

ARTICLE 14

RELATING TO INFRASTRUCTURE BANK

SECTION 1. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby amended by adding thereto the following chapter:

CHAPTER 19.16

BROWNFIELDS REVOLVING LOAN FUND

23-19.16-1. Legislative findings. -- The general assembly finds and declares that:

(1) Promotion of, and investment in, energy efficient infrastructure will result in the reduction of energy costs for commercial, residential and municipal users which is necessary to maintain and grow Rhode Island's economy; and

(2) There exists the Rhode Island clean water finance agency which can be expanded to assist businesses, residents and municipalities with the coordination and financing of necessary infrastructure improvements and renamed as the Rhode Island infrastructure bank; and

(3) In addition to reducing energy cost, energy efficient infrastructure improvements will result in less pollution, the remediation of Brownfields, coastal nourishment and restoration, safer drinking water and an overall sound environment; and

(4) Cities, towns and other owners of properties designated as Brownfields sites can reduce the costs of borrowing for remediation and/or development of those sites through cooperation with the Rhode Island infrastructure bank; and

(5) Remediation and/or development of Brownfields sites will generate economic activity and utilize properties which were otherwise dormant or underutilized; and

(6) Greater coordination among state and municipal agencies will enable a more efficient allocation of infrastructure resources by the state of Rhode Island.

23-19.16-2. Definitions. -- As used in this chapter, the following terms, unless the context requires a different interpretation, shall have the following meanings:

(1) "Agency" means the Rhode Island infrastructure bank as set forth in chapter 12.2 of title 46;

(2) "Approved project" means any project approved by the agency for financial assistance;

(3) "Brownfields project" means a project proposed by a city, town, person or corporation

1 that would provide for the remediation and/or development of a site within the state of Rhode
2 Island defined as a Brownfields site pursuant to § 101 of the Comprehensive Environmental
3 Response, Compensation, and Liability Act of 1980, as amended;

4 (4) "Corporation" means any corporate person, including, but not limited to, bodies
5 politic and corporate, corporations, societies, associations, partnerships, limited liability
6 companies, sole proprietorships and subordinate instrumentalities of any one or more political
7 subdivisions of the state;

8 (5) "Department" means, for purposes of this chapter, the department of environmental
9 management;

10 (6) "Eligible borrower" or "borrower" means a person, corporation, city, town, or other
11 political subdivision or instrumentality of the state;

12 (7) "Eligible project" means a brownfields project, or portion of a brownfields project,
13 that meets the project evaluation criteria;

14 (8) "Financial assistance" means any form of financial assistance provided by the agency
15 to an eligible borrower in accordance with this chapter for all or any part of the cost of an
16 approved project, including, without limitation, temporary and permanent loans, with or without
17 interest, grants, guarantees, insurance, subsidies for the payment of debt service on loans, lines of
18 credit, and similar forms of financial assistance;

19 (9) "Person" means any natural person;

20 (10) "Project evaluation criteria" means the criteria used by the department to evaluate
21 and rank eligible projects and shall include the extent to which the project generates economic
22 benefits, the extent to which the project would be able to proceed, the cost effectiveness of the
23 project; and

24 (11) "Revolving fund" means the brownfields revolving fund established under this
25 chapter.

26 **23-19.16-3. Establishment of the brownfields revolving fund. --** (a) There is hereby
27 established a brownfields revolving fund. The agency shall establish and set up on its books the
28 brownfields revolving fund, to be held in trust and to be administered by the agency solely as
29 provided in this section and in any trust agreement securing bonds of the agency. The agency
30 shall deposit the following monies into the fund:

31 (1) Amounts appropriated, transferred, or designated to the agency by the state or federal
32 government or any political subdivision thereof for the purposes of this chapter;

33 (2) Loan repayments and other payments received by the agency pursuant to loan
34 agreements with eligible borrowers executed in accordance with this chapter;

- 1 (3) Investment earnings on amounts credited to the fund;
2 (4) Proceeds of bonds of the agency to the extent required by any trust agreement for
3 such bonds;
4 (5) Administrative fees levied by the agency;
5 (6) Other amounts required by provisions of this chapter or agreement, or any other law
6 or any trust agreement pertaining to bonds to be credited to the revolving fund; and
7 (7) Any other funds permitted by law which the agency in its discretion shall determine
8 to credit thereto.

9 (b) The agency shall establish and maintain fiscal controls and accounting procedures
10 conforming to generally accepted government accounting standards sufficient to ensure proper
11 accounting for receipts in and disbursements from the brownfields revolving fund.

12 **23-19.16-4. Administration.** -- (a) The agency shall have all the powers necessary and
13 convenient to carry out and effectuate the purposes and provisions of this chapter including,
14 without limiting the generality of the preceding statement, the authority:

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

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

19 (3) To levy administrative fees on eligible borrowers as necessary to effectuate the
20 provisions of this chapter, provided the fees have been previously authorized by an agreement
21 between the agency and the eligible borrower;

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

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

24 (6) Such other authority as granted to the agency under chapter 12.2 of title 46.

25 (b) Subject to the provisions of this chapter, to the provisions of any agreement with the
26 state authorized by § 23-19.16-5; and to any agreements with the holders of any bonds of the
27 agency or any trustee therefor, amounts held by the agency for the account of the revolving fund
28 shall be applied by the agency, either by direct expenditure, disbursement, or transfer to one or
29 more other funds and accounts held by the agency or maintained under any trust agreement
30 pertaining to bonds, either alone or with other funds of the agency, to the following purposes:

31 (1) To provide financial assistance to eligible borrowers to finance costs of approved
32 projects, and to refinance the costs of the projects, subject to such terms and conditions, if any, as
33 are determined by the departments and/or the agency in accordance with § 23-19.16-6;

34 (2) To fund reserves for bonds of the agency and to purchase insurance and pay the

1 premiums therefor, and pay fees and expenses of letters or lines of credit and costs of
2 reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to
3 otherwise provide security for, and a source of payment for obligations of the agency, by pledge,
4 lien, assignment, or otherwise as provided in chapter 12.2 of title 46;

5 (3) To pay expenses of the agency and the department in administering the revolving
6 fund. As part of the annual appropriations bill, the department shall set forth the gross amount of
7 expenses received from the agency and a complete, specific breakdown of the sums retained
8 and/or expended for administrative expenses;

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

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

16 (c) In addition to other remedies of the agency under any loan agreement or otherwise
17 provided by law, the agency may also recover from a borrower, in an action in superior court, any
18 amount due the agency together with any other actual damages the agency shall have sustained
19 from the failure or refusal of the borrower to make the payments or abide by the terms of the loan
20 agreement.

21 (d) Within ninety (90) days after the end of each fiscal year, the agency shall submit an
22 annual report to the governor, the speaker of the house of representatives, the president of the
23 senate, and the secretary of state of its activities during that fiscal year. The report shall provide: a
24 summary of the agency's meetings including when the agency met, subjects addressed, decisions
25 rendered and meeting minutes; a summary of the agency's actions including a listing of rules,
26 regulations, or procedures adopted or amended, applications received for financial assistance for
27 contracts or agreements entered into, applications and intended use plans submitted to federal
28 agencies for capitalization grants, properties acquired or leased, and bonds issued; a synopsis of
29 any complaints, suspensions, or other legal matters related to the authority of the agency; a
30 consolidated financial statement of all funds received and disbursed by the agency including the
31 source of and recipient of the funds which shall be audited by an independent certified public
32 accountant firm; copies of audits or reports required under federal law; a listing of the staff and/or
33 consultants employed by the agency; a listing of findings and recommendation derived from
34 agency activities; and a summary of performance during the previous fiscal year including

1 accomplishments, shortcomings and remedies. The report shall be posted as prescribed in § 42-
2 20-8.2. The director of the department of administration shall be responsible for the enforcement
3 of this provision. The initial report shall be due no later than January 1, 2017.

4 **23-19.16-5. Payment of state funds. --** (a) Subject to the provisions of subsection (b),
5 upon the written request of the agency, the general treasurer shall pay to the agency, from time to
6 time, from the proceeds of any bonds or notes issued by the state for the purposes of this chapter
7 or funds otherwise lawfully payable to the agency for the purposes of this chapter, such amounts
8 as shall have been appropriated or lawfully designated for the revolving fund. All amounts so
9 paid shall be credited to the revolving fund in addition to any other amounts credited or expected
10 to be credited to the revolving fund.

11 (b) The agency and the state shall enter into, execute, and deliver one or more agreements
12 setting forth or otherwise determining the terms, conditions, and procedures for, and the amount,
13 time, and manner of payment of, all amounts available from the state to the agency under this
14 section.

15 **23-19.16-6. Procedure for project approval. --** The department of environmental
16 management, in consultation with the Rhode Island commerce corporation, shall promulgate rules
17 and regulations establishing the project evaluation criteria and a project priority list and the
18 process through which an eligible borrower may submit an application for inclusion of a
19 brownfields project on the project priority list. Upon issuance of the project priority list by the
20 department of environmental management, the project priority list shall be used by the Rhode
21 Island infrastructure bank to determine the order in which financial assistance shall be awarded.
22 The Rhode Island infrastructure bank shall promulgate rules and regulations to effectuate the
23 provisions of this section which may include, without limitation, forms for financial assistance
24 applications, loan agreements, and other instruments. All rules and regulations promulgated
25 pursuant to this chapter shall be promulgated in accordance with the provisions of chapter 35 of
26 title 42.

27 **23-19.16-7. Expenses incurred by the department. --** In order to provide for the
28 expenses of the department under this chapter, the agency shall transfer to the department an
29 amount from the revolving fund equal to the amount authorized by the general assembly.

30 **23-19.16-8. Severability. --** If any provision of this chapter or the application of this
31 chapter to any person, corporations, or circumstances is held invalid, the invalidity shall not affect
32 other provisions or applications of the chapter, which can be given effect without the invalid
33 provision or application, and to this end the provisions of this chapter are declared to be
34 severable.

1 SECTION 2. Sections 24-18-2 and 24-18-3 of the General Laws in Chapter 24-18
2 entitled "Municipal Road and Bridge Revolving Fund" are hereby amended to read as follows:

3 **24-18-2. Legislative findings.** -- The general assembly finds and declares that:

4 (1) Transportation plays a critical role in enabling economic activity in the state of Rhode
5 Island;

6 (2) Cities and towns can lower the costs of borrowing for road and bridge projects
7 through cooperation with the ~~Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#);

8 (3) The clean water and drinking water fund programs administered by the ~~Clean Water~~
9 ~~Finance Agency~~ [Rhode Island infrastructure bank](#) benefit from the highest bond rating of any
10 public entity in the state of Rhode Island; and

11 (4) Greater coordination among cities and towns will enable more efficient allocation of
12 infrastructure resources by the state of Rhode Island.

13 **24-18-3. Definitions.** -- As used in this chapter, the following terms, unless the context
14 requires a different interpretation, shall have the following meanings:

15 (1) "Agency" means the ~~Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#)
16 as set forth in chapter 46-12.2;

17 (2) "Annual construction plan" means the finalized list of approved projects to commence
18 construction each calendar year;

19 (3) "Approved project" means any project approved by the agency for financial
20 assistance;

21 (4) "Department" means the department of transportation, or, if the department shall be
22 abolished, the board, body, or commission succeeding to the principal functions thereof or upon
23 whom the powers given by chapter 5 of title 37 to the department shall be given by law.

24 (5) "Eligible project" means an infrastructure plan, or portion of an infrastructure plan,
25 that meets the project evaluation criteria;

26 (6) "Financial assistance" means any form of financial assistance other than grants
27 provided by the agency to a city or town in accordance with this chapter for all or any part of the
28 cost of an approved project, including, without limitation, temporary and permanent loans, with
29 or without interest, guarantees, insurance, subsidies for the payment of debt service on loans,
30 lines of credit, and similar forms of financial assistance;

31 (7) "Infrastructure plan" means a project proposed by a city or town that would make
32 capital improvements to roads, bridges and appurtenances thereto consistent with project
33 evaluation criteria;

34 (8) "Market rate" means the rate the city or town would receive in the open market at the

1 time of the original loan agreement as determined by the agency in accordance with its rules and
2 regulations;

3 (9) "Project evaluation criteria" means the criteria used by the department to evaluate
4 infrastructure plans and rank eligible projects and shall include the extent to which the project
5 generates economic benefits, the extent to which the project would be able to proceed at an earlier
6 date, the likelihood that the project would provide mobility benefits, the cost effectiveness of the
7 project, the likelihood that the project would increase safety, and the project's readiness to
8 proceed within the forthcoming calendar year;

9 (10) "Project priority list" means the list of eligible projects ranked in the order in which
10 financial assistance shall be awarded by the agency pursuant to section 7 of this chapter;

11 (11) "Revolving fund" means the municipal road and bridge revolving fund established
12 under section 4 of this chapter; and

13 (12) "Subsidy assistance" means credit enhancements and other measures to reduce the
14 borrowing costs for a city or town.

15 SECTION 3. Section 35-3-7.2 of the General Laws in Chapter 35-3 entitled "State
16 Budget" is hereby amended to read as follows:

17 **35-3-7.2. Budget officer as capital development officer. --** The budget officer shall be a
18 capital development program officer who shall be responsible for:

19 (1) The review of all capital development requests submitted by the various state
20 departments, as set forth in chapter 6 of title 42, which shall include all independent boards and
21 commissions and the capital development plans of the Narragansett Bay Commission, ~~Rhode~~
22 ~~Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#), the Lottery Commission,
23 and all other public corporations, as defined in chapter 18 of this title which plans would be
24 subject to the provisions of § 35-18-3; provided, that, except as provided for in this section,
25 nothing in this section shall be construed to limit the powers of the board of governors for higher
26 education as outlined in chapter 59 of title 16. Capital development requests and plans shall be
27 submitted in such form, with such explanation, in such number of copies, and by such date as the
28 budget officer may require. Copies shall also be provided directly to the house fiscal advisor and
29 the senate fiscal advisor.

30 (2) Preparation of a capital budget which shall specify which capital items are proposed
31 for presentation to the electorate at the next general election.

32 (3) The activities which will promote capital development planning and develop criteria
33 which can be used to determine appropriate levels of bonded indebtedness.

34 (4) Acting as chairperson of the capital development planning and oversight commission

1 which is to be appointed by the governor. The commission, in addition to recommending to the
2 governor the biennial capital budget, shall implement a long range capital development planning
3 process and shall be responsible for the development of an inventory of state assets to determine
4 the need and prioritization of capital improvements.

