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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 107. HEALTH CARE ACCESS AND INFORMATION [127000 - 130079]** ( *Heading of Division 107 amended by Stats. 2021, Ch. 143, Sec. 28. )*

**PART 6. FACILITIES LOAN INSURANCE AND FINANCING [129000 - 129387]** ( *Part 6 added by Stats. 1995, Ch. 415, Sec. 9. )*

**CHAPTER 1. Health Facility Construction Loan Insurance [129000 - 129355]** ( *Chapter 1 added by Stats. 1995, Ch. 415, Sec. 9. )*

**ARTICLE 1. General Provisions [129000 - 129045]** ( *Article 1 added by Stats. 1995, Ch. 415, Sec. 9. )*

**129000.** This chapter may be cited as the "California Health Facility Construction Loan Insurance Law."

(*Added by Stats. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.*)

**129005.** 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. 1995, Ch. 415, Sec. 9. Effective January 1, 1996.*)

**129010.** 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) "Committee" means the Advisory Loan Insurance Committee.

(e) "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.

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

(g) "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.

(h) "Department" means the Department of Health Care Access and Information.

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

(j) "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."

(k) "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.

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

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

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

(o) "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.

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

(q) "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.

(r) "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.

(s) "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.

(t) "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 60 years of age or older.

(u) "State plan" means the plan described in Section 129020.

*(Amended by Stats. 2021, Ch. 143, Sec. 224. (AB 133) Effective July 27, 2021.)*

**129015.** The department shall administer this chapter and shall make all regulations necessary to implement the provisions and achieve the purposes stated herein.

*(Amended by Stats. 2021, Ch. 143, Sec. 225. (AB 133) Effective July 27, 2021.)*

**129020.** The department 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 department 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 department, 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.

*(Amended by Stats. 2021, Ch. 143, Sec. 226. (AB 133) Effective July 27, 2021.)*

**129022.** Applications submitted to the department shall be signed under penalty of perjury by the applicant.

*(Amended by Stats. 2021, Ch. 143, Sec. 227. (AB 133) Effective July 27, 2021.)*

**129030.** The proceeds of all loans insured pursuant to this chapter shall be disbursed only upon order of the department or its designated agent. The department shall make regulations to insure the security of these proceeds.

*(Amended by Stats. 2021, Ch. 143, Sec. 228. (AB 133) Effective July 27, 2021.)*

**129035.** From time to time the department or its designated agent shall inspect each project for which loan insurance was approved, as needed, and if the inspection so warrants, the department 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 department 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.

*(Amended by Stats. 2021, Ch. 143, Sec. 229. (AB 133) Effective July 27, 2021.)*

**129040.** (a) The department 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.

(b) The department may annually charge a portion of the premium in advance commencing at the time of issuing or extending the commitment until the date the loan is insured or the commitment expires. The amount of the advance premium shall not exceed six dollars (\$6) per year for each one thousand dollars (\$1,000) of principal of the proposed loan. The total dollar amount of the premium advanced shall be nonrefundable and shall be credited against the amount of the premium charged pursuant to this section, or if the commitment expires and the loan is not insured, the advance shall be retained by the department to offset costs and expenses of the department related to preliminary work, underwriting the loan commitment, and monitoring construction.

*(Amended by Stats. 2021, Ch. 143, Sec. 230. (AB 133) Effective July 27, 2021.)*

**129045.** The department 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 department's efforts to collect from borrowers that have defaulted on their debt service payments.

*(Amended by Stats. 2021, Ch. 143, Sec. 231. (AB 133) Effective July 27, 2021.)*