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TITLE 10. CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ACT [91500 - 91562] (Title 10 added by Stats. 1980, Ch. 1358.)

CHAPTER 1. California Industrial Development Financing [91500 - 91562] (Chapter 1 added by Stats. 1980, Ch. 1358.)

ARTICLE 1. General Provisions and Definitions [91500 - 91504] (Article 1 added by Stats. 1980, Ch. 1358.)

91500. This title may be cited as the California Industrial Development Financing Act.
(Added by Stats. 1980, Ch. 1358.)

91501. The Legislature hereby finds that it is necessary and essential that the state, in cooperation with the federal government, use all practical means and measures to promote and enhance economic development and increase opportunities for useful employment. The Legislature further finds the alternative method of financing provided in this title will benefit economically distressed communities with concentrated unemployment by employing a labor force from those communities and areas where persons are displaced due to industrial failures. The Legislature further finds that the alternative method of financing provided in this title will benefit economically distressed areas of the state and localities that are making diligent efforts to maintain and provide services to existing companies and to prevent the loss of existing jobs. The Legislature further finds that the alternative method of financing provided in this title will benefit those projects that would employ persons living within an economically distressed area, or projects that are partially funded by the federal government, including, but not limited to, the United States Department of Labor, the United States Department of Housing and Urban Development, or the Economic Development Administration of the United States Department of Commerce. The Legislature further finds and determines that businesses within this state that create, produce, or manufacture tangible goods and require new methods to finance the capital outlays required to acquire, construct, or rehabilitate facilities, equipment, and furnishings that will result in an increase in employment opportunities, the retention of existing jobs, or otherwise contribute to economic development, and the alternate method of financing provided in this division is in the public interest and serves a public purpose and will promote the health, welfare, and safety of the citizens of the State of California.

The Legislature further finds that regional research and development facilities are beneficial to the state and the regions where they are located by providing jobs, contributing to economic development in the state and the surrounding community, and being a source of intellectual capital and intangible assets that ultimately aid California businesses in entering, expanding, and competing in, world markets.

Therefore, the Legislature finds that research and development facilities should be designated "permitted activities" under the state's industrial development bond program.

(Amended by Stats. 2009, Ch. 648, Sec. 2. (AB 1009) Effective November 5, 2009.)

91502. It is the purpose of this title to carry out and make effective the findings of the Legislature, and to that end, to provide business with an alternative method of financing in acquiring, constructing, or rehabilitating facilities, including, but not limited to, equipment and furnishings, in accordance with the criteria set forth in Section 91502.1, all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

(Amended by Stats. 2009, Ch. 648, Sec. 3. (AB 1009) Effective November 5, 2009.)

91502.1. (a) The Legislature declares that it is the policy of this state, consistent with environmental, resource conservation, and other policies, to facilitate for and on behalf of private enterprise the acquisition of property, either suitable for or evidencing an obligation respecting any one or more of the activities or uses set forth in Section 91503, through the issuance of revenue bonds by authorities in accordance with the criteria set forth in subdivision (b), and that this additional method of financing when made available in accordance with that policy serves a public purpose and will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(b) The Legislature declares that the criteria to be utilized to determine whether this method of financing may be made available shall include the following:

(1) Whether employment benefits arising out of the use of the facilities may ensue by securing or increasing (A) the number of employees of the company and any other direct users of the facilities or (B) compensation for that employment, the value of which may be expressed in terms of aggregate direct employment earnings.

(2) Whether energy, mineral or natural or cultivated resource conservation benefits arising out of the use of the facilities may ensue by the reduction of waste, improvement of recovery or intensification of utilization of resources that otherwise would be less intensively utilized, or wasted, or not recovered, the value of which may be expressed in terms of the price and amount of the energy, minerals, or other resources saved or recovered, or the price and amount of equivalent energy, minerals, or other resources that would be utilized were the resources not utilized as intensively.

(3) Whether consumer benefits arising out of the use of the facilities may ensue by any of the following:

(A) Improvement of the quantity or quality or reduction in the price of products, energy, or related services or facilities, the value of which may be expressed in terms of quantity and price differentials.

