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TITLE 6.7. INFRASTRUCTURE FINANCE [63000 - 64132] (Title 6.7 added by Stats. 1994, Ch. 94, Sec. 1.)

DIVISION 1. THE BERGESON-PEACE INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK ACT [63000 - 63089.99] (Heading of Division 1 amended (as added by Stats. 1994, Ch. 94) by Stats. 1994, Ch. 749, Sec. 1.)

CHAPTER 4. California Infrastructure Guarantee Trust Fund [63060 - 63067] (Chapter 4 added by Stats. 1994, Ch. 94, Sec. 1.)

63060. (a) There is hereby created in the State Treasury the California Infrastructure Guarantee Trust Fund.

Notwithstanding Section 13340 and except as provided in subdivision (b), all money in the guarantee trust fund is hereby continuously appropriated to the bank without regard to fiscal years for the purpose of insuring all or a portion of the accounts and subaccounts within the infrastructure bank fund, any contracts or obligations of the bank or a sponsor, and all or a part of any series of bonds issued by the bank, by a special purpose trust, or by a sponsor pursuant to this division, and for the purpose of defraying administrative expenses incurred by the bank in operating the programs of loan and bond guarantee. All insurance premiums received by the bank for insurance, guarantees, or enhancements provided pursuant to this division shall be deposited in the guarantee trust fund. The guarantee trust fund is authorized to guarantee all or a part of any of the accounts and subaccounts within the infrastructure bank fund, any contracts or obligations of the bank, a special purpose trust, or a sponsor, and all or part of any series of bonds issued by the bank, by a special purpose trust, or by a sponsor and to authorize payment on any guarantee or enhancement of the guarantee trust fund.

(b) Moneys in the infrastructure bank fund shall be available for expenditure for general administration only upon appropriation by the Legislature. This subdivision shall not limit the authority of the bank to expend funds directly related to the servicing of approved debt.

(Amended by Stats. 1995, Ch. 863, Sec. 20. Effective January 1, 1996.)

63061. Notwithstanding Chapter 2 (commencing with Section 12850) of Part 2.5 of Division 3 of Title 2 and Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of Division 3 of Title 2, expenditure of the guarantee trust fund shall not be subject to the supervision or approval of any other officer or division of state government, with the exception of the Legislature. However, the bank's budget respecting the guarantee trust fund shall be prepared and reviewed not later than November 1 of each year and the bank shall submit to the Legislature a report of its activities for the prior fiscal year. However, the bank's budget regarding the infrastructure bank fund shall be prepared and reviewed in accordance with Section 50913, and, not later than November 1 of each year, the agency shall submit to the Legislature a report of its activities for the prior fiscal year. The bank's operating budget shall be subject to review and appropriation in the annual Budget Act.

(Amended (as added by Stats. 1994, Ch. 94) by Stats. 1994, Ch. 749, Sec. 23. Effective January 1, 1995.)

63062. (a) The bank may, from time to time, direct the Treasurer to invest moneys in the guarantee trust fund that are not required for its current needs in any eligible securities specified in Section 16430 that the bank shall designate. The bank may direct the Treasurer to invest the moneys by entering into repurchase agreements or reverse repurchase agreements, which, for purposes of this section, shall mean agreements for the purchase or sale of eligible securities pursuant to which the seller or buyer agrees to repurchase or sell back the securities on or before a specified date and for a specified amount. The bank may direct the Treasurer to invest the moneys in the subordinated securities of the bank, a special purpose trust, or a sponsor. The bank may direct the Treasurer to invest the moneys in investment agreements with corporations, financial institutions, or national associations within the United States that are rated by a nationally recognized rating service within the top three rating categories of the service. For purposes of this section, investment agreements shall mean any agreement for the investment of moneys in the guarantee trust fund whether at fixed or variable interest rates, and may include, but not be limited to, repurchase agreements, notes, uncollateralized time deposits, certificates of deposit, and the subordinated securities of the bank, a special purpose trust, or a sponsor. The bank

may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state.

(b) In furtherance of Section 51373 of the Health and Safety Code, and to the extent permitted by law, the bank may also invest moneys of the guarantee trust fund in obligations of financial institutions that are permitted by board resolution. The bank may alternatively require the transfer of moneys in the guarantee trust 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 of Title 2.

(c) All interest or other increment resulting from the investment or deposit shall be deposited in the guarantee trust fund, notwithstanding Section 16305.7.

(d) The bank may create other accounts within the guarantee trust fund as are necessary or convenient to carry out the purposes of this article.

(Amended by Stats. 1995, Ch. 863, Sec. 21. Effective January 1, 1996.)