5 (5) Working with the board of governors for higher education in the development by the
6 board of that portion of the board's capital development program involving annual general
7 revenues.

8 SECTION 4. Section 35-18-3 of the General Laws in Chapter 35-18 entitled "Public
9 Corporation Debt Management" is hereby amended to read as follows:

10 **35-18-3. Approval by the general assembly.** -- (a) No elected or appointed state official
11 may enter into any financing lease or into any guarantee with any person without the prior
12 approval of the general assembly unless:

13 (1) The governor certifies that federal funds will be available to make all of the payments
14 which the state is or could be obligated to make under the financing lease or guarantee; or

15 (2) The general assembly has adjourned for the year with the expectation that it will not
16 meet again until the following year and the governor certifies that action is necessary, because of
17 events occurring after the general assembly has adjourned, to protect the physical integrity of an
18 essential public facility, to ensure the continued delivery of essential public services, or to
19 maintain the credit worthiness of the state in the financial markets.

20 (b) No bonds may be issued or other obligation incurred by any public corporation to
21 finance, in whole or in part, the construction, acquisition, or improvement of any essential public
22 facility without the prior approval of the general assembly, unless:

23 (1) The governor certifies that federal funds will be available to make all of the payments
24 required to be made by the public corporation in connection with the bond or obligation. The
25 certification shall be transmitted to the speaker of the house and the president of the senate with
26 copies to the chairpersons of the respective finance committees and fiscal advisors; or

27 (2) The general assembly has adjourned for the year with the expectation that it will not
28 meet again until the following year and the governor certifies that action is necessary, because of
29 events occurring after the general assembly has adjourned, to protect the physical integrity of an
30 essential public facility, to ensure the continued delivery of essential public services, or to
31 maintain the credit worthiness of the state in the financial markets. The certification shall be
32 transmitted to the speaker of the house and the president of the senate, with copies to the
33 chairpersons of the respective finance committees and fiscal advisors.

34 (c) In addition to, and not by way of limitation on, the exemptions provided in

1 subsections (a) and (b), prior approval by the general assembly shall not be required under this
2 chapter for bonds or other obligations issued by, or financing leases or guarantee agreements
3 entered into by:

4 (1) The Rhode Island industrial facilities corporation; provided financing leases, bonds or
5 other obligations are being issued for an economic development project;

6 (2) The ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#);

7 (3) The Rhode Island housing and mortgage finance corporation;

8 (4) The Rhode Island student loan authority;

9 (5) Any public corporation to refund any bond or other obligation issued by the public
10 corporation to finance the acquisition, construction, or improvement of an essential public facility
11 provided that the governor certifies to the speaker of the house and the president of the senate,
12 with copies to the chairpersons of the respective finance committees and fiscal advisors that the
13 refunding shall provide a net benefit to the issuer; provided, however, obligations of the Rhode
14 Island resource recovery corporation outstanding on July 31, 1999, may be refunded by the
15 issuance of obligations on or before August 1, 1999;

16 (6) The Narragansett Bay ~~water quality management district~~ commission;

17 (7) The Rhode Island health and educational building corporation, except bonds or other
18 obligations issued in connection with the acquisition, construction, or improvement of any facility
19 used by any state agency, department, board, or commission, including the board of governors for
20 higher education, to provide services to the public pursuant to the requirements of state or federal
21 law, and all fixtures for any of those facilities; and

22 (8) The state to refund any financing leases entered into with the authorization of the
23 general assembly, provided that the governor certifies to the speaker of the house and the
24 president of the senate, with copies to the chairpersons of the respective finance committees and
25 fiscal advisors, that the refunding shall provide a net benefit to the state.

26 (d) Nothing contained in this section applies to any loan authorized to be borrowed under
27 Article VI, § 16 or 17 of the Rhode Island Constitution.

28 (e) Nothing in this section is intended to expand in any way the borrowing authority of
29 any public corporation under its charter.

30 (f)(1) Any certification made by the governor under subsection (a), (b), or (c) of this
31 section may be relied upon by any person, including without limitation, bond counsel.

32 (2) The certifications shall be transmitted to the speaker of the house and the president of
33 the senate with copies to the chairpersons of the respective finance committees and fiscal
34 advisors.

1 (g) Except as provided for in this chapter, the requirements of this chapter supersede any
2 other special or general provision of law, including any provision which purports to exempt sales
3 or leases between the state and a public corporation from the operation of any law.

4 SECTION 5. Section 39-1-27.7 of the General Laws in Chapter 39-1 entitled "Public
5 Utilities Commission" is hereby amended to read as follows:

6 **39-1-27.7. System reliability and least-cost procurement.** -- Least-cost procurement
7 shall comprise system reliability and energy efficiency and conservation procurement as provided
8 for in this section and supply procurement as provided for in § 39-1-27.8, as complementary but
9 distinct activities that have as common purpose meeting electrical and natural gas energy needs in
10 Rhode Island, in a manner that is optimally cost-effective, reliable, prudent and environmentally
11 responsible.

12 (a) The commission shall establish not later than June 1, 2008, standards for system
13 reliability and energy efficiency and conservation procurement, which shall include standards and
14 guidelines for:

15 (1) System reliability procurement, including but not limited to:

16 (i) Procurement of energy supply from diverse sources, including, but not limited to,
17 renewable energy resources as defined in chapter 26 of this title;

18 (ii) Distributed generation, including, but not limited to, renewable energy resources and
19 thermally leading combined heat and power systems, which is reliable and is cost-effective, with
20 measurable, net system benefits;

21 (iii) Demand response, including, but not limited to, distributed generation, back-up
22 generation and on-demand usage reduction, which shall be designed to facilitate electric customer
23 participation in regional demand response programs, including those administered by the
24 independent service operator of New England ("ISO-NE") and/or are designed to provide local
25 system reliability benefits through load control or using on-site generating capability;

26 (iv) To effectuate the purposes of this division, the commission may establish standards
27 and/or rates (A) for qualifying distributed generation, demand response, and renewable energy
28 resources; (B) for net-metering; (C) for back-up power and/or standby rates that reasonably
29 facilitate the development of distributed generation; and (D) for such other matters as the
30 commission may find necessary or appropriate.

31 (2) Least-cost procurement, which shall include procurement of energy efficiency and
32 energy conservation measures that are prudent and reliable and when such measures are lower
33 cost than acquisition of additional supply, including supply for periods of high demand.

34 (b) The standards and guidelines provided for by subsection (a) shall be subject to

1 periodic review and as appropriate amendment by the commission, which review will be
2 conducted not less frequently than every three (3) years after the adoption of the standards and
3 guidelines.

4 (c) To implement the provisions of this section:

5 (1) The commissioner of the office of energy resources and the energy efficiency and
6 resources management council, either or jointly or separately, shall provide the commission
7 findings and recommendations with regard to system reliability and energy efficiency and
8 conservation procurement on or before March 1, 2008, and triennially on or before March 1,
9 thereafter through March 1, 20~~17~~30. The report shall be made public and be posted electronically
10 on the website to the office of energy resources.

11 (2) The commission shall issue standards not later than June 1, 2008, with regard to plans
12 for system reliability and energy efficiency and conservation procurement, which standards may
13 be amended or revised by the commission as necessary and/or appropriate.

14 (3) The energy efficiency and resources management council shall prepare by July 15,
15 2008, a reliability and efficiency procurement opportunity report which shall identify
16 opportunities to procure efficiency, distributed generation, demand response and renewables,
17 which report shall be submitted to the electrical distribution company, the commission, the office
18 of energy resources and the joint committee on energy.

19 (4) Each electrical and natural gas distribution company shall submit to the commission
20 on or before September 1, 2008, and triennially on or before September 1, thereafter through
21 September 1, ~~2017~~ 2030, a plan for system reliability and energy efficiency and conservation
22 procurement. In developing the plan, the distribution company may seek the advice of the
23 commissioner and the council. The plan shall include measurable goals and target percentages for
24 each energy resource, pursuant to standards established by the commission, including efficiency,
25 distributed generation, demand response, combined heat and power, and renewables. The plan
26 shall be made public and be posted electronically on the website to the office of energy resources,
27 and shall also be submitted to the general assembly.

28 (5) The commission shall issue an order approving all energy efficiency measures that are
29 cost effective and lower cost than acquisition of additional supply, with regard to the plan from
30 the electrical and natural gas distribution company, and reviewed and approved by the energy
31 efficiency and resources management council, and any related annual plans, and shall approve a
32 fully reconciling funding mechanism to fund investments in all efficiency measures that are cost
33 effective and lower cost than acquisition of additional supply, not greater than sixty (60) days
34 after it is filed with the commission.

1 (6)(i) Each electrical and natural gas distribution company shall provide a status report,
2 which shall be public, on the implementation of least cost procurement on or before December
3 15, 2008, and on or before February 1, 2009, to the commission, the division, the commissioner
4 of the office of energy resources and the energy efficiency and resources management council
5 which may provide the distribution company recommendations with regard to effective
6 implementation of least cost procurement. The report shall include the targets for each energy
7 resource included in the order approving the plan and the achieved percentage for energy
8 resource, including the achieved percentages for efficiency, distributed generation, demand
9 response, combined heat and power, and renewables as well as the current funding allocations for
10 each eligible energy resource and the businesses and vendors in Rhode Island participating in the
11 programs. The report shall be posted electronically on the website of the office of energy
12 resources.

13 (ii) Beginning on November 1, 2012 or before, each electric distribution company shall
14 support the installation and investment in clean and efficient combined heat and power
15 installations at commercial, institutional, municipal, and industrial facilities. This support shall be
16 documented annually in the electric distribution company's energy efficiency program plans. In
17 order to effectuate this provision, the energy efficiency and resource management council shall
18 seek input from the public, the gas and electric distribution company, the economic development
19 corporation, and commercial and industrial users, and make recommendations regarding services
20 to support the development of combined heat and power installations in the electric distribution
21 company's annual and triennial energy efficiency program plans.

22 (iii) The energy efficiency annual plan shall include, but not be limited to, a plan for
23 identifying and recruiting qualified combined heat and power projects, incentive levels, contract
24 terms and guidelines, and achievable megawatt targets for investments in combined heat and
25 power systems. In the development of the plan, the energy efficiency and resource management
26 council and the electric distribution company shall factor into the combined heat and power plan
27 and program, the following criteria: (A) Economic development benefits in Rhode Island,
28 including direct and indirect job creation and retention from investments in combined heat and
29 power systems; (B) Energy and cost savings for customers; (C) Energy supply costs; (D)
30 Greenhouse gas emissions standards and air quality benefits; and (E) System reliability benefits.

31 (iv) The energy efficiency and resource management council shall conduct at least one
32 public review meeting annually, to discuss and review the combined heat and power program,
33 with at least seven (7) business day's notice, prior to the electric and gas distribution utility
34 submitting the plan to the commission. The commission shall evaluate the submitted combined

1 heat and power program as part of the annual energy efficiency plan. The commission shall issue
2 an order approving the energy efficiency plan and programs within sixty (60) days of the filing.

3 (d) If the commission shall determine that the implementation of system reliability and
4 energy efficiency and conservation procurement has caused or is likely to cause under or over-
5 recovery of overhead and fixed costs of the company implementing said procurement, the
6 commission may establish a mandatory rate adjustment clause for the company so affected in
7 order to provide for full recovery of reasonable and prudent overhead and fixed costs.

8 (e) The commission shall conduct a contested case proceeding to establish a performance
9 based incentive plan which allows for additional compensation for each electric distribution
10 company and each company providing gas to end-users and/or retail customers based on the level
11 of its success in mitigating the cost and variability of electric and gas services through
12 procurement portfolios.

13 SECTION 6. Section 39-2-1.2 of the General Laws in Chapter 39-2 entitled "Duties of
14 Utilities and Carriers" is hereby amended as follows:

15 **39-2-1.2. Utility base rate -- Advertising, demand side management and renewables -**

16 (a) In addition to costs prohibited in section 39-1-27.4(b), no public utility distributing or
17 providing heat, electricity, or water to or for the public shall include as part of its base rate any
18 expenses for advertising, either direct or indirect, which promotes the use of its product or
19 service, or is designed to promote the public image of the industry. No public utility may furnish
20 support of any kind, direct, or indirect, to any subsidiary, group, association, or individual for
21 advertising and include the expense as part of its base rate. Nothing contained in this section shall
22 be deemed as prohibiting the inclusion in the base rate of expenses incurred for advertising,
23 informational or educational in nature, which is designed to promote public safety conservation of
24 the public utility's product or service. The public utilities commission shall promulgate such rules
25 and regulations as are necessary to require public disclosure of all advertising expenses of any
26 kind, direct or indirect, and to otherwise effectuate the provisions of this section.

27 (b) Effective as of January 1, 2008, and for a period of ~~ten (10)~~ twenty-one (21) years
28 thereafter, each electric distribution company shall include a ~~charges~~ charge per kilowatt-hour
29 delivered to fund demand side management programs. The 0.3 mills per kilowatt-hour delivered
30 to fund renewable energy programs shall remain in effect until December 31, 2017. The electric
31 distribution company shall establish and, after July 1, 2007, maintain two (2) separate accounts,
32 one for demand side management programs (the "demand side account"), which shall be funded
33 by the electric demand side charge and administered and implemented by the distribution
34 company, subject to the regulatory reviewing authority of the commission, and one for renewable

1 energy programs, which shall be administered by the ~~economic development corporation~~ [Rhode](#)
2 [Island commerce corporation](#) pursuant to § 42-64-13.2 and, shall be held and disbursed by the
3 distribution company as directed by the ~~economic development corporation~~ [Rhode Island](#)
4 [commerce corporation](#) for the purposes of developing, promoting and supporting renewable
5 energy programs.

