annually.

(d) To the extent required by Part 1.5 (commencing with Section 437) of Division 1, a general acute care hospital which has been issued a single consolidated license:

(1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.

(2) Shall not transfer, in whole or in part, from one facility to another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to the relocation, notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:

(A) A cost estimate, certified by a person qualified by experience or training to render the estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Part 1.5 (commencing with Section 437) of Division 1, or as authorized in an approved certificate of need pursuant to that part, health facility beds transferred pursuant to this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transferor facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1.

(e) All transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations which are necessary to implement the provisions of this section. These regulations may include a requirement that each facility of a health facility subject to a single consolidated license have an onsite full-time or part-time administrator.

(f) As used in this section, "facility" means any physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.

(g) For purposes of selective provider contracts negotiated under the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital which is issued a single consolidated license pursuant to this section may, at its option, receive from the state department a single Medi-Cal program provider number or separate Medi-Cal program provider numbers for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is issued one or more Medi-Cal provider numbers, the state department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

(h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.

(i) The amendments made to this section during the 1985-86 Regular Session of the California Legislature pertaining to the issuance of a single consolidated license to a general acute care hospital in the case where the separate physical plant is a skilled nursing facility or intermediate care facility shall not apply to the following facilities:

(1) Any facility which obtained a certificate of need after August 1, 1984, and prior to February 14, 1985, as described in this subdivision. The certificate of need shall be for the construction of a skilled nursing facility or intermediate care facility which is the same facility for which the hospital applies for a single consolidated license, pursuant to subdivision (a).

(2) Any facility for which a single consolidated license has been issued pursuant to subdivision (a), as described in this subdivision, prior to the effective date of the amendments made to this section during the 1985-86 Regular Session of the California Legislature.

Any facility which has been issued a single consolidated license pursuant to subdivision (a), as described in this subdivision, shall be granted renewal licenses based upon the same criteria used for the initial consolidated license.

(j) If the state department issues a single consolidated license pursuant to this section, the state department may take any action authorized by this chapter, including, but not limited to, any action specified in Article 5 (commencing with Section 1294), with respect to any facility, or any service provided in any facility, which is included in the consolidated license.

(k) The eligibility for participation in the Medi-Cal program (Chapter 7 (commencing with Section 14000), Part 3, Division 9, Welfare and Institutions Code) of any facility that is included in a consolidated license issued pursuant to this section, provides outpatient services, and is located more than 15 miles from the health facility issued the consolidated license shall be subject to a determination of eligibility by the state department. This subdivision shall not apply to any facility that is located in a rural area and is included in a consolidated license issued pursuant to subparagraphs (A), (B), and (C) of paragraph (4) of subdivision (b). Regardless of whether a facility has received or not received a determination of eligibility pursuant to this subdivision, this subdivision shall not affect the ability of a licensed professional, providing services covered by the Medi-Cal program to a person eligible for Medi-Cal in a facility subject to a determination of eligibility pursuant to this subdivision, to bill the Medi-Cal program for those services provided in accordance with applicable regulations.

(l) Notwithstanding any other provision of law, the director may issue a single consolidated license for a general acute care hospital to Children's Hospital Oakland and San Ramon Regional Medical Center.

(Added by Stats.1983, c. 1003, § 2. Amended by Stats.1984, c. 1516, § 2, eff. Sept. 28, 1984, operative Jan. 1, 1985; Stats.1986, c. 1318, § 1; Stats.1991, c. 728 (A.B.1885), § 1; Stats.1996, c. 1023 (S.B.1497, § 153, eff. Sept. 29, 1996; Stats.1996, c. 1141 (A.B.2338), § 1; Stats.1998, c. 982 (A.B.1942), § 1.)

§ 1251.5. Special permit

A "special permit" is a permit issued in addition to a license, authorizing a health facility to offer one or more of the special services specified in Section 1255 when the state department has determined that the health facility has met the standards for quality of care established by state department pursuant to Article 3 (commencing with Section 1275).

(Added by Stats.1973, c. 1202, p. 2565, § 2.)

Chapter 3 CALIFORNIA COMMUNITY CARE FACILITIES ACT
Article 1 GENERAL PROVISIONS

§ 1500. Short Title

This chapter shall be known and may be cited as the California Community Care Facilities Act.