(B) Production of new or improved products, or related services or facilities, the value of which may be expressed in terms of quantity and price.

(C) The transfer of ownership of a business or place of work that has closed or is in danger of closing, to its employees for the purpose of formation of an employee-owned corporation, as defined by subdivision (c).

(4) Whether economic benefits to the surrounding community or state may ensue.

(c) For purposes of this section, "employee-owned corporation" means a corporation that is under employee ownership. "Employee ownership" means the majority ownership of a business in this state by a majority of its employees under either of the following methods:

(1) Establishment of an Employee Stock Ownership Plan (ESOP) pursuant to the federal Employee Retirement Income and Security Act (ERISA). All stock initially issued at the time of formation of the employee-owned corporation shall be allocated to the employees and become fully vested within five years of the date the employee-owned corporation begins operation. Voting rights of the employees are established in accordance with Section 409A(e) of the Internal Revenue Code as effective on January 1, 1983.

(2) Establishment of a worker-owned cooperative.

(Amended by Stats. 2009, Ch. 648, Sec. 4. (AB 1009) Effective November 5, 2009.)

91503. The property acquired pursuant to this article shall be suitable for, or shall evidence an obligation respecting, certain activities or uses. The activities or uses shall include one or more of the activities or uses described in subdivision (a) and, unless incidental to those activities or uses, shall not include any of the activities described in, and not excepted from, subdivision (b).

(a) (1) Industrial uses including, without limitation, assembling, fabricating, manufacturing, processing, or warehousing activities with respect to any products of agriculture, forestry, mining, or manufacture, if these activities have demonstrated job creation or retention potential.

(2) Energy development, production, collection, or conversion from one form of energy to another.

(3) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(4) Commercial uses located within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1, commercial activities within an empowerment zone and enterprise community designated pursuant to Section 1391 of the Internal Revenue Code of 1986, in effect on January 1, 1998, commercial uses located within a recovery zone designated pursuant to Section 1401 of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), or any amendments thereto, or other commercial needs.

(5) Processing or manufacturing recycled or reused products and materials by manufacturing facilities.

(6) Business activities with the purpose of creating or producing intangible property.

(b) (1) Residential real property for family unit or other housing activities.

(2) Airport, dock, wharf, or mass commuting activities, or storage or training activities related to any of those activities, unless the property acquired is suitable for one or more of the activities described in paragraph (4) of subdivision (a).

(3) Sewage or solid waste disposal activities or electric energy or gas furnishing activities, unless the property acquired is suitable for one or more of the activities described in paragraph (2) or (4) of subdivision (a).

(4) Water furnishing activities, unless the property acquired is suitable for one or more of the activities described in paragraph (4) of subdivision (a).

(5) Any activities of persons qualifying as exempt persons under Section 501 of the Internal Revenue Code of 1986, as amended, undertaken by those persons, other than activities constituting an unrelated trade or business as described in Section 513 of that code.

(Amended by Stats. 2009, Ch. 648, Sec. 5. (AB 1009) Effective November 5, 2009.)

91504. Unless the context otherwise requires, the definitions in this article shall govern the construction of this title, as follows:

(a) "Acquire" and its variants means acquire, construct, improve, furnish, equip, repair, reconstruct, or rehabilitate.

(b) "Administration expenses" means the reasonable and necessary expenses incurred by an authority in the administration of this title, including, without limitation, fees and costs of paying agents, trustees, attorneys, consultants, and others.

(c) "Authority" means any industrial development authority established pursuant to this title.

(d) "Board" means the board of directors of an authority.

(e) "Bonds" means the revenue obligations, inclusive of principal (premium, if any) and interest authorized to be issued by any authority pursuant to this title, including a single bond, a promissory note or notes, including bond anticipation notes, or other instruments evidencing an indebtedness or obligation.

(f) "Bond proceeds" means all amounts received by an authority upon sale or other disposition of any bonds.

(g) "Company" means a person, partnership, corporation, whether for profit or not, limited liability company, trust, or other private enterprise of whatever legal form, for which a project is undertaken or proposed to be undertaken pursuant to this title or which is in possession of property owned by an authority, and may include more than a single enterprise.