6 During the ~~ten (10)-year period~~ [time periods established in § 39-2-1.2\(b\)](#), the commission
7 may, in its discretion, after notice and public hearing, increase the sums for demand side
8 management and renewable resources. ~~thereafter,~~ [In addition,](#) the commission shall, after notice
9 and public hearing, determine the appropriate charges for these programs. The office of energy
10 resources and/or the administrator of the renewable energy programs may seek to secure for the
11 state an equitable and reasonable portion of renewable energy credits or certificates created by
12 private projects funded through those programs. As used in this section, "renewable energy
13 resources" shall mean: (1) power generation technologies as defined in § 39-26-5, "eligible
14 renewable energy resources", including off grid and on-grid generating technologies located in
15 Rhode Island as a priority; (2) research and development activities in Rhode Island pertaining to
16 eligible renewable energy resources and to other renewable energy technologies for electrical
17 generation; or (3) projects and activities directly related to implementing eligible renewable
18 energy resources projects in Rhode Island. Technologies for converting solar energy for space
19 heating or generating domestic hot water may also be funded through the renewable energy
20 programs. Fuel cells may be considered an energy efficiency technology to be included in
21 demand sided management programs. Special rates for low-income customers in effect as of
22 August 7, 1996 shall be continued, and the costs of all of these discounts shall be included in the
23 distribution rates charged to all other customers. Nothing in this section shall be construed as
24 prohibiting an electric distribution company from offering any special rates or programs for low-
25 income customers which are not in effect as of August 7, 1996, subject to the approval by the
26 commission.

27 (1) The renewable energy investment programs shall be administered pursuant to rules
28 established by the ~~economic development corporation.~~ [Rhode Island commerce corporation](#). Said
29 rules shall provide transparent criteria to rank qualified renewable energy projects, giving
30 consideration to:

- 31 (i) the feasibility of project completion;
- 32 (ii) the anticipated amount of renewable energy the project will produce;
- 33 (iii) the potential of the project to mitigate energy costs over the life of the project; and
- 34 (iv) the estimated cost per kilo-watt hour (kwh) of the energy produced from the project.

1 (c) [Deleted by P.L. 2012, ch. 241, § 14].

2 (d) The executive director of the economic development corporation is authorized and
3 may enter into a contract with a contractor for the cost effective administration of the renewable
4 energy programs funded by this section. A competitive bid and contract award for administration
5 of the renewable energy programs may occur every three (3) years and shall include as a
6 condition that after July 1, 2008 the account for the renewable energy programs shall be
7 maintained and administered by the economic development corporation as provided for in
8 subdivision (b) above.

9 (e) Effective January 1, 2007, and for a period of ~~eleven (11)~~ twenty-two (22) years
10 thereafter, each gas distribution company shall include, with the approval of the commission, a
11 charge per deca therm delivered to fund demand side management programs (the "gas demand
12 side charge"), including, but not limited to, programs for cost effective energy efficiency, energy
13 conservation, combined heat and power systems, and weatherization services for low income
14 households.

15 (f) ~~The~~ Each gas company shall establish a separate account for demand side
16 management programs (the "gas demand side account"), which shall be funded by the gas
17 demand side charge and administered and implemented by the distribution company, subject to
18 the regulatory reviewing authority of the commission. The commission may establish
19 administrative mechanisms and procedures that are similar to those for electric demand side
20 management programs administered under the jurisdiction of the commissions and that are
21 designed to achieve cost-effectiveness and high life-time savings of efficiency measures
22 supported by the program.

23 (g) The commission may, if reasonable and feasible, except from this demand side
24 management charge:

25 (i) gas used for distribution generation; and

26 (ii) gas used for the manufacturing processes, where the customer has established a self
27 directed program to invest in and achieve best effective energy efficiency in accordance with a
28 plan approved by the commission and subject to periodic review and approval by the
29 commission, which plan shall require annual reporting of the amount invested and the return on
30 investments in terms of gas savings.

31 (h) The commission may provide for the coordinated and/or integrated administration of
32 electric and gas demand side management programs in order to enhance the effectiveness of the
33 programs. Such coordinated and/or integrated administration may after March 1, 2009, upon the
34 recommendation of the office of energy resources, be through one or more third-party entities

1 designated by the commission pursuant to a competitive selection process.

2 (i) Effective January 1, 2007, the commission shall allocate from demand-side
3 management gas and electric funds authorized pursuant to this section 39-2-1.2, an amount not to
4 exceed two percent (2%) of such funds on an annual basis for the retention of expert consultants,
5 and reasonable administration costs of the energy efficiency and resources management council
6 associated with planning, management, and evaluation of energy efficiency programs, renewable
7 energy programs, system reliability, least-cost procurement, and with regulatory proceedings,
8 contested cases, and other actions pertaining to the purposes, powers and duties of the council,
9 which allocation may by mutual agreement, be used in coordination with the office of energy
10 resources to support such activities.

11 (j) Effective January 1, ~~2013~~ 2016, the commission shall annually allocate from the
12 administrative funding amount allocated in (i) from the demand-side management program as
13 described in subsection (i) as follows: ~~sixty percent (60%)~~ fifty percent (50%) for the purposes
14 identified in subsection (i) and ~~forty percent (40%)~~ fifty percent (50%) annually to the office of
15 energy resources for activities associated with planning management, and evaluation of energy
16 efficiency programs, renewable energy programs, system reliability, least-cost procurement, and
17 with regulatory proceedings, contested cases, and other actions pertaining to the purposes, powers
18 and duties of the office of energy resources.

19 (k) On April 15, of each year the office and the council shall submit to the governor, the
20 president of the senate, and the speaker of the house of representatives, separate financial and
21 performance reports regarding the demand-side management programs, including the specific
22 level of funds that were contributed by the residential, municipal, and commercial and industrial
23 sectors to the overall programs; the businesses, vendors, and institutions that received funding
24 from demand-side management gas and electric funds used for the purposes in section 39-2-1.2;
25 and the businesses, vendors, and institutions that received the administrative funds for the
26 purposes in sections 39-2-1.2(i) and 39-2-1.2(j). These reports shall be posted electronically on
27 the websites of the office of energy resources and the energy efficiency resources management
28 council.

29 (l) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank,
30 each electric distribution company, except for the Pascoag Utility District and Block Island Power
31 Company, shall remit two percent (2%) of the amount of the 2014 electric demand side charge
32 collections to the Rhode Island infrastructure bank in accordance with the terms of § 46-12.2-
33 14.1.

34 (m) On or after August 1, 2015, at the request of the Rhode Island infrastructure bank,

1 [each gas distribution company shall remit two percent \(2%\) of the amount of the 2014 gas](#)
2 [demand side charge collections to the Rhode Island infrastructure bank in accordance with the](#)
3 [terms of § 46-12.2-14.1.](#)

4 SECTION 7. Section 39-26-7 of the General Laws in Chapter 39-26 entitled "Renewable
5 Energy Standard" is hereby amended to read as follows:

6 **39-26-7. Renewable energy development fund --** (a) There is hereby authorized and
7 created within the ~~economic development corporation~~ [Rhode Island commerce corporation](#) a
8 renewable energy development fund for the purpose of increasing the supply of NE-GIS
9 certificates available for compliance in future years by obligated entities with renewable energy
10 standard requirements, as established in this chapter. The fund shall be located at ~~and~~
11 ~~administered by the Rhode Island economic development corporation~~ [the Rhode Island](#)
12 [commerce corporation](#) ~~in accordance with § 42-64-13.2.~~ The ~~economic development corporation~~
13 [Rhode Island commerce corporation](#) shall:

14 [Administer the fund and adopt](#) ~~Adopt~~ plans and guidelines for the management and use of
15 the fund in ~~accordance with § 42-64-13.2~~ [coordination with the office of energy resources and the](#)
16 [Rhode Island infrastructure bank](#) ~~accordance with section 42-64-13.2,~~ and

17 (b) The ~~economic development corporation~~ [Rhode Island commerce corporation](#) shall
18 enter into agreements with obligated entities to accept alternative compliance payments,
19 consistent with rules of the commission and the purposes set forth in this section; and alternative
20 compliance payments received pursuant to this section shall be trust funds to be held and applied
21 solely for the purposes set forth in this section.

22 (c) The uses of the fund shall include but not be limited to:

23 (1) Stimulating investment in renewable energy development by entering into
24 agreements, including multi-year agreements, for renewable energy certificates;

25 (2) Establishing and maintaining a residential renewable energy program using eligible
26 technologies in accordance with § 39-26-5;

27 (3) Providing technical and financial assistance to municipalities for interconnection and
28 feasibility studies, and/or the installation of renewable energy projects;

29 [\(4\) Implementing and supporting commercial and residential property assessed clean](#)
30 [energy projects;](#)

31 ~~(45)~~ Issuing assurances and/or guarantees to support the acquisition of renewable energy
32 certificates and/or the development of new [renewable](#) energy sources for Rhode Island;

33 ~~(56)~~ Establishing escrows, reserves, and/or acquiring insurance for the obligations of the
34 fund;

1 (67) Paying administrative costs of the fund incurred by the [Rhode Island commerce](#)
2 [corporation](#), ~~economic development corporation, the board of trustees, or the Rhode Island~~
3 [infrastructure bank and the](#) office of energy resources, not to exceed ten percent (10%) of the
4 income of the fund, including, but not limited to, alternative compliance payments. All funds
5 transferred from the ~~economic development corporation~~ [Rhode Island commerce corporation](#) to
6 support the office of energy resources' administrative costs shall be deposited as restricted
7 receipts.

8 [\(d\) All applications received for the use of the fund shall be reviewed by the Rhode](#)
9 [Island commerce corporation in consultation with the office of energy resources and the Rhode](#)
10 [Island infrastructure bank.](#)

11 ~~(de)~~ NE-GIS certificates acquired through the fund may be conveyed to obligated entities
12 or may be credited against the renewable energy standard for the year of the certificate provided
13 that the commission assesses the cost of the certificates to the obligated entity, or entities,
14 benefiting from the credit against the renewable energy standard, which assessment shall be
15 reduced by previously made alternative compliance payments and shall be paid to the fund.

16 SECTION 8. The title of Chapter 39-26.5 of the General Laws entitled "Property
17 Assessed Clean Energy - Residential Program" is hereby amended to read as follows:

18 ~~CHAPTER 39-26.5~~

19 ~~Property Assessed Clean Energy - Residential Program~~

20 [CHAPTER 39-26.5](#)

21 [PROPERTY ASSESSED CLEAN ENERGY PROGRAM](#)

22 SECTION 9. Sections 39-26.5-1, 39-26.5-2, 39-26.5-3, 39-26.5-4, 39-26.5-5, 39-26.5-6,
23 39-26.5-7, 39-26.5-8, 39-26.5-9, 39-26.5-10 and 39-26.5-11, of the General Laws in Chapter 39-
24 26.5 entitled "Property Assessed Clean Energy -- Residential Program" are hereby amended to
25 read as follows:

26 **39-26.5-1. Legislative findings. --** It is hereby found and declared:

27 (1) Investing in energy efficiency and renewable energy improvements is financially
28 beneficial over time, as well as good for the environment;

29 (2) Upfront costs are a barrier to investments in major energy improvements [for both](#)
30 [commercial and residential property owners](#);

31 (3) There are few financing options available that combine easy qualification, an
32 attractive interest rate, and a relatively long repayment term;

33 (4) Property-assessed clean energy, hereinafter referred to as PACE, is a voluntary
34 financing mechanism which allows ~~homeowners~~ [both residential and commercial property](#)

1 owners to access affordable, long-term financing for ~~energy upgrades to~~ renewable energy and
2 energy efficiency upgrades including, but not limited to, system reliability upgrades, alternative
3 fuel infrastructure upgrades, and other eligible environmental health and environmental safety
4 upgrades on their property;

5 (5) PACE financing offers incremental special assessment payments that are low and
6 fixed for up to twenty (20) years, with no upfront costs; the PACE special assessment fees
7 transfer to the new owner when a property is sold, or the assessment obligation can be paid in full
8 at transfer; and electricity and fuel bills are lower than they would be without the improvements;
9 and

10 (6) PACE financing will ~~allow~~ create a means for Rhode Island cities and towns to
11 ~~contribute in order to~~ provide a mechanism to ~~help meet~~ increase community sustainability,
12 greenhouse gas emissions reductions, and meet other energy goals and will also provide a
13 valuable service to the citizens of their communities.

14 **39-26.5-2. Definitions.** -- As used in this chapter, the following definitions apply:

15 (1) "Commercial property" means a property operated for commercial purposes, or a
16 residential property which contains five (5) or more housing units.

17 (2) "Distributed generation system" means an electrical generation facility located in the
18 electric distribution company's load zone with a nameplate capacity no greater than five
19 megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including
20 biogas created as a result of anaerobic digestion, but, specifically excluding all other listed
21 eligible biomass fuels, and connected to an electrical power system owned, controlled, or
22 operated by the electric distribution company.

23 (3)~~(4)~~ "Dwelling" means a residential structure or mobile home which contains one to
24 four (4) family housing units, or individual units of condominiums or cooperatives,

25 (4)~~(2)~~ "Eligible net metering system" means a facility generating electricity as defined in
26 § 39-26.4-2.

27 (5)~~(3)~~ "Eligible renewable energy resources" means resources as defined in § 39-26-5.

28 (6)~~(4)~~ "Energy efficient projects" means those projects that are eligible under § 39-1-27.7
29 or projects that have been defined as eligible in the PACE rules and regulations.

30 (7) "Institution" means a private entity or quasi-state agency.

31 (8)~~(5)~~ "Loan loss reserve fund" or "LRF" means funds set aside to cover losses in the
32 event of loan defaults.

33 (9)~~(6)~~ "Municipality" ~~and~~ or towns and cities" means any Rhode Island town or city with
34 powers set forth in title 45 of the general laws.

1 ~~(7)~~(10) "Net metering" means using electricity as defined in section 39-26.4-2.

2 ~~(8)"Office of energy resources" or "office" means the Rhode Island office of energy~~
3 ~~resources within the department of administration.~~

4 ~~(9)~~(11) "PACE assessment" or "assessment" means the special assessment placed on a
5 PACE property ~~in accordance with § 39-26.5-4~~ owner's property tax bill in accordance with this
6 chapter, to be collected by the PACE municipality in which that PACE property is located and
7 remitted to the lender that has financed that PACE project. The PACE assessment shall be owed
8 by the current owner of the related PACE property as of the time each PACE assessment comes
9 due. In the event of a transfer of ownership, all PACE assessments coming due after the date of
10 the transfer, by foreclosure or otherwise, shall be owed by the transferee.

11 (12) "PACE lien" means the non-accelerating lien placed on a PACE property in
12 accordance with the rules and regulations promulgated by the Rhode Island infrastructure bank
13 pursuant to this chapter, in order to secure the repayment of a PACE assessment made in
14 connection with that PACE property and to secure the repayment of each PACE assessment to be
15 made by that PACE property owner as each assessment comes due.