(Added by Stats.1973, c. 1203, p. 2581, § 4.)

§ 1502. Definitions

As used in this chapter:

(a) "Community care facility" means any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family

agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility that provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Therapeutic day services facility" means any facility that provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with therapeutic day services and foster care providers.

(4) "Foster family agency" means any organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children that is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian. It also means a foster family home described in Section 1505.2.

(6) "Small family home" means any residential facility, in the licensee's family residence, that provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

(7) "Social rehabilitation facility" means any residential facility that provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Article 1 (commencing with Section 5670) of Chapter 2.5 of Part 2 of Division 5 of the Welfare and Institutions Code.

(8) "Community treatment facility" means any residential facility that provides mental health treatment services to children in a group setting and that has the capacity to provide secure containment. Program components shall be subject to program standards developed and enforced by the State Department of Mental Health pursuant to Section 4094 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(11) "Transitional shelter care facility" means any group care facility that provides for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual. Program components shall be subject to program standards developed by the State Department of Social Services pursuant to Section 1502.3.

(12) "Transitional housing placement facility" means a community care facility licensed by the department pursuant to Section 1559.110 to provide transitional housing opportunities to persons at least 17 years of age, and not more than 18 years of age unless the requirements of Section

11403 of the Welfare and Institutions Code are met, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

(Added by Stats.1973, c. 1203, p. 2582, § 4. Amended by Stats.1976, c. 1350, p. 6159, § 1; Stats.1977, c. 1252, § 257, operative July 1, 1978; Stats.1977, c. 1199, § 5; Stats.1978, c. 288, § 1; Stats.1978, c. 429, § 134.55, eff. July 17, 1978, operative July 1, 1978; Stats.1978, c. 891, § 1, eff. Sept. 19, 1978; Stats.1982, c. 1124, p. 4051, § 1; Stats.1983, c. 1015, § 2; Stats.1984, c. 1309, § 1; Stats.1984, c. 1615, § 1.5; Stats.1985, c. 1127, § 1; Stats.1985, c. 1473, § 2; Stats.1986, c 248, § 116; Stats.1986, c. 1120, § 2, eff. Sept. 24, 1986; Stats.1987, c. 1022, § 2.5; Stats.1988, c. 160, § 89; Stats.1988, c. 557, § 2; Stats.1988, c. 1142, § 3, eff. Sept. 22, 1988, Stats.1988, c. 1142, § 3.5, eff. Sept. 22, 1988, operative Jan. 1, 1989; Stats.1989, c. 1360, § 82; Stats.1990, c. 1139 (S.B.2039), § 1. eff. Sept. 21, 1990; Stats.1991, c. 1137 (A.B.760), § 1; Stats.1991, c. 1200 (S.B.90), § 1. eff. Oct. 14, 1991; Stats1991, c. 1200 (S.B.90), § 1.5, eff. Oct. 14, 1991, operative Jan. 1, 1992; Stats.1992, c. 1374 (A.B.14), § 1. eff. Oct. 28, 1992; Stats.1993, c. 248 (S.B.465), § 1, eff. Aug. 2, 1993; Stats.1993, c. 1245 (S.B.282), § 2, eff. Oct. 11, 1993; Stats.1994, c. 950 (A.B.1334), § 2; Stats.1997, c. 793 (A.B.1544), § 7; Stats.1998, c. 873 (A.B.2774), § 1.)

Chapter 3.3 CALIFORNIA ADULT DAY HEALTH CARE ACT
Article 1 GENERAL DEFINITIONS

§ 1570.7. Definitions

As used in this chapter:

(a) "Adult day health care" means an organized day program of therapeutic, social, and health activities and services provided pursuant to this chapter to elderly persons with functional impairments, either physical or mental, for the purpose of restoring or maintaining optimal capacity for self-care. Provided on a short-term basis, adult day health care serves as a transition from a health facility or home health program to personal independence. Provided on a long-term basis, it serves as an option to institutionalization in long-term health care facilities, when 24-hour skilled nursing care is not medically necessary or viewed as desirable by the recipient or his or her family.

(b) "Adult day health center" or "adult day health care center" means a licensed and certified facility which provides adult day health care.