63063. (a) There is a guarantee reserve account in the guarantee trust fund to secure commitments under contracts to guarantee all or part of the bonds of the bank, a special purpose trust, or of a sponsor, any contracts or obligations of the bank, a special purpose trust, or of a sponsor, and all or part of the accounts or subaccounts within the infrastructure bank fund. The bank shall take all reasonable steps to ensure that the guarantee reserve account is continuously maintained at not less than the reserve account requirement established pursuant to subdivision (a) of Section 63064. The bank shall pay all of the following into the guarantee reserve account:

(1) Moneys appropriated and made available by the Legislature for deposit in the account.

(2) Any proceeds of bonds, including general obligation bonds, to the extent provided in the resolution, trust agreement, resolutions or trust agreements authorizing the issue thereof.

(3) Any other moneys that the bank may make available for the purpose of deposit to the guarantee reserve account.

(b) The bank shall not cause sums to be withdrawn from the guarantee reserve account in amounts that would reduce the moneys therein to less than the reserve account requirement, except as necessary to satisfy liabilities arising under contracts of guarantee. In the event that the loan guarantee reserve account is reduced to less than the reserve account requirement, the bank shall cease making commitments for, and contracts of, guarantees and enhancements until the guarantee reserve account has been restored to that requirement.

(Amended by Stats. 1995, Ch. 863, Sec. 22. Effective January 1, 1996.)

63064. (a) The Legislature may from time to time appropriate or transfer to the guarantee reserve account from funds or accounts that are legally available, an amount or amounts as the Legislature may determine. The Legislature may establish, and from time to time increase, for the guarantee reserve account a requirement that shall be known as the "reserve account requirement."

(b) If the bank determines that the amount in the reserve account is below the reserve account requirement, the executive director shall immediately certify in writing to the Joint Legislative Budget Committee, the Speaker of the Assembly, the Senate Committee on Rules, and the Governor, the sum required to restore the reserve fund to the reserve account requirement.

(c) Upon making the certification, the chief executive officer shall ask the Governor to request an appropriation, and shall use his or her best efforts to have a sum requested and appropriated.

(d) Upon receiving notice that the amount in the reserve account is below the reserve account requirement, the Legislature may, at its discretion, choose to appropriate and pay to the bank for deposit into the guarantee reserve account that sum that would restore the reserve account to an amount equal to the reserve account requirement.

(e) The bank may utilize any moneys that may be appropriated to the guarantee trust fund from time to time by the Legislature for effectuating its purposes, including, but not limited to, the payment of the initial expenses of administration and operation and the restoration of the reserve account to the reserve account requirement.

(Added by Stats. 1994, Ch. 94, Sec. 1. Effective January 1, 1995. Conditionally operative as prescribed by Sec. 17 of Ch. 94.)

63065. (a) The obligation of the bank and of the state to pay any guarantee benefit pursuant to contracts of guarantee or any other contracts or obligations of the bank, a special purpose trust, or sponsor shall be a limited obligation of the bank payable solely from amounts deposited in the guarantee trust fund that are made available therefor under the respective contracts of guarantee. The guarantee of loans or bonds under this division 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.

(b) All contracts of guarantee or any other contracts or obligations of the bank, special purpose trust, or a sponsor pursuant to this division shall contain on the face thereof a statement to the following effect: "Neither the faith and credit nor the taxing power of the

State of California is pledged to the payment of the principal of or interest on this contract of guarantee."

(c) Moneys in the guarantee trust fund may not be transferred to any other fund except for payment on any guarantee or enhancements or except as necessary to pay the expenses of operating the program of bond guarantee and enhancement authorized by this division, nor shall the bank utilize any moneys under the direction and control of the agency, including, but not limited to, moneys in the California Housing Loan Insurance Fund and the California Housing Finance Fund, other than moneys in the guarantee trust fund, to satisfy liabilities arising from contracts of guarantee authorized by this division.

(Amended by Stats. 1995, Ch. 863, Sec. 23. Effective January 1, 1996.)

63066. The bank may charge and collect insurance guarantee or enhancement premiums or other fees for the insurance guarantees or enhancements described in this chapter and impose other reasonable charges and fees for services performed in connection with approval and processing of the guarantees or enhancements, or for pool assembly, loan servicing, or other services the bank may provide to a special service trust.

(Amended by Stats. 1995, Ch. 863, Sec. 24. Effective January 1, 1996.)

63067. (a) Moneys in the infrastructure bank fund received from the proceeds of bonds issued pursuant to this division may not be transferred to any other fund except as necessary to pay the expenses of operating the program authorized by this division, nor shall the bank utilize any moneys under the direction and control of the agency, including, but not limited to, moneys in the California Housing Loan Insurance Fund and the Housing Finance Fund, other than moneys in the infrastructure bank fund to satisfy liabilities arising from projects authorized by this division.

(b) The infrastructure bank fund, on behalf of the bank or a special purpose trust, may borrow or receive moneys from any federal, state, or local agency or private entity, in order to create reserves in the infrastructure bank fund as provided in this division and as authorized by resolution of the board.

(Amended by Stats. 1995, Ch. 863, Sec. 25. Effective January 1, 1996.)