16 ~~(10)~~(13) "PACE municipality" means a municipality voluntarily designated by its city or
17 town council as a property-assessed clean energy municipality.

18 ~~(11) "PACE property" means any property which is the subject of a written agreement~~
19 ~~entered into pursuant to section 39-26.5-4~~

20 ~~(12)~~(14) "PACE project" or "~~Project~~ project" means a distinct installation of an eligible
21 energy efficiency system, renewable energy net metering system, distributed generation system,
22 alternative fuel infrastructure upgrade, and/or other eligible environmental health and
23 environmental safety upgrades.

24 (15) "PACE property" or "property" means any residential property or commercial
25 property which is the subject of an approved application for a PACE project filed pursuant to this
26 chapter.

27 (16) "Past due balances" means the sum of the due and unpaid assessments on a PACE
28 Property as of the time the ownership of that PACE property is transferred. "Past due balances"
29 does not mean the unaccelerated balance of the PACE loan at the time that property is transferred.

30 ~~(13)~~(17) "Property-assessed clean energy" or "PACE" is a voluntary financing
31 mechanism which allows both residential and commercial property owners to access affordable,
32 long-term financing for energy ~~efficiency and renewable energy improvements to~~ upgrades, and
33 other eligible environmental health and environmental safety upgrades on their property.

34 (18) "Rhode Island infrastructure bank" means the Rhode Island infrastructure bank

1 ("RIIB"). For the purposes of this chapter, Rhode Island infrastructure bank shall include other
2 related state agencies and/or third party administrators, as may be engaged by the Rhode Island
3 infrastructure bank for the purposes of providing the services envisioned by the rules and
4 regulations promulgated in accordance with § 39-26.5-11.

5 **39-26.5-3. Property-Assessed Clean Energy Municipality. --** A town or city council by
6 resolution may designate the municipality as a ~~property assessed clean energy municipality, also~~
7 ~~referred to~~ as a "PACE municipality."

8 **39-26.5-4. ~~Written agreements, consent of dwelling owners, energy savings analysis~~**
9 **Financing agreements -- PACE assessments -- PACE liens. --** (a) The Rhode Island
10 infrastructure bank may enter into a financing agreement with a qualifying PACE property owner.
11 After such agreement is entered into, and upon notice from the Rhode Island infrastructure bank,
12 the PACE municipality shall: (i) place a caveat on the land records indicating that a PACE
13 assessment and lien is anticipated upon completion of the PACE project for such property; or (ii)
14 at the direction of the Rhode Island infrastructure bank, levy the PACE assessment and file a lien
15 on the land records on the estimated costs of the PACE Project prior to the completion or upon
16 the completion of said PACE project.

17 (b) PACE assessments levied pursuant to this chapter and the interest, fees and any
18 penalties thereon shall constitute a lien against the qualifying PACE property on which they are
19 made until they are paid. Such lien shall be collected in the same manner as the property taxes of
20 the PACE municipality on real property, including, in the event of default or delinquency, with
21 respect to any penalties, fees and remedies. Each such lien may be recorded and released in the
22 manner provided for property tax liens.

23 (c) Any PACE municipality may assign to the Rhode Island infrastructure bank any and
24 all liens filed by the PACE municipality, as provided in the written agreement between the
25 participating municipality and the Rhode Island infrastructure bank. The Rhode Island
26 infrastructure bank may sell or assign, for consideration, any and all liens received from the
27 participating municipality. The consideration received by the Rhode Island infrastructure bank
28 shall be negotiated between the Rhode Island Infrastructure bank and the assignee. The assignee
29 or assignees of such liens shall have and possess the same powers and rights at law or in equity as
30 the Rhode Island infrastructure bank and the participating municipality and its tax collector would
31 have had if the lien had not been assigned with regard to the precedence and priority of such lien,
32 the accrual of interest and the fees and expenses of collection. The assignee shall have the same
33 rights to enforce such liens as any private party holding a lien on real property, including, but not
34 limited to, foreclosure and a suit on the debt. Costs and reasonable attorneys' fees incurred by the

1 assignee as a result of any foreclosure action or other legal proceeding brought pursuant to this
2 section and directly related to the proceeding shall be taxed in any such proceeding against each
3 person having title to any property subject to the proceedings. Such costs and fees may be
4 collected by the assignee at any time after demand for payment has been made by the assignee.

5 ~~After January 1, 2014, a PACE municipality may enter into a written agreement with any~~
6 ~~dwelling owner within the municipality who has:~~

7 ~~(1) An energy savings analysis approved by the office or an analysis performed under~~
8 ~~plans approved by the commission pursuant to § 39-1-27.7;~~

9 ~~(2) An energy efficiency and/or renewable energy project description approved by the~~
10 ~~office; and~~

11 ~~(3) A commitment from a financial institution to provide funds to complete the project.~~

12 ~~The agreement will require the dwelling owner to consent to be subject to the terms of~~
13 ~~the lien as set forth in § 39-26.5-6.~~

14 ~~**39-26.5-5. Rights of dwelling owners PACE Property Owners Rights of PACE**~~

15 ~~**Property Owners Rights of PACE property owners.** -- A dwelling PACE property owner who~~
16 ~~has entered into a written agreement with a municipality under section 39-26.5-4 may enter into a~~
17 contract for the installation or construction of a project relating to renewable energy as defined in
18 section 39-26-5, or relating to energy efficiency as defined in section 39-1-27.7 or as defined by
19 the office Rhode Island infrastructure bank pursuant to regulations authorized under this chapter
20 ~~under subsection 39-26.5-8(a).~~

21 ~~**39-26.5-6. Priority of PACE assessment lien Priority of PACE lien.** -- (a) A lien for a~~

22 PACE ~~assessment~~ lien on a residential property shall be: subordinate to all liens on the residential
23 property in existence at the time the ~~lien for the assessment in filed~~ residential PACE lien is filed;
24 subordinate to a first mortgage on the residential property recorded after such ~~fil~~ ing PACE lien is
25 filed; and superior to any other lien on the residential ~~property~~ recorded after such ~~fil~~ ing PACE
26 lien is filed. This subsection shall not affect the status or priority of any other municipal or
27 statutory lien.

28 (b) At the time of a transfer of property ownership of a residential property, including by
29 foreclosure, the past due balances of any special assessment under this chapter shall be due for
30 payment. In the event of a foreclosure action, the past due balances shall include all payments on
31 a PACE assessment that are due and unpaid as of the date of the foreclosure. Unless otherwise
32 agreed by the PACE lender, all payments on the PACE assessment that become due after the date
33 of transfer by foreclosure or otherwise shall continue to be secured by a PACE lien on the PACE
34 property and shall be the responsibility of the transferee.

1 (c) A PACE lien on a commercial property shall be: senior to all liens on the commercial
2 property in existence at the time the PACE lien is filed, subject to the consent of the senior
3 mortgage holder on the property; senior to all liens filed or recorded after the time the PACE lien
4 is created; but junior to a municipal tax lien.

5 (d) At the time of a transfer of property ownership of a commercial property, including
6 by foreclosure, the past due balances of any PACE assessment under this chapter shall be due for
7 payment. Unless otherwise agreed by the PACE lender, all payments ~~on the of~~ PACE ~~assessment~~
8 assessments that become due after the date of transfer by foreclosure or otherwise shall ~~remain be~~
9 secured by a PACE lien on the PACE property and shall be the responsibility of the transferee.

10 **39-26.5-7 ~~Loan loss reserve fund~~ Administration of PACE -- Loan loss reserve fund.**

11 ~~--~~ (a) The Rhode Island infrastructure bank is hereby authorized to create, set up on its books, and
12 administer one or more PACE funds for the purpose of providing financial assistance to
13 residential and commercial property owners for PACE projects. Additionally, the ~~office shall~~
14 Rhode Island infrastructure bank may enter into an agreement ~~contract~~ with ~~an~~ one or more
15 approved institutions, ~~approved financial institution~~ to create one or more ~~Loan Loss Reserve~~
16 ~~Funds~~ loan loss reserve funds (LRF) or other financing mechanisms to provide financial
17 incentives or additional security for PACE projects.

18 (b) In the event that there is a foreclosure of a PACE property and the proceeds resulting
19 from such a foreclosure are insufficient to pay the past due balances on the associated PACE
20 assessment, after all superior liens have been satisfied, ~~then~~ payment from the LRF shall be made
21 from the LRF in the amount of the past due balances on the PACE assessment. The LRF shall be
22 administered by the Rhode Island infrastructure bank or by the ~~financial~~-institution selected by
23 the ~~office~~ Rhode Island infrastructure bank; in the latter case ~~with~~ the ~~office~~ Rhode Island
24 infrastructure bank shall ~~providing~~ provide oversight of the LRF.

25 **39-26.5-8. Assistance to municipalities. --** The ~~office~~ Rhode Island infrastructure bank

26 shall:

27 ~~(1)(a)~~ Commencing on/or before July 1, 2014 and thereafter publish Publish on its
28 website a list of the types of PACE eligible energy efficiency, ~~and~~ renewable energy, and other
29 projects as defined in rules and regulations promulgated under 39-26.5-11;

30 ~~(2)(b)~~ Provide information concerning implementation of this chapter to each
31 municipality that requests such information;

32 ~~(3)(c)~~ Offer administrative and technical assistance to ~~and offer to manage the PACE~~
33 ~~program on behalf of~~ any PACE municipality that voluntarily participates in the PACE program;

34 and

1 ~~(4)(d)~~ Develop and offer informational resources to help residents make best use of the
2 PACE program.

3 **39-26.5-9. Monitoring, reporting, compliance, underwriting criteria.** -- The Rhode
4 Island infrastructure bank shall determine compliance with the underwriting criteria, standards,
5 and procedures ~~established within~~ set forth in the rules and regulations promulgated in
6 accordance with this chapter and shall include an accounting of the PACE program in the annual
7 report due ~~on April 15th of~~ each year ~~to the general assembly under subsection 39-2-1.2(k)~~ under
8 § 46-12.2-24.1. The report shall describe the implementation and operation of the PACE program
9 receipts, disbursements and earnings.

10 **39-26.5-11. Rules and regulations.** -- (a) The Rhode Island infrastructure bank shall
11 consult with the office of energy resources to promulgate rules and regulations, in accordance
12 with this section, and in accordance with chapter 42-35. ~~The office is authorized to promulgate~~
13 ~~necessary rules and regulations, in order to assure that PACE programs shall be successfully~~
14 ~~instituted in Rhode Island; such~~ Such rules and regulations should ensure that the PACE program
15 does not adversely affect the implementation of any other energy program in whose coordination
16 the ~~office~~ Rhode Island infrastructure bank or the office of energy resources is involved. Such
17 rules and regulations shall include, but not be limited to, the following:

18 (1) The necessary application requirements and procedures for any residential property
19 owner or commercial property owner seeking PACE financing;

20 (2) The necessary qualifications and requirements for a proposed PACE projects;

21 (3) The underwriting criteria to be applied in determining the eligibility of properties and
22 property owners for PACE projects; and

23 (4) Requirements that all existing lien holders on a property be given notice prior to a
24 PACE assessment and lien being filed in connection with that property and that all commercial
25 property owners seeking a commercial PACE loan receive consent of the primary mortgage
26 holder on that property prior to being eligible.

27 (b) The Rhode Island infrastructure bank shall be responsible for promulgating
28 agreements, forms and other documents necessary for the efficient administration of the PACE
29 program.

30 SECTION 10. Section 39-26.5-4 of Chapter 39-26.5 in the General Laws entitled
31 "Property Assessed Clean Energy – Residential Program" is hereby repealed.

32 ~~**39-26.5-4. Written agreements, consent of dwelling owners, energy savings analysis.**~~
33 ~~-- After January 1, 2014, a PACE municipality may enter into a written agreement with any~~
34 ~~dwelling owner within the municipality who has:~~

1 ~~(1) An energy savings analysis approved by the office or an analysis performed under~~
2 ~~plans approved by the commission pursuant to section 39-1-27.7;~~

3 ~~(2) An energy efficiency and/or renewable energy project description approved by the~~
4 ~~office; and~~

5 ~~(3) A commitment from a financial institution to provide funds to complete the project.~~

6 ~~The agreement will require the dwelling owner to consent to be subject to the terms of the~~
7 ~~lien as set forth in Section 39-26.5-6.~~

8 SECTION 11. Section 42-64-13.2 of chapter 42-64 of the General Laws entitled "Rhode
9 Island Commerce Corporation" is hereby amended to read as follows:

10 **42-64-13.2 Renewable energy investment coordination** -- (a) Intent. - To develop an
11 integrated organizational structure to secure for Rhode Island and its people the full benefits of
12 cost-effective renewable energy development from diverse sources.

13 (b) Definitions. - For purposes of this section, the following words and terms shall have
14 the meanings set forth in RIGL 42-64-3 unless this section provides a different meaning. Within
15 this section, the following words and terms shall have the following meanings:

16 (1) "Corporation" means the Rhode Island ~~economic development~~ commerce corporation.

17 (2) "Municipality" means any city or town, or other political subdivision of the state.

18 (3) "Office" means the office of energy resources established by chapter 42-140.

19 (c) Renewable energy development fund. - The corporation shall, in the furtherance of its
20 responsibilities to promote and encourage economic development, establish and administer a
21 renewable energy development fund as provided for in section 39-26-7, may exercise the powers
22 set forth in this chapter, as necessary or convenient to accomplish this purpose, and shall provide
23 such administrative support as may be needed for the coordinated administration of the renewable
24 energy standard as provided for in chapter 39-26 and the renewable energy program established
25 by section 39-2-1.2. The corporation may upon the request of any person undertaking a renewable
26 energy facility project, grant project status to the project, and a renewable energy facility project,
27 which is given project status by the corporation, shall be deemed an energy project of the
28 corporation.

29 (d) *Duties*. - The corporation shall, with regards to renewable energy project investment:

30 (1) Establish by rule, in consultation with the office, standards for financing renewable
31 energy projects from diverse sources.

32 (2) Enter into agreements, consistent with this chapter and renewable energy investment
33 plans adopted by the office, to provide support to renewable energy projects that meet applicable
34 standards established by the corporation. Said agreements may include contracts with

1 municipalities and public corporations.

2 (e) *Conduct of activities.*

3 (1) To the extent reasonable and practical, the conduct of activities under the provisions
4 of this chapter shall be open and inclusive; the director shall seek, in addressing the purposes of
5 this chapter, to involve the research and analytic capacities of institutions of higher education
6 within the state, industry, advocacy groups, and regional entities, and shall seek input from
7 stakeholders including, but not limited to, residential and commercial energy users.