(c) "Elderly" or "older person" means a person 55 years of age or older, but also includes other adults who are chronically ill or impaired and who would benefit from adult day health care.

(d) "Individual plan of care" means a plan designed to provide recipients of adult health care with appropriate treatment in accordance with the assessed needs of each individual.

(e) "License" means a basic permit to operate an adult day healthcare center. With respect to a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), "license"

means a special permit, as defined by Section 1251.5, empowering the health facility to provide adult day health care services.

(f) "Maintenance program" means procedures and exercises that are provided to a participant, pursuant to Section 1580, in order to generally maintain existing function. These procedures and exercises are planned by a licensed or certified therapist and are provided by a person who has been trained by a licensed or certified therapist and who is directly supervised by a nurse or by a licensed or certified therapist.

(g) "Planning council" or "council" means an adult day health care planning council established pursuant to Section 1572.5.

(h) "Restorative therapy" means physical, occupational, and speech therapy, and psychiatric and psychological services, that are planned and provided by a licensed or certified therapist. The therapy and services may also be provided by an assistant or aide under the appropriate supervision of a licensed therapist, as determined by the licensed therapist. The therapy and services are provided to restore function, when there is an expectation that the condition will improve significantly in a reasonable period of time, as determined by the multidisciplinary assessment team.

(i) "Committee" means the Long-Term Care Committee established pursuant to Section 1572.

(j) "Department" or "state department" means the California Department of Aging or the State Department of Health Services as specified in the interagency agreement between the two departments.

(Added by Stats.1977, c. 1066, § 1. Amended by Stats.1990, c. 1351 (S.B. 2429), § 2, eff. Sept. 26, 1990; Stats.1991, c. 985 (S.B. 681), § 2; Stats.1998, c. 151 (A.B.1817), § 1.)

Article 2 ADMINISTRATION

§ 1572. Transfer of functions and duties; interagency agreement; long-term care committee

(a) The functions and duties of the State Department of Health Services provided for under this chapter shall be performed by the California Department of Aging commencing on the date those functions are transferred from the State Department of Health Services to the California Department of Aging. The authority, functions, and responsibility for the administration of the adult day health care program by the California Department of Aging and the State Department of Health Services shall be defined in an interagency agreement between the two departments that specifies how the departments will work together.

(b) The interagency agreement shall specify that the California Department of Aging is designated by the state department as the agency responsible for community long-term care programs. At a minimum, the interagency agreement shall clarify each department's

responsibilities on issues involving licensure and certification of adult day health care providers, payment of adult day health care claims, prior authorization of services, promulgation of regulations, and development of adult day health care Medi-Cal rates. In addition, this agreement shall specify that the California Department of Aging is responsible for making recommendations to the State Department of Health Services regarding licensure as specified in subdivision (h). The interagency agreement shall specify that the State Department of Health Services shall delegate to the California Department of Aging the responsibility of performing the financial and cost report audits and the resolution of audit appeals which are necessary to ensure program integrity. This agreement shall also include provisions whereby the State Department of Health Services and the California Department of Aging shall collaborate in the development and implementation of health programs and services for older persons and functionally impaired adults.

(c) As used in this chapter, "director" shall refer to the Director of the California Department of Aging or the Director of the State Department of Health Services as specified in the interagency agreement.

(d)(1) A Long-Term Care Committee is hereby established in the California Department of Aging. The committee shall include, but not be limited to, a member of the California Commission on Aging, who shall be a member of the Long-Term Care Committee of the commission, a representative of the California Association for Adult Day Services, a representative of the California Association of Area Agencies on Aging, a representative of the California Conference of Local Health Officers, a member of a local adult day health care planning council, nonprofit representatives and professionals with expertise in Alzheimer's disease or a disease of a related disorder, a member of the California Coalition of Independent Living Centers, and representatives from other appropriate state departments, including the State Department of Health Services, the State Department of Social Services, the State Department of Mental Health, the State Department of Developmental Services and the State Department of Rehabilitation, as deemed appropriate by the Director of the California Department of Aging. At least one member shall be a person over 60 years of age.