(h) "Cost" as applied to any project, may embrace:

(1) The cost of construction, improvement, repair, rehabilitation, and reconstruction.

(2) The cost of acquisition, including rights in land and other property, both real and personal and improved and unimproved, and franchises, and disposal rights.

(3) The cost of demolishing, removing, or relocating any building or structures on lands so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated.

(4) The cost of machinery, equipment and furnishings, of engineering and architectural surveys, plans, and specifications, and of transportation and storage until the facility is operational.

(5) The cost of agents or consultants, including, without limitation, legal, financial, engineering, accounting, and auditing, necessary or incident to a project and of the determination as to the feasibility or practicability of undertaking the project.

(6) The cost of issuance of any bonds and of financing, interest prior to, during, and for a reasonable period after completion of a project, and reserves for principal and interest and for extensions, enlargements, additions, repairs, replacements, renovations, rehabilitations, and improvements.

(7) The cost of acquiring or refinancing existing obligations incident to the undertaking and carrying out, including the financing, of a project, and the reimbursement to any governmental entity or agency, or any company, of expenditures made by or on behalf of the entity, agency, or company that are costs of the project hereunder, without regard to whether or not the expenditures may have been made before or after the adoption of a resolution of intention with respect to that project by an authority.

(8) The cost of making relocation assistance payments as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

(9) In the case only of taxable bonds, the cost of refunding or refinancing any outstanding debt or obligations with respect to any facilities, or the cost of any other working capital.

(10) Except as provided in paragraph (9), "cost" does not otherwise include working capital.

(i) "Facilities" mean property suitable for any one or more of the activities or uses described in Section 91503 and includes incidental facilities.

(j) "Governing body" means the board of supervisors, city council, or board of directors of a redevelopment agency, as the case may be.

(k) "Indenture" means any mortgage, deed of trust, trust indenture, security agreement, or other instrument relating to establishing a lien or security interest in, or on, property, any pledge or other instrument relating to the possession of property, and any assignment or other instrument relating to establishing any right, title, or interest in, or related to, property, including the revenues therefrom, given by an authority to a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, or bondholder or agent, for the security of its bonds and the benefit of the bondholders.

(l) "Proceedings" means the actions taken by an authority in undertaking, carrying out, and completing a project, including, without limitation, the project agreements, indenture, bonds, and resolutions.

(m) "Project" means the acquisition, construction, improvement, repair, rehabilitation, and reconstruction of facilities and the acquisition and rehabilitation of machinery, equipment, and furnishings, and the acquisition of engineering and architectural surveys, plans, and specifications, and all other necessary and related capital expenditures by the issuance of bonds upon the application of and to be repaid by payments from a company for the purposes of this title.

(n) "Project agreements" means the agreements between an authority and a company respecting a project, and may include, without limitation, leases, subleases, options, and installment or other contracts of purchase or sale, loan, or guaranty agreements, notes, mortgages, deeds of trust, and security agreements.

(o) "Property" means any land, air rights, water rights, disposal rights, improvements, buildings or other structures, and any personal property, tangible or intangible, and includes, but is not limited to, machinery and equipment, whether or not in existence or under construction, and interests in any of the foregoing, or promissory notes or other obligations of any kind respecting such interests.

(p) "Public agency" means any county, city and county, city, or redevelopment agency.

(q) "Revenues" means all rents, purchase payments, and other income derived by an authority from, or with respect to, the sale, lease, or other voluntary or involuntary disposition of, or repayment of loans with respect to, property, bond proceeds, and any receipts derived from the deposit or investment of any such income or proceeds in any fund or account of an authority, but does not include receipts designated to cover administration expenses.

(r) "Tax-exempt" means, with respect to any bonds, that the interest on the bonds is excluded from gross income of the holders thereof for federal income tax purposes, or is otherwise entitled to any federal tax advantage.

(s) "Taxable" means, with respect to any bonds, that the bonds are not tax-exempt.

(Amended by Stats. 2018, Ch. 645, Sec. 1. (AB 1547) Effective September 21, 2018.)