8 ~~(2) By January 1, 2009, the director shall adopt:~~

9 ~~(A) Goals for renewable energy facility investment which is beneficial, prudent, and from~~
10 ~~diverse sources;~~

11 ~~(B) A plan for a period of five (5) years, annually upgraded as appropriate, to meet the~~
12 ~~aforementioned goals; and~~

13 ~~(C) Standards and procedures for evaluating proposals for renewable energy projects in~~
14 ~~order to determine the consistency of proposed projects with the plan.~~

15 (f) Reporting. - On March 1, of each year after the effective date of this chapter, the
16 corporation shall submit to the governor, the president of the senate, the speaker of the house of
17 representatives, and the secretary of state, a financial and performance report. These reports shall
18 be posted electronically on the general assembly and the secretary of state's websites as
19 prescribed in § 42-20-8.2. The reports shall set forth:

20 (1) The corporation's receipts and expenditures in each of the renewable energy program
21 funds administered in accordance with this section.

22 (2) A listing of all private consultants engaged by the corporation on a contract basis and
23 a statement of the total amount paid to each private consultant from the two (2) renewable energy
24 funds administered in accordance with this chapter; a listing of any staff supported by these
25 funds, and a summary of any clerical, administrative or technical support received; and

26 (3) A summary of performance during the prior year including accomplishments and
27 shortcomings; project investments, the cost-effectiveness of renewable energy investments by the
28 corporation; and recommendations for improvement.

29 SECTION 12. Section 42-155-3 of the General Laws in Chapter 42-155 entitled "Quasi-
30 Public Corporations Accountability and Transparency Act" is hereby amended to read as follows:

31 **42-155-3. Definitions. [Effective January 1, 2015].** -- (a) As used in this chapter,
32 "quasi-public corporation" means any body corporate and politic created, or to be created,
33 pursuant to the general laws, including, but not limited to, the following:

34 (1) Capital center commission;

- 1 (2) Rhode Island convention center authority;
- 2 (3) Rhode Island industrial facilities corporation;
- 3 (4) Rhode Island industrial-recreational building authority;
- 4 (5) Rhode Island small business loan fund corporation;
- 5 (6) Quonset development corporation;
- 6 (7) Rhode Island airport corporation;
- 7 (8) I-195 redevelopment district commission;
- 8 (9) Rhode Island health and educational building corporation;
- 9 (10) Rhode Island housing and mortgage finance corporation;
- 10 (11) Rhode Island higher education assistance authority;
- 11 (12) Rhode Island student loan authority;
- 12 (13) Narragansett bay commission;
- 13 (14) ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#);
- 14 (15) Rhode Island water resources board;
- 15 (16) Rhode Island resource recovery corporation;
- 16 (17) Rhode Island public rail corporation;
- 17 (18) Rhode Island public transit authority;
- 18 (19) Rhode Island turnpike and bridge authority;
- 19 (20) Rhode Island tobacco settlement financing corporation; and
- 20 (21) Any subsidiary of the Rhode Island commerce corporation.

21 (b) Cities, towns, and any corporation created that is an instrumentality and agency of a
22 city or town, and any corporation created by a state law that has been authorized to transact
23 business and exercise its powers by a city or town pursuant to ordinance or resolution, and fire
24 and water districts are not subject to the provisions of this chapter.

25 (c) The Rhode Island commerce corporation, being subject to similar transparency and
26 accountability requirements set forth in chapter 64 of title 42; the Rhode Island public rail
27 corporation established in chapter 64.2 of title 42; Block Island power authority; and the Pascoag
28 utility district shall not be subject to the provisions of this chapter.

29 SECTION 13. Section 45-12-33 of the General Laws in Chapter 45-12 entitled
30 "Indebtedness of Towns and Cities" is hereby amended to read as follows:

31 **45-12-33. Borrowing for road and bridge projects financed through the "municipal**
32 **road and bridge revolving fund".** -- (a) In addition to other authority previously granted, during
33 calendar year 2014 a city or town may authorize the issuance of bonds, notes, or other evidences
34 of indebtedness to evidence loans from the municipal road and bridge revolving fund

1 administered by the ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#)
2 in accordance with chapter 18 of title 24 of the general laws.

3 (b) These bonds, notes, or other evidences of indebtedness are subject to the maximum
4 aggregate indebtedness permitted to be issued by any city or town under § 45-12-2.

5 (c) The denominations, maturities, interest rates, methods of sale, and other terms,
6 conditions, and details of any bonds or notes issued under the provisions of this section may be
7 fixed by resolution of the city or town council authorizing them, or if no provision is made in the
8 resolution, by the treasurer or other officer authorized to issue the bonds, notes or evidences of
9 indebtedness; provided, that the payment of principal shall be by sufficient annual payments that
10 will extinguish the debt at maturity, the first of these annual payments to be made not later than
11 three (3) years, and the last payment not later than twenty (20) years after the date of the bonds.

12 The bonds, notes, or other evidences of indebtedness may be issued under this section by
13 any political subdivision without obtaining the approval of its electors, notwithstanding the
14 provisions of §§ 45-12-19 and 45-12-20 and notwithstanding any provision of its charter to the
15 contrary.

16 SECTION 14. Sections 46-6.1-3 and 46-6.1-9 of the General Laws in Chapter 46-6.1
17 entitled "Maintenance of Marine Waterways and Boating Facilities" are hereby amended to read
18 as follows:

19 **46-6.1-3. Purpose.** -- The purposes of this chapter are:

20 (1) To establish an integrated, coherent plan for dredging and dredge material
21 management, which includes beneficial use, dewatering, in-water disposal, and upland disposal as
22 appropriate, that sets forth the state's program for these activities and provides guidance to
23 persons planning to engage in these activities and to designate the council as the lead agency for
24 implementing the purposes of this chapter.

25 (2) To provide for coordinated, timely decision-making by state agencies on applications
26 for dredging, dewatering, and for the beneficial use and in-water and upland disposal of dredged
27 materials, with the goals of providing action, following a determination that the application is
28 complete, on applications for these activities within one hundred eighty (180) days for
29 applications pertaining to maintenance dredging projects and within five hundred forty (540) days
30 for expansion projects.

31 (3) To establish, for the purposes of this chapter and consistent with the requirements of
32 the Marine Infrastructure Maintenance Act of 1996, the following in order of priority in planning
33 for and management of dredged material, depending on the nature and characteristics of the
34 dredged material and on reasonable cost.

1 (i) Beneficial use, including specifically beach nourishment and habitat restoration and
2 creation, in the coastal zone;

3 (ii) Beneficial use in upland areas;

4 (iii) Disposal.

5 (4) To encourage the development of the infrastructure needed to dewater dredged
6 materials, and to facilitate beneficial use of dredged materials in upland areas.

7 (5) To encourage and facilitate the beneficial use of dredged materials by private parties.

8 (6) To authorize the establishment of a means of supporting projects for dewatering
9 dredged material and for beneficial use and disposal of dredged material at sites above mean high
10 water by the ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#).

11 **46-6.1-9. Cooperation of other agencies.** -- (a) In order to accomplish the purposes of
12 this chapter to provide for beneficial use, dewatering, and disposal of dredged material:

13 (1) State agencies, departments, corporations, authorities, boards, commissions,
14 including, but not limited to, the department of administration, the department of transportation,
15 the ~~Rhode Island Clean Water Finance Agency~~ [Rhode Island infrastructure bank](#), the ~~economic~~
16 ~~development~~ [Rhode Island commerce](#) corporation, the Narragansett Bay commission, and the
17 Rhode Island resource recovery corporation, and political subdivisions, shall cooperate with the
18 council in developing and implementing the comprehensive plan for dredged material
19 management;

20 (2) The council shall seek federal acceptance of the comprehensive plan for dredged
21 material management as an element of the state's coastal zone management program and shall
22 pursue such federal approvals and general permits as may facilitate expeditious action on
23 dredging applications that are consistent with the plan;

24 (3) The economic development corporation shall:

25 (i) Make available by October 31, 2004, a site to use as a dewatering site for dredged
26 material, which site shall be available for dewatering dredged material until at least September
27 30, 2012, and may continue to be available thereafter for periods of not less than six (6) months,
28 upon the request of the council and the approval of the corporation; and

29 (ii) With advice from the council and the department, develop and implement a program
30 to market dredged material for beneficial use by private persons, including but limited to
31 brownfield reclamation projects; and

32 (4) The council, with the cooperation of the department and the ~~Clean Water Finance~~
33 ~~Agency~~ [Rhode Island infrastructure bank](#), shall develop a proposal for a fund, which may be used
34 as provided for in § 46-12.2-4.1, to support projects for dewatering dredged material for

1 beneficial use and disposal of dredged material at sites above mean high water and for confined
2 aquatic disposal of dredged materials, which proposal shall be submitted to the general assembly
3 not later than February 15, 2002.

4 (b) The fund shall not be established or go into effect unless it has been approved by the
5 general assembly.

6 SECTION 15. Section 46-12.10-1 of the General Laws in Chapter 46-12.10 entitled
7 "Commission to Study Feasibility and Funding of Homeowners Assistance Fund for Septic
8 Systems" is hereby amended to read as follows:

9 **46-12.10-1. Legislative findings.** -- The General Assembly hereby recognizes and
10 declares that:

11 (a) There exists and will continue to exist within the state of Rhode Island the need to
12 construct, maintain and repair facilities and projects for the abatement of pollution caused by
13 domestic wastewater discharges, including, but not limited to, septic systems and cesspools.

14 (b) It is found that there are presently ninety thousand (90,000) cesspools within the State
15 of Rhode Island.

16 (c) Failed and poorly functioning ISDS systems contribute directly to pollution in such
17 environmentally sensitive areas as Greenwich Bay, coastal salt ponds and other water resources.

18 (d) It is further found that there is a need to establish a fund that shall provide to
19 communities financial assistance to create and adopt a community septic system management
20 plan and provide the corpus of a fund within the existing State SRF as administered by the ~~Clean~~
21 ~~Water Finance Agency~~ Rhode Island infrastructure bank that shall enable communities to offer to
22 homeowners within those communities the opportunity to access low-cost loans for repair or
23 replacement of failed or poorly functioning septic systems.

24 SECTION 16. The title of Chapter 46-12.2 of the General Laws entitled "Rhode Island
25 Clean Water Finance Agency" is hereby amended to read as follows:

26 ~~CHAPTER 46-12.2~~

27 ~~Rhode Island Clean Water Finance Agency~~

28 CHAPTER 46-12.2

29 RHODE ISLAND INFRASTRUCTURE BANK

30 SECTION 17. Sections 46-12.2-1, 46-12.2-2, 46-12.2-3, 46-12.2-4, 46-12.2-6, 46-12.2-8,
31 46-12.2-9, 46-12.2-10, 46-12.2-11, 46-12.2-13, 46-12.2-14, 46-12.2-17 and 46-12.2-25 of the
32 General Laws in Chapter 46-12.2 entitled "Rhode Island Clean Water Finance Agency" are
33 hereby amended to read as follows:

34 **46-12.2-1. Legislative findings.** -- (a) It is hereby found that there exists and will in the

1 future exist within the state of Rhode Island the need to construct facilities and to facilitate
2 projects for the abatement of pollution caused by wastewater ~~and~~ for the enhancement of the
3 waters of the state, and for the completion of renewable energy and energy efficiency projects in
4 order to save property owners money and to encourage job and business growth in Rhode Island.

5 ~~And that the traditional source for funding construction of such facilities and projects under the~~
6 ~~grant program of title II of the Clean Water Act, 33 U.S.C. §§1281-1299, will terminate at the end~~
7 ~~of fiscal year 1990.~~

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

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

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

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

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

32 (g) It is hereby further found that expanding the Rhode Island clean water finance agency
33 and renaming it the Rhode Island infrastructure bank provides the best avenue for reducing
34 ongoing pollution to the waters of the state and emissions that degrade air quality and contribute

1 [to climate change while fostering the creation of jobs and the realization of energy cost savings](#)
2 [through the facilitation of infrastructure improvements.](#)

3 **46-12.2-2. Definitions.** -- As used in this chapter, unless the context clearly indicates
4 otherwise, the following words and phrases shall have the following meanings:

5 (1) "Agency" means the ~~Rhode Island clean water finance agency~~ [Rhode Island](#)
6 [infrastructure bank.](#)

7 (2) "Approved project" means any project or portion thereof that has been issued a
8 certificate of approval by the department for financial assistance from the agency, and also
9 includes any project approved for financial assistance from the agency in accordance with state
10 law, and, furthermore, shall include water pollution abatement projects funded outside of the
11 water pollution control revolving fund, the Rhode Island water pollution control revolving fund,
12 or the local interest subsidy trust fund, without the requirement of the issuance of a certificate of
13 approval;

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

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

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

20 (6) "Certificate of approval" means the certificate of approval contemplated by § 46-
21 12.2-8;

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

26 (8) "Clean Water Act" or "act" means the Federal Water Pollution Control Act, act of
27 June 30, 1948, ch. 758, as added Oct. 18, 1972, Pub. L. No. 92-500, 86 Stat. 896, as added Dec.
28 27, 1977, Pub. L. No. 95-217, 91 Stat. 1566 (codified at 33 U.S.C. § 1251 et seq., as amended and
29 as hereafter amended from time to time);

30 (9) "Corporation" means any corporate person, including, but not limited to, bodies
31 politic and corporate, public departments, public offices, public agencies, public authorities,
32 political subdivisions of the state, corporations, societies, associations, limited liability
33 companies, partnerships and sole proprietorships;

34 ~~(9)~~(10)"Cost" as applied to any approved project, means any or all costs, whenever

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

18 ~~(10)~~(11) "Department" means the department of environmental management;

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

24 ~~(11)~~(13) "Financial assistance" means any form of financial assistance ~~other than grants~~
25 provided by the agency to a local governmental unit, person or corporation in accordance with
26 this chapter for all or any part of the cost of an approved project, including, without limitation,
27 grants, temporary and permanent loans, with or without interest, guarantees, insurance, subsidies
28 for the payment of debt service on loans, lines of credit, and similar forms of financial assistance;
29 provided, however, notwithstanding the foregoing, for purposes of capitalization grant awards
30 made available to the agency, pursuant to the American Recovery and Reinvestment Act of 2009
31 (P.L. 111-5), or as otherwise required in connection with other capitalization grant awards made
32 available to the agency, financial assistance shall also include principal forgiveness and negative
33 interest loans;