(2) The committee shall function as an advisory body to the California Department of Aging and advise the Director of the California Department of Aging regarding development of community-based long-term care programs. This function shall also include advice to the Director of the California Department of Aging for recommendations to the State Department of Health Services on licensure, Medi-Cal reimbursement, and utilization control issues.

(3) The committee shall be responsible for the reviewing of new programs under the jurisdiction of the department.

(4) The committee shall assist the Director of the California Department of Aging in the development of procedures and guidelines for new contracts or grants, as well as review and make recommendations on applicants. The committee shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(e) The California Department of Aging shall prepare guidelines for adoption by the local

planning councils setting forth principles for evaluation of community need for adult day health care, which shall take into consideration the desirability of coordinating and utilizing existing resources, avoidance of duplication of services and inefficient operations, and locational preferences with respect to accessibility and availability to the economically disadvantaged older person.

(f) The California Department of Aging shall review county plans submitted pursuant to Section 1572.9. These county plans shall be approved if consistent with the guidelines adopted by the director pursuant to subdivision (e).

(g) The Director of the California Department of Aging shall make recommendations regarding licensure to the Licensing and Certification Division in the State Department of Health Services. The recommendation shall be based on the following criteria:

(1) An evaluation of the ability of the applicant to provide adult day health care in accordance with the requirements of this chapter and regulations adopted hereunder.

(2) Compliance with the local approved plan.

(3) Other criteria that the director deems necessary to protect public health and safety.

(h) A public hearing on each individual proposal for an adult day health care center may be held by the department in conjunction with the local adult day health care council in the county to be served. A hearing shall be held if requested by a local adult day health care council. In order to provide the greatest public input, the hearing should preferably be held in the service area to be served.

(Added by Stats.1977, c. 1066, § 1. Amended by Stats.1978, c. 429, § 135, eff. July 17, 1978, operative July 1, 1978; Stats.1982, c. 1490, p. 5767, § 2; Stats.1984, c. 1600, § 4, eff. Sept. 30, 1984, operative July 1, 1984; Stats.1985, c. 1305, § 1; Stats.1987, c. 1015, § 1. Amended by Stats.1998, c. 151 (A.B.1817), § 2. Amended by Stats.2000, c. 869 (S.B.2180), § 1.)

§ 1572.5. Planning Council

(a) The board of supervisors of any county may establish for that county an adult day health care planning council as provided in this section. Alternatively, two or more adjacent counties may agree to form a single adult day health care planning council with jurisdiction in all participating counties. Each council shall be comprised of 17 members appointed by the board of supervisors, or jointly appointed by the boards of supervisors of counties having a single council, as follows:

(1) Nine members of the council shall be persons over 55 years of age who have a demonstrated interest in the special health and social needs of the elderly and who are representative of organizations dedicated primarily to the needs of older persons, including those of low-income and racial and ethnic minorities.

(2) A representative of the area agency on aging designated pursuant to Public Law 94-135[7] or, if none, a county agency responsible for services to senior citizens.

(3) A representative of a county agency responsible for administering health programs for senior citizens.

(4) A representative of the county medical society.

(5) A representative of a publicly funded senior citizen transportation program.

(6) A representative of a health facility or organization of health facilities providing acute or long-term care to the elderly.

(7) A member-at-large who has demonstrated an interest in alternatives to institutional long-term care.

(8) A functionally impaired adult member with a demonstrated interest in community-based, long-term care needs of the functionally impaired who is 18 or over, and under 55 years of age.

(9) A representative of the county department of public social services, or the equivalent agency.

(b) The board of supervisors, with the approval of the Department of Aging, may designate the area agency on aging advisory council as the adult day health care planning council in counties in which all of the following exist:

(1) An adult day health care planning council has not been established.

(2) The board of supervisors governs the area agency on aging.

(3) The area agency on aging has demonstrated interest and commitment in alternatives to institutional long-term care.

(4) The area agency on aging advisory council includes representatives of county or community-based agencies which are responsible for administering or providing long-term care services or which have demonstrated an interest in developing long-term care alternatives.

The board of supervisors shall seek the advice and assistance of other health and transportation representatives identified in this section.

(c) If persons meeting the qualifications specified by any paragraph of subdivision (a) are unavailable or unwilling to serve on the council, the appointing power may apply to the director for an exemption. In this case, the director shall grant an exemption and shall specify such alternative qualifications as will best serve the purposes of this chapter with due regard for local conditions.

---

[7] See 42 USCA § 3025 for designation of area agencies.

(Added by Stats.1977, c. 1066, § 1. Amended by Stats.1982, c. 1490, p. 5768, § 3; Stats.1985, c. 1305, § 2; Stats.1987, c. 482, § 1.)

United States Code Annotated

Area agency, grants for state and community programs for aging, see 42 U.S.C.A. § 30258 et seq.

Chapter 3.4 CALIFORNIA CHILD DAY CARE ACT

Article 1 GENERAL PROVISIONS AND DEFINITIONS

§ 1596.750. “Child day care facility”

"Child day care facility" means a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child day care facility includes daycare centers, employer-sponsored childcare centers, and family daycare homes.

(Added by Stats. 1984, c. 1615, § 9. Amended by Stats.1994, c. 690 (A.B.3168), § 2.)

Chapter 7.5 LICENSING

Article 1 GENERAL PROVISIONS

§ 11834.02. Definitions

(a) As used in this chapter, "alcoholism or drug abuse recovery or treatment facility" or "facility" means any premises, place, or building that provides 24-hour residential nonmedical services to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug, or alcohol and drug recovery treatment or detoxification services.

(b) As used in this chapter, "adults" may include, but is not limited to, all of the following:

(1) Mothers over 18 years of age and their children.

(2) Emancipated minors, which may include, but is not limited to, mothers under 18 years of age and their children.

(c) As used in this chapter, "emancipated minors" means persons under 18 years of age who have acquired emancipation status pursuant to Section 7002 of the Family Code.

(d) Notwithstanding subdivision (a), an alcoholism or drug abuse recovery or treatment facility may serve adolescents upon the issuance of a waiver granted by the department pursuant to regulations adopted under subdivision (c) of Section 11834.50.

(Formerly § 11834.11, added by Stats.1984, c. 1667, § 2. Amended by Stats.1988, c. 646, § 1; Stats.1989, c. 919, § 9; Stats.1992, c. 620 (A.B.2460), § 3; Stats.1993, c. 219 (A.B.1500), § 216.1. Renumbered § 11834.02 and amended by Stats.1993, c. 741, § 5.)

Division 23 HOSPITAL DISTRICT

Chapter 2 BOARD OF DIRECTORS

Article 2 POWERS

§ 32127.2. Insurance program; borrowing money or credit or issuing bonds; security interests

Exclusively for the purpose of securing state insurance of financing for the construction of new health facilities, the expansion, modernization, renovation, remodeling and alteration of existing health facilities, and the initial equipping of any such health facilities under Chapter 1 (commencing with Section 129000) of Part 6 of Division 107, and notwithstanding any provision of this division or any other provision or holding of law, the board of directors of any district may (a) borrow money or credit, or issue bonds, as well as by the financing methods specified in this division, and (b) execute in favor of the state first mortgages, first deeds of trust, and other necessary security interests as the Office of Statewide Health Planning and Development may reasonably require in respect to a health facility project property as security for the insurance. No payments of principal, interest, insurance premium and inspection fees, and all other costs of state-insured loans obtained under the authorization of this section shall be made from funds derived from the district's power to tax. It is hereby declared that the authorizations for the executing of the mortgages, deeds of trust and other necessary security agreements by the board and for the enforcement of the state's rights thereunder is in the public interest in order to preserve and promote the health, welfare, and safety of the people of this state by providing, without cost to the state, a state insurance program for health facility construction loans in order to stimulate the flow of private capital into health facilities construction to enable the rational meeting of the critical need for new, expanded and modernized public health facilities.

(Added by Stats.1969, c. 970, p. 1930, § 2. Amended by Stats.1971, c. 1593, p. 3306, § 295, operative July 1, 1973; Stats.1977, c. 1252, p. 4431, § 344, operative July 1, 1978; Stats.1978, c. 429, p. 1412, § 154, eff. July 17, 1978, operative July 1, 1978; Stats.1982, c. 1513, p. 5869, § 9; Stats.1996, c. 1023 (S.B.1497), § 296, eff. Sept. 29, 1996.)