34 ~~(12)~~(14) "Fully marketable form" means a local governmental obligation in form

1 satisfactory to the agency duly executed and accompanied by an opinion of counsel of recognized
2 standing in the field of municipal law whose opinions have been and are accepted by purchasers
3 of like obligations to the effect that the obligation is a valid and binding obligation of the local
4 governmental unit issuing the obligation, enforceable in accordance with its terms;

5 ~~(13)~~(15) "General revenues" , when used with reference to a local governmental unit,
6 means revenues, receipts, assessments, and other moneys of the local governmental unit received
7 from or on account of the exercise of its powers and all rights to receive the same, including
8 without limitation:

9 (i) Taxes,
10 (ii) Wastewater system revenues,
11 (iii) Assessments upon or payments received from any other local governmental unit
12 which is a member or service recipient of the local governmental unit, whether by law, contract,
13 or otherwise,

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

16 (v) Investment earnings,

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

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

21 (viii) Local aid distributions, and

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

25 ~~(14)~~(16) "Loan" means a loan by the agency to a local governmental unit, or person, or
26 corporation for costs of an approved project, including, without limitation, temporary and
27 permanent loans, and lines of credit;

28 ~~(15)~~(17) "Loan agreement" means any agreement entered into by the agency with a local
29 governmental unit, person, or corporation pertaining to a loan, other financial assistance, ~~or~~ local
30 governmental obligations, or non-governmental obligations, including, without limitation, a loan
31 agreement, trust agreement, security agreement, reimbursement agreement, guarantee agreement,
32 financing lease agreement, appropriate agreement, or similar instrument;

33 ~~(16)~~(18) "Local aid distributions" means receipts, distributions, reimbursements, and
34 other assistance payable by the state to or for the account of a local governmental unit, except

1 such receipts, distributions, reimbursements, and other assistance restricted by law to specific
2 statutorily defined purposes;

3 ~~(17)~~(19) "Local governmental obligations" means bonds, notes, [financing lease](#)
4 [obligations, appropriation obligations](#), and other evidences of indebtedness in fully marketable
5 form issued by a local governmental unit to evidence a loan [or other financial assistance](#), from the
6 agency in accordance with this chapter or otherwise as provided herein;

7 ~~(18)~~(20) "Local governmental unit" means any town, city, district, commission, agency,
8 authority, board, or other political subdivision or instrumentality of the state or of any political
9 subdivision thereof ~~responsible for the ownership or operation of a water pollution abatement~~
10 ~~project~~, including the Narragansett Bay ~~water quality management district~~ commission; and, for
11 purposes of dam safety or dam maintenance projects, any person seeking financial assistance as a
12 joint applicant with any of the above entities;

13 ~~(19)~~(21) "Local interest subsidy trust fund" means the local interest subsidy trust fund
14 established under § 46-12.2-6;

15 [\(22\) "Non-governmental obligations" means bonds, notes, or other evidences of](#)
16 [indebtedness in fully marketable form issued by a person or corporation to evidence a loan, or](#)
17 [other financial assistance, from the agency in accordance with this chapter or otherwise as](#)
18 [provided herein.](#)

19 ~~(20)~~(23) "Person" means any natural ~~or corporate~~ person, ~~including bodies politic and~~
20 ~~corporate, public departments, offices, agencies, authorities, and political subdivisions of the~~
21 ~~state, corporations, societies, associations, and partnerships, and subordinate instrumentalities of~~
22 ~~any one or more political subdivisions of the state;~~

23 ~~(21)~~(24) "Priority determination system" means the system by which water pollution
24 abatement projects are rated on the basis of environmental benefit and other criteria for funding
25 assistance pursuant to rules and regulations promulgated by the department as they may be
26 amended from time to time;

27 [\(25\) "Qualified energy conservation bond" or "QECCB" means those bonds designated by](#)
28 [26 USC 54D.](#)

29 ~~(22)~~(26) "Revenues" , when used with reference to the agency, means any receipts, fees,
30 payments, moneys, revenues, or other payments received or to be received by the agency in the
31 exercise of its corporate powers under this chapter, including, without limitation, loan
32 repayments, payments on local governmental obligations, [non-governmental obligations](#), grants,
33 aid, appropriations, and other assistance from the state, the United States, or any agency,
34 department, or instrumentality of either or of a political subdivision thereof, bond proceeds,

1 investment earnings, insurance proceeds, amounts in reserves, and other funds and accounts
2 established by or pursuant to this chapter or in connection with the issuance of bonds, including,
3 without limitation, the water pollution control revolving fund, the Rhode Island water pollution
4 control revolving fund, and the local interest subsidy fund, and any other fees, charges or other
5 income received or receivable by the agency;

6 ~~(23)~~(27) "Rhode Island water pollution control revolving fund" means the Rhode Island
7 water pollution control revolving fund established pursuant to § 46-12.2-6;

8 ~~(24)~~(28) "Trust agreement" means a trust agreement, loan agreement, security agreement,
9 reimbursement agreement, currency or interest rate exchange agreement, or other security
10 instrument, and a resolution, loan order, or other vote authorizing, securing, or otherwise
11 providing for the issue of bonds, loans, or local governmental obligations or non-governmental
12 obligations;

13 ~~(25)~~(29) "Wastewater system revenues" means all rates, rents, fee assessments, charges,
14 and other receipts derived or to be derived by a local governmental unit from wastewater
15 collection and treatment facilities and water pollution abatement projects under its ownership or
16 control, or from the services provided thereby, including, without limitation, proceeds of grants,
17 gifts, appropriations, and loans, including the proceeds of loans or grants awarded by the agency
18 or the department in accordance with this chapter, investment earnings, reserves for capital and
19 current expenses, proceeds of insurance or condemnation, and the sale or other disposition of
20 property; wastewater system revenues may also include rates, rents, fees, charges, and other
21 receipts derived by the local governmental unit from any water supply of distribution facilities or
22 other revenue producing facilities under its ownership or control; wastewater system revenues
23 shall not include any ad valorem taxes levied directly by the local governmental unit on any real
24 and personal property;

25 ~~(26)~~(30) "Water pollution abatement project" or "project" means any project eligible
26 pursuant to Title VI of the Clean Water Act including, but not limited to, wastewater treatment or
27 conveyance project that contributes to removal, curtailment, or mitigation of pollution of the
28 surface water of the state, and conforms with any applicable comprehensive land use plan which
29 has been adopted or any dam safety, removal or maintenance project; it also means a project to
30 enhance the waters of the state, which the agency has been authorized by statute to participate in;
31 it also means any other project to which the agency has been authorized to provide financial
32 assistance;

33 ~~(27)~~(31) "Water pollution control revolving fund" means the water pollution control
34 revolving fund contemplated by title VI of the Water Quality Act and established under § 46-

1 12.2-6;

2 ~~(28)~~(32) "Water Quality Act" means the Water Quality Act of 1987, Pub. L. No. 100-4,
3 101 Stat. 7, 33 U.S.C. § 1251 et seq., as amended from time to time.

4 ~~46-12.2-3. Establishment Of agency --, Composition of agency -- Appointment of~~
5 ~~directors of the Rhode Island infrastructure bank~~ Establishment, Composition
6 Appointment of directors of the Rhode Island infrastructure bank. -- (a) There is hereby
7 created a body politic and corporate and public instrumentality of the state having distinct legal
8 existence from the state and not constituting a department of the state government, to be known
9 as the Rhode Island clean water finance agency, and, effective September 1, 2015 and thereafter,
10 to be known as the Rhode Island infrastructure bank. Effective September 1, 2015, whenever, in
11 any general law, public law, rule, regulation, bylaw and/or otherwise, any reference is made to the
12 Rhode Island clean water finance agency, by name or otherwise, the reference shall be deemed to
13 refer to and mean the "Rhode Island infrastructure bank." The agency shall take all necessary
14 actions to effectuate this name change, including, but not limited to, changing the name of the
15 agency on file with any government office. The exercise by the agency of the powers conferred
16 by this chapter shall be deemed to be the performance of an essential public function.

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

21 ~~(b)~~(c) The powers of the agency shall be exercised by or under the supervision of a board
22 of directors consisting of five (5) members, four (4) of whom shall be members of the public
23 appointed by the governor, with the advice and consent of the senate. The governor in making
24 these appointments shall give due consideration to persons skilled and experienced in law,
25 finance, and public administration and give further due consideration to a recommendation by the
26 general treasurer for one of those appointments. ~~The newly appointed member will serve for a~~
27 ~~limited term to expire in March of 2006.~~ All appointments made by the governor shall serve for a
28 term of two (2) years. No one shall be eligible for appointment unless he or she is a resident of
29 this state. The members of the board of directors as of the effective date of this act [July 15, 2005]
30 who were appointed to the board of directors by members of the general assembly shall cease to
31 be members of the board of directors on the effective date of this act. As of the effective date of
32 this act, the general treasurer or his or her designee, who shall be a subordinate within the general
33 treasurer's department, shall serve on the board of directors as an ex-officio member. Those
34 members of the board of directors as of the effective date of this act who were appointed to the

1 board of directors by the governor shall continue to serve the balance of their current terms.

2 ~~(e)~~(d) Each member of the board of directors shall serve until his or her successor is
3 appointed and qualified. The appointed member of the board of directors shall be eligible for
4 reappointment. Any member of the board of directors appointed to fill a vacancy of a public
5 member on the board shall be appointed by the governor, with the advice and consent of the
6 senate, for the unexpired term of the vacant position in the same manner as the member's
7 predecessor as set forth in subsection 46-12.2-3(b). The public members of the board of directors
8 shall be removable by the governor, pursuant to § 36-1-7 and for cause only, and removal solely
9 for partisan or personal reasons unrelated to capacity or fitness for the office shall be unlawful.
10 The governor shall designate one member of the board of directors to be the chairperson of the
11 agency to serve in such capacity during his or her term as a member. The board of directors may
12 elect from among its members such other officers as they deem necessary. Three (3) members of
13 the board of directors shall constitute a quorum. A majority vote of those present shall be required
14 for action. No vacancy in the membership of the board of directors shall impair the right of a
15 quorum to exercise the powers of the board of directors. The members of the board of directors
16 shall serve without compensation, but each member shall be reimbursed for all reasonable
17 expenses incurred in the performance of his or her duties.

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

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

1 [department of transportation, or designee and the executive director of Rhode Island housing, or](#)
2 [designee. The chairperson of the Rhode Island Infrastructure Bank, or designee, shall serve as](#)
3 [chairperson of the advisory council.](#)

4 **46-12.2-4 General powers and duties of agency.** -- (a) The agency shall have all powers
5 necessary or convenient to carry out and effectuate the purposes and provisions of this ~~chapter~~
6 ~~and chapter~~ [chapter, chapter](#) 24-18 [and chapter 39-26.5](#), including, without limiting the generality
7 of the foregoing, the powers and duties:

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

10 (2) To adopt an official seal;

11 (3) To maintain an office at such place or places as it may determine;

12 (4) To adopt a fiscal year;

13 (5) To adopt and enforce procedures and regulations in connection with the performance
14 of its functions and duties;

15 (6) To sue and be sued;

16 (7) To employ personnel as provided in § 46-12.2-5, and to engage accounting,
17 management, legal, financial, consulting and other professional services;

18 (8) Except as provided in this chapter, to receive and apply its revenues to the purposes
19 of this chapter without appropriation or allotment by the state or any political subdivision thereof;

20 (9) To borrow money, issue bonds, and apply the proceeds thereof, as provided in this
21 chapter, [chapter 19.16 of title 23](#), ~~and chapter 24-18~~ [chapter 18 of title 24 and chapter 26.5 of title](#)
22 [39](#), and to pledge or assign or create security interests in revenues, funds, and other property of
23 the agency and otherwise as provided in this, [chapter 19.16 of title 23](#), ~~and chapter 24-18~~ [chapter](#)
24 [18 of title 24 and chapter 26.5 of title 39](#), to pay or secure the bonds; and to invest any funds held
25 in reserves or in the water pollution control revolving fund, the Rhode Island water pollution
26 control revolving fund, the municipal road and bridge fund established under chapter 24-18, any
27 [other funds established in accordance with this chapter](#), or the local interest subsidy trust fund, or
28 any revenues or funds not required for immediate disbursement, in such investments as may be
29 legal investments for funds of the state;

30 (10) To obtain insurance and to enter into agreements of indemnification necessary or
31 convenient to the exercise of its powers under this, [chapter 19.16 of title 23](#), ~~and chapter 24-18~~
32 [chapter 18 of title 24 and chapter 26.5 of title 39](#);

33 (11) To apply for, receive, administer, and comply with the conditions and requirements
34 respecting any grant, gift, or appropriation of property, services, or moneys;

1 (12) To enter into contracts, arrangements, and agreements with other persons, and
2 execute and deliver all instruments necessary or convenient to the exercise of its powers under
3 this, [chapter 19.16 of title 23](#), ~~and chapter 24-18~~ [chapter 18 of title 24 and chapter 26.5 of title 39](#);
4 such contracts and agreements may include without limitation, loan agreements with a local
5 governmental unit, [person or corporation](#), capitalization grant agreements, intended use plans,
6 operating plans, and other agreements and instruments contemplated by title VI of the Clean
7 Water Act, 33 U.S.C. § 1381 et seq., or this chapter, agreement and instruments contemplated by
8 chapter 24-18, grant agreements, contracts for financial assistance or other forms of assistance
9 from the state or the United States, and trust agreements and other financing agreements and
10 instruments pertaining to bonds;

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

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

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

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

29 (17) To do all things necessary, convenient, or desirable for carrying out the purposes of
30 this chapter and chapter 24-18 or the powers expressly granted or necessarily implied by this
31 chapter, [chapter 19.16 of title 23](#), ~~and chapter 24-18~~ [chapter 18 of title 24 and chapter 26.5 of title](#)
32 [39](#);

33 (18) To conduct a training course for newly appointed and qualified members and new
34 designees of ex-officio members within six (6) months of their qualification or designation. The

1 course shall be developed by the executive director, approved by the board of directors, and
2 conducted by the executive director. The board of directors may approve the use of any board of
3 directors or staff members or other individuals to assist with training. The training course shall
4 include instruction in the following areas: the provisions of chapters 46-12.2, 42-46, 36-14, and
5 38-2; and the agency's rules and regulations. The director of the department of administration
6 shall, within ninety (90) days of the effective date of this act [July 15, 2005], prepare and
7 disseminate, training materials relating to the provisions of chapters 42-46, 36-14 and 38-2; and

8 (19) Upon the dissolution of the water resources board (corporate) pursuant to § 46-15.1-
9 22, to have all the powers and duties previously vested with the water resources board
10 (corporate), as provided pursuant to chapter 46-15.1.

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

13 [\(21\) To be the sole issuer of QECCBs from the state of Rhode Island's allocation, including](#)
14 [any portions of which have been reallocated to the state by local governments, for any project](#)
15 [authorized to be financed with the proceeds thereof under the applicable provisions of 26 USC](#)
16 [54D.](#)

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

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

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

26 **46-12.2-6. Establishment of the water pollution control revolving fund, the Rhode**
27 **Island water pollution control revolving fund and the local interest subsidy trust fund –**

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

1 other powers of the agency provided in this chapter, the agency is empowered to and shall:

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

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

9 (3) In cooperation with the department, prepare, and submit to appropriate federal
10 agencies applications for capitalization grants under title VI of the Clean Water Act, 33 U.S.C. §
11 1381 et seq., and enter into capitalization grant agreements, operating agreements, and other
12 agreements with appropriate federal and state agencies, and accept and disburse, as provided
13 herein, any capitalization grant awards made under title VI of the Clean Water Act, 33 U.S.C. §
14 1381 et seq.

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

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

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

27 (7) Establish and maintain fiscal controls and accounting procedures conforming to
28 generally accepted government accounting standards sufficient to ensure proper accounting for
29 receipts in and disbursements from the water pollution control revolving fund, the Rhode Island
30 water pollution control revolving fund, the local interest subsidy trust fund and other funds it
31 holds or for which it is responsible and, adopt such rules, regulations, procedures, and guidelines
32 which it deems necessary to ~~assure~~ ensure that local governmental units persons and corporations
33 administer and maintain approved project accounts and other funds and accounts relating to
34 financial assistance in accordance with generally accepted government accounting standards.

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

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

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

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

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

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

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

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

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

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

1 or more accounts therein:

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

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

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

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

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

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

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

24 (1) To provide financial assistance to a local governmental units or corporation to
25 finance costs of approved projects, and to refinance the costs of the projects, subject to such terms
26 and conditions, if any, as are determined by the department and/or the agency in accordance with
27 § 46-12.2-8;

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

31 (3) To fund reserves for bonds of the agency and to purchase insurance and pay the
32 premiums therefor, and pay fees and expenses of letters or lines of credit and costs of
33 reimbursement to the issuers thereof for any payments made thereon or on any insurance, and to
34 otherwise provide security for, and a source of payment for, by pledge, lien, assignment, or

1 otherwise as provided in § 46-12.2-14, bonds of the agency issued in accordance with this
2 chapter; and

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

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

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

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

24 (2) Loan repayments and other payments received on loans, ~~and~~ local governmental
25 obligations, [and non-governmental obligations](#);

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

27 (4) Proceeds of agency bonds;

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

31 (6) Any other amounts permitted by law.

32 (f) Subject to any agreement with the state authorized by § 46-12.2-7, to the provisions of
33 § 46-12.2-8, and to any agreement with the holders of any bonds of the agency or any trustee
34 therefor, amounts held by the agency for the account of the local interest subsidy trust fund shall

1 be applied by the agency, either by direct expenditure, disbursement, or transfer to one or more
2 other funds and accounts held by the agency or maintained under any trust agreement pertaining
3 to bonds, either alone or with other funds of the agency, to the following purposes:

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

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

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

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

21 **46-12.2-8. Procedures for application, approval, and award of financial assistance. --**

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

32 (b) If the department shall determine, in accordance with rules and regulations
33 promulgated pursuant to this chapter, that an application for financial assistance or portion thereof
34 shall be approved, it shall deliver to the agency a certificate of approval of the project or a portion

1 thereof which shall specify the project or portion thereof eligible for financial assistance and such
2 other terms, conditions and limitations with respect to the construction and operation of the
3 project as the department shall determine. The agency shall specify, among other things, the type
4 and amount of financial assistance to be provided, the costs thereof eligible for financial
5 assistance, the amounts, if any, of the financial assistance, to be provided from the water pollution
6 control revolving fund and/or the Rhode Island water pollution control revolving fund, the
7 amount, if any, of subsidy assistance to be granted from the local interest subsidy trust fund, the
8 amount, if any, of other financial assistance permitted by this chapter to be provided, and such
9 other terms, conditions, and limitations on the financial assistance, the expenditure of loan
10 proceeds, and the construction and operation of the project as the agency shall determine or
11 approve.

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

15 (d) In addition to the authority provided by law, the department shall be responsible for,
16 and shall have all requisite power to, review and approve reports and plans for water pollution
17 abatement projects and approved projects, or any part thereof, for which financial assistance has
18 been applied or granted in accordance with this chapter, to enter into contracts with a local
19 governmental units [persons or corporations](#) relative to approved projects, including, without
20 limiting the generality of the foregoing, the costs of approved projects eligible for financial
21 assistance, grants, and other terms, conditions and limitations with respect to the construction and
22 operation of the project, and to inspect the construction and operation thereof of projects in
23 compliance with approved plans. Without limiting the generality of the foregoing, in connection
24 with the exercise of its powers and performance of its duties under this chapter, the department
25 shall have all the powers provided by law to the department and its director. The department shall
26 adopt rules, regulations, procedures, and guidelines to carry out the purposes of this chapter and
27 for the proper administration of its powers and duties under this chapter. The rules, regulations,
28 procedures, and guidelines shall include among other things, criteria for determining those water
29 pollution abatement projects to be approved for financial assistance (the criteria shall include the
30 priority determination system), specification of eligible costs of the projects, and provisions for
31 compliance by projects constructed in whole or in part with funds directly made available under
32 this chapter by federal capitalization grants with the requirements of the Clean Water Act, 33
33 U.S.C. § 1351 et seq., and other federal laws applicable to the project. The department shall
34 cooperate with the agency in the development of capitalization grant applications, operating

1 plans, and intended use plans for federal capitalization grant awards under title VI of the Clean
2 Water Act, 33 U.S.C. § 1381 et seq., and may enter into such agreements and other undertakings
3 with the agency and federal agencies as necessary to secure to the state the benefits of title VI of
4 the Clean Water Act, 33 U.S.C. § 1381 et seq. In order to provide for the expenses of the
5 department under this chapter, the agency shall transfer to the department for application to the
6 expenses an amount from the water pollution control revolving fund equal to the maximum
7 amount authorized by federal law, and such additional amounts as may be needed from the Rhode
8 Island water pollution control fund and from any other monies available. The agency and the
9 department shall enter into an operating agreement and amend the same, from time to time,
10 allocating their respective rights, duties, and obligations with respect to the award of financial
11 assistance and grants to finance approved projects under this chapter and establishing procedures
12 for the application, approval, and oversight of projects, financial assistance, and grants.

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

28 (f) The agency shall adopt rules, regulations, procedures, and guidelines for the proper
29 administration of its financial assistance programs and the provision of financial assistance under
30 this chapter. The rules, regulations, procedures, and guidelines shall be consistent with the
31 requirements of title VI of the Clean Water Act, 33 U.S.C. § 1381 et seq., and any rules,
32 regulations, procedures, and guidelines adopted by the department, and may include, without
33 limitation, forms of financial assistance applications, loan agreements, and other instruments, and
34 provision for submission to the agency and the department by a local governmental unit, [person](#)

1 [or corporation](#) of the information regarding the proposed water pollution abatement project, the
2 wastewater system of which it is a part, and the local governmental unit or corporation as the
3 agency or the department shall deem necessary, to determine the eligibility of a project for
4 financial assistance under this chapter, the financial feasibility of a project, and the sufficiency of
5 general revenues or wastewater system revenues to secure and pay the loan and the local
6 governmental obligations [or non-governmental obligations](#) issued to evidence the project. [The](#)
7 [agency shall, no later than December 31, 2015, enter into an agreement with the Rhode Island](#)
8 [commerce corporation to ensure collaboration for brownfields and energy efficiency related](#)
9 [projects to which the agency provides financial assistance to corporations.](#)

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

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

21 **46-12.2-9. Authorization to expend funds available for local grants.** -- In addition to
22 the financial assistance provided by the agency to a local governmental units, [persons](#) or
23 corporations for approved projects in accordance with this chapter, the department is hereby
24 authorized to expend funds otherwise available for grants ~~to~~ [to](#) local governmental units, [persons](#)
25 or ~~corporation~~ [corporations](#) to the extent permitted by federal and state law.

26 **46-12.2-10. Powers of local governmental units.** -- Notwithstanding any provision of
27 general law, special law or municipal charter to the contrary:

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

32 (i) Issue local governmental obligations as provided herein: (A) if and to the amount
33 authorized by a bond act; ~~or~~ (B) without limitation as to the amount, if issued as limited
34 obligations, pursuant to §46-12.2-12 [or § 46-12.2-12.1](#); or [\(C\) without limitation as to the](#)

1 [amount, if issued as a financing lease or other appropriation obligation;](#)

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

6 (iii) Apply for, accept, and expend, financial assistance and grants for the purpose of
7 financing costs of ~~water pollution abatement~~ projects subject to the rules, regulations, procedures,
8 and guidelines of the agency and the department, [if applicable](#), in effect from time to time, the
9 provisions of the applicable loan agreement, and the requirements of other applicable law;

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

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

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

25 (2) In order to provide for the collection and enforcement of fees, rates, rents,
26 assessments, and other charges for the operation of any approved project, [any](#) ~~the~~ wastewater
27 system ~~of which it is a part~~, and any other revenue producing facilities from which the local
28 governmental units may derive wastewater system revenues, in addition to any other authority
29 provided by law or any bond act applicable to a particular local governmental unit, local
30 governmental units are hereby granted all the powers and privileges granted to them by the
31 general laws of the state with respect to any similar fee, rate, rent, assessment, or other charge.
32 All unpaid fees, rates, rents, assessments, and other charges shall be a lien upon the real estate
33 served for which the unpaid fees, rates, rents, assessments, or other charges have been made. A
34 lien shall arise and attach as of the due date of each unpaid fee, rate, rent, assessment, or other

1 charge. Subject to the provisions of § 39-26.5-6, the ~~The~~ lien shall be superior to any other lien
2 other than a tax lien, encumbrance, or interest in the real estate, whether by way of mortgage,
3 attachment, or otherwise, except easements and restrictions. In the case of a life estate, the
4 interest of the tenant for life shall first be liable for the unpaid fees, rates, rents, assessments, or
5 other charges. The local governmental unit may enforce the lien by advertising and selling any
6 real estate liable for unpaid fees, rents, assessments, and other charges in the manner provided for
7 the enforcement of liens for unpaid taxes by chapter 9 of title 44, as amended from time to time.

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

20 (4) Any city or town and any other local governmental unit acting by and through the
21 officer or officers, board, committee, or other body authorized by law, or otherwise the chief
22 executive officer, may enter into agreements with the agency and the department, if applicable,
23 regarding the operation of an enterprise fund established for any approved project, any the
24 wastewater system ~~of which it is a part~~, and any other revenue producing facilities from which the
25 local governmental unit may derive wastewater system revenues. The agreements may include,
26 without limitation, fiscal and accounting controls and procedures, provisions regarding the
27 custody, safeguarding, and investment of ~~wastewater-system~~ revenues, and other amounts
28 credited thereto, the establishment of reserves and other accounts and funds, and the application
29 of any surplus funds.

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

34 (6) Any municipality, notwithstanding any contrary provision of any charter, other laws

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

9 **46-12.2-11 Authority of local governmental units to issue obligations -- Terms. --** (a)

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

23 (b) Local governmental obligations issued by any local governmental unit shall be dated,
24 may bear interest at such rate or rates, including rates variable, from time to time, subject to such
25 minimum or maximum rate, if any, as may be determined by such index or other method of
26 determination provided in the applicable loan agreement, shall mature in such amount or amounts
27 and at such time or times, not later than the maximum dates, if any, provided herein, and may be
28 made redeemable in whole or in part before maturity at the option of the local governmental unit
29 or at the option of the agency, at such price or prices and under such terms and conditions as may
30 be fixed in the loan agreement prior to the issue of the local governmental obligations. Local
31 governmental obligations may be issued as serial bonds or term bonds or any combination thereof
32 with such provision, if any, for sinking funds for the payment of bonds as the local governmental
33 unit and the agency may agree. The local governmental obligations may be sold at private sale
34 and may be in such form, payable to the bearer thereof or the registered owner, whether

1 certificated or uncertificated, be in such denominations, payable at such place or places, within or
2 without the state, and otherwise bear such terms and conditions, not inconsistent with this
3 chapter, as provided in the applicable loan agreement or as the agency and the local governmental
4 unit shall otherwise agree. The local governmental obligations may be issued in principal amount
5 equal to the loan evidenced thereby or at such discount as the agency and the local governmental
6 unit shall agree.

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

18 (d) If a local governmental unit has authorized borrowing in accordance with this chapter
19 and the issuance of local governmental obligations to evidence the borrowing under any bond act,
20 the local governmental unit may, subject to the applicable loan agreement and with the approval
21 of the agency, issue notes to the agency to evidence ~~of~~ the loan. The issuance of the notes shall be
22 governed by the provisions of this chapter relating to the issue of bonds other than notes, to the
23 extent applicable, provided the maturity date of the notes shall not exceed five (5) years from the
24 date of issue of the notes, ~~or the expected date of completion of the approved project financed~~
25 ~~thereby as determined by the department, if later.~~ Notes issued for less than the maximum
26 maturity date may be renewed by the issue of other notes maturing no later than the maximum
27 maturity date.

28 (e) A local governmental unit may issue local governmental obligations to refund or pay
29 at maturity or earlier redemption any local governmental obligations outstanding under any loan
30 agreement, or to refund or pay any other debt of the local governmental unit issued to finance the
31 approved project to which the loan agreement pertains. The refunding local governmental
32 obligations may be issued in sufficient amounts to pay or provide for the principal of the
33 obligations refunded, any redemption premium thereon, any interest accrued and to accrue to the
34 date of payment of the obligations, the costs of issuance of the refunding obligations and any

1 reserves required by the applicable loan agreement. The issue of refunding local governmental
2 obligations, the amount and dates of maturity or maturities and other details thereof, the security
3 therefor, and the rights, duties, and obligations of the local governmental unit in respect to the
4 same shall be governed by the provisions of this chapter relating to the issue of local
5 governmental obligations other than refunding obligations as this chapter may be applicable.

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

12 **46-12.2-13 Trust agreements pertaining to local governmental obligations.** -- (a)

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

20 (b) Any trust agreement directly or indirectly securing local governmental obligations
21 may, in addition to other security provided by law, pledge or assign, and create security interests
22 in, all or any part of the general revenues of the local governmental unit. Any trust agreement
23 may contain such provisions for protecting and enforcing the rights, security, and remedies of the
24 agency, or other holders of the local governmental obligations, as may be determined by the
25 agency including, without limitation, provisions defining defaults and providing for remedies in
26 the event thereof, which may include the acceleration of maturities [to the extent permitted by law](#),
27 and covenants setting forth the duties of, and limitations on, the local governmental unit in
28 relation to the custody, safeguarding, investment, and application of moneys, including general
29 revenues and wastewater system revenues, the issue of additional and refunding local
30 governmental obligations and other bonds, notes, or obligations on a parity or superior thereto,
31 the establishment of reserves, the establishment of sinking funds for the payment of local
32 governmental obligations, and the use of surplus proceeds of local governmental obligations. A
33 trust agreement securing local governmental obligations issued in accordance with § 46-12.2-12
34 may also include covenants and provisions not in violation of law regarding the acquisition,

1 construction, operation, and carrying out of the approved project financed by the [local](#)
2 [governmental](#) obligations, the wastewater system of which it is a part, and any other revenue
3 producing facilities from which the local governmental unit may derive wastewater system
4 revenues [or other general revenues](#), the fixing and collection of wastewater system revenues [or](#)
5 [other general revenues](#), and the making and amending of contracts relating thereto.

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

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

17 (e) In addition to any other remedies provided under the applicable loan agreement or
18 otherwise by law, the agency and any other holder of local governmental obligations issued under
19 the provisions of this chapter, and any trustee under any trust agreement securing the obligations
20 may bring suit in the superior court upon the local governmental obligations, and may, either at
21 law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief,
22 including, in the case of local governmental obligations issued in accordance with § 46-12.2-12,
23 proceedings for the appointment of a receiver to take possession and control of the approved
24 project financed thereby, the wastewater system of which it is a part, or any other revenue
25 producing facilities from which the local governmental unit may derive wastewater system
26 revenues [or other general revenues](#), to operate and maintain the system or facility in compliance
27 with law, to make any necessary repairs, renewals, and replacements and to fix, revise, and
28 collect wastewater system revenues, protect, and enforce any and all rights under the laws of the
29 state or granted in this chapter or under any trust agreement, and may enforce and compel the
30 performance of all duties required by this chapter, the loan agreement, the applicable bond act, or
31 the trust agreement to be performed by the local governmental unit or any officer thereof.

32 (f) A pledge of general revenues or wastewater system revenues in accordance with this
33 chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for
34 appropriation for so long as the pledge shall be in effect, and, notwithstanding any general or

1 special law or municipal charter to the contrary, the revenues shall be applied as required by the
2 pledge and the trust agreement evidencing the revenues without further appropriation.

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

5 **46-12.2-14. Bonds of the agency.** -- (a) The agency may provide by resolution of the
6 board of directors for the issuance, from time to time, of bonds of the agency for any of its
7 corporate purposes, including those set forth in [this](#) chapter [and chapter 19.16 of title 23, ~~24-18~~](#)
8 [chapter 18 of title 24, and chapter 26.5 of title 39](#), or for the borrowing of money in anticipation
9 of the issuance of the bonds. Bonds issued by the agency may be issued as general obligations of
10 the agency or as special obligations payable solely from particular revenues or funds as may be
11 provided for in any trust agreement or other agreement securing bonds. The agency may also
12 provide by resolution of the board of directors for the issuance, from time to time, of temporary
13 notes in anticipation of the revenues to be collected or received by the agency, including, without
14 limitation, in anticipation of any payments to the agency from the state pursuant to § 46-12.2-7,
15 or in anticipation of the receipt of other grants or aid. The issue of notes shall be governed by the
16 provisions of this chapter and chapter [19.16 of title 23, ~~24-18~~ chapter 18 of title 24, and chapter](#)
17 [26.5 of title 39](#), as applicable, relating to the issue of bonds of the agency other than temporary
18 notes as these chapters may be applicable; provided, however, that notes issued in anticipation of
19 revenues shall mature no later than one year from their respective dates, or the date of expected
20 receipt of the revenues, if later, and notes issued in anticipation of grants, or other aid and
21 renewals thereof, shall mature no later than six (6) months after the expected date of receipt of the
22 grant or aid.

23 (b) The bonds of each issue shall be dated, may bear interest at such rate or rates,
24 including rates variable from time to time as determined by such index, banker's loan rate, or
25 other method determined by the agency, and shall mature or otherwise be payable at such time or
26 times, as may be determined by the agency, and may be made redeemable before maturity at the
27 option of the agency or the holder thereof at such price or prices and under such terms and
28 conditions as may be fixed by the agency. The agency shall determine the form of bonds, and the
29 manner of execution of the bonds, and shall fix the denomination or denominations of the bonds,
30 and the place or places of payment of principal, redemption premium, if any, and interest, which
31 may be paid at any bank or trust company within or without the state. In case any officer whose
32 signature or a facsimile of whose signature shall appear on any bonds shall cease to be the officer
33 before the delivery thereof, the signature or facsimile shall nevertheless be valid and sufficient for
34 all purposes as if the officer had remained in office until delivery. The agency may provide for

1 authentication of bonds by a trustee, fiscal agent, registrar, or transfer agency. Bonds may be
2 issued in bearer or in registered form, or both, and, if notes, may be made payable to the bearer or
3 to order, as the agency may determine. The agency may also establish and maintain a system of
4 registration for any bonds whereby the name of the registered owner, the rights evidenced by the
5 bonds, the transfer of the bonds, and the rights and other similar matters, are recorded in books or
6 other records maintained by or on behalf of the agency, and no instrument evidencing the bond or
7 rights need be delivered to the registered owner by the agency. A copy of the books or other
8 records of the agency pertaining to any bond registered under a registration system certified by an
9 authorized officer of the agency or by the agent of the agency maintaining the system shall be
10 admissible in any proceeding without further authentication. The board of directors may by
11 resolution delegate to any member or officer of the agency, or any combination thereof, the
12 power to determine any of the matters set forth in this section. In the discretion of the agency,
13 bonds of the agency may be issued with such terms as will cause the interest thereon to be subject
14 to federal income taxation. The agency may sell its bonds in such manner, either at public or
15 private sale, for the price, at the rate or rates of interest, or at discount in lieu of interest, as it may
16 determine will best effect the purposes of this chapter or chapter 24-18, as applicable,.

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

28 (d) In the discretion of the board of directors, any bonds issued under this section may be
29 secured by a trust agreement in such form and executed in such manner as may be determined by
30 the board of directors, between the agency and the purchasers or holders of the bonds, or between
31 the agency and a corporate trustee which may be any trust company or bank having the powers of
32 a trust company within or without the state. The trust agreement may pledge or assign, in whole
33 or in part, any loan agreements, ~~and~~ local governmental obligations [and non-governmental](#)
34 [obligations](#), and the revenues, funds, and other assets or property held or to be received by the

1 agency, including without limitation all moneys and investments on deposit from time to time in
2 the water pollution control revolving fund, the Rhode Island water pollution control revolving
3 fund, and the local interest subsidy trust fund, or the municipal road and bridge revolving fund, as
4 applicable, and any contract or other rights to receive the same, whether then existing or
5 thereafter coming into existence and whether then held or thereafter acquired by the agency, and
6 the proceeds thereof. The trust agreement may contain such provisions for protecting and
7 enforcing the rights, security, and remedies of the bondholders as may be reasonable and proper
8 including, without limiting the generality of the foregoing, provisions defining defaults and
9 providing for remedies in the event thereof which may include the acceleration of maturities,
10 restrictions on the individual right of action by bondholders, and covenants setting forth the duties
11 of and limitations on the agency in relation to the custody, safeguarding, investment, and
12 application of moneys, the enforcement of loan, ~~and~~ local governmental obligations and non-
13 governmental obligations, the issue of additional or refunding bonds, the fixing, revision,
14 charging, and collection of charges, the use of any surplus bond proceeds, the establishment of
15 reserves, and the making and amending of contracts.

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

34 (f) It shall be lawful for any bank or trust company to act as a depository or trustee of the

1 proceeds of bonds, revenues, or other moneys under a trust agreement of the agency, and to
2 furnish indemnification and to provide security as may be required by the agency. It is hereby
3 declared that any pledge or assignment made by the agency under this chapter or chapter [19.16 of](#)
4 [title 23, ~~24-18~~ chapter 18 of title 24, and chapter 26.5 of title 39](#) is an exercise of the
5 governmental powers of the agency, and loan agreements, ~~and~~ local governmental obligations [and](#)
6 [non-governmental obligations](#), revenues, funds, assets, property, and contract or other rights to
7 receive the same and the proceeds thereof, which are subject to the lien of a pledge or assignment
8 created under this chapter or chapter [19.16 of title 23, ~~24-18~~ chapter 18 of title 24, and chapter](#)
9 [26.5 of title 39](#), shall not be applied to any purposes not permitted by the pledge or assignment.

10 (g) Any holder of a bond issued by the agency under the provisions of this chapter or
11 chapter [19.16 of title 23, ~~24-18~~ chapter 18 of title 24, and chapter 26.5 of title 39](#) and any trustee
12 or other representative under a trust agreement securing the trustee or representative, except to the
13 extent the rights herein given may be restricted by the trust agreement, may bring suit upon the
14 bonds in the superior court and may, either at law or in equity, by suit, action, mandamus, or
15 other proceeding for legal or equitable relief, protect and enforce any and all rights under the laws
16 of the state or granted hereunder or under the trust agreement, and may enforce and compel
17 performance of all duties required by this chapter, chapter [19.16 of title 23, ~~24-18~~ chapter 18 of](#)
18 [title 24, and chapter 26.5 of title 39](#), or by the trust agreement, to be performed by the agency or
19 by any officer thereof.

20 **46-12.2-17. No additional consent required.** -- Except as provided in this section, bonds
21 and local governmental obligations, [and non-governmental obligations](#) may be issued under this
22 chapter or chapter 24-18 without obtaining the consent of any executive office, department,
23 division, commission, board, bureau, or agency of the state or any political subdivision thereof,
24 and without any other proceedings or the happening of any condition, or acts other than those
25 proceedings, conditions, or acts which are specifically required therefor hereunder or under any
26 applicable bond act, and the validity of and security for any bonds issued by the agency pursuant
27 to this chapter or chapter 24-18, and any local governmental obligations, [and non-governmental](#)
28 [obligations](#) issued in accordance herewith, shall not be affected by the existence or nonexistence
29 of any consent or other proceedings, conditions, or acts. Nothing in this chapter or chapter 24-18
30 shall exempt the agency from the provisions of chapter 10.1 of title 42 entitled "Public Finance
31 Management Board," and the Narragansett Bay ~~water quality management district~~ commission
32 shall not issue any bonds, notes, or other indebtedness without the approval of the division of
33 public utilities as required by § 39-3-15.

34 **46-12.2-25. Supplemental powers -- Inconsistent laws.** -- The provisions of this chapter

1 and chapter [19.16 of title 23](#), ~~24-18~~ [chapter 18 of title 24](#), and [chapter 26.5 of title 39](#) shall be
2 deemed to provide an additional, alternative, and complete method for accomplishing the
3 purposes of these chapters, and shall be deemed and construed to be supplemental and additional
4 to, and not in derogation of, powers conferred upon the agency, the department, and local
5 governmental units by other laws; provided, however, that insofar as the provisions of these
6 chapters are inconsistent with the provisions of any general or special law, municipal charter,
7 administrative order or regulations, the provisions of these chapters shall be controlling. Any
8 amounts appropriated by these chapters to the agency or the department shall be in addition to
9 any other amounts appropriated to the agency or the department by any other law.

10 SECTION 18. Chapter 46-12.2 of the General Laws entitled "Rhode Island Clean Water
11 Financing Agency" is hereby amended by adding thereto the following sections:

12 **46-12.2-4.2 Establishment of the efficient buildings fund.** -- [\(a\) There is hereby](#)
13 [authorized and created within the Rhode Island infrastructure bank an efficient buildings fund for](#)
14 [the purpose of providing technical, administrative and financial assistance to local governmental](#)
15 [units for energy efficient and renewable energy upgrades to public buildings and infrastructure,](#)
16 [including, but not limited to, streetlights. The Rhode Island infrastructure bank shall review and](#)
17 [approve all applications for projects to be financed through the efficient buildings fund.](#)

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

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

33 [\(1\) To receive and disburse such funds from the state and federal government as may be](#)
34 [available for the purpose of the fund subject to the provisions of this section;](#)

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

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

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

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

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

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

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

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

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

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

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

34 (d) In addition to other remedies of the Rhode Island infrastructure bank under any loan

1 agreement or otherwise provided by law, the Rhode Island infrastructure bank may also recover
2 from a borrower, in an action in superior court, any amount due the Rhode Island infrastructure
3 bank together with any other actual damages the Rhode Island infrastructure bank shall have
4 sustained from the failure or refusal of the borrower to make the payments or abide by the terms
5 of the loan agreement.

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

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

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

17 **46-12.2-12.1 Power of local governmental units to issue limited obligations payable**
18 **from energy efficiency savings.** – (a) If required by the applicable loan agreement, and
19 notwithstanding any general or special law or municipal charter to the contrary, local
20 governmental obligations shall be issued as limited obligations payable solely from an
21 appropriation of general revenues in an amount not to exceed the projected energy savings of the
22 project. Notwithstanding § 45-12.2-2 or any general or special law or municipal charter to the
23 contrary, all local governmental units shall have the power to issue such local governmental
24 obligations pursuant to this section without limit as to amount, and the amount of principal and
25 premium, if any, and interest on the obligations shall not be included in the computation of any
26 limit on the indebtedness of the local governmental unit or on the total taxes which may be levied
27 or assessed by the local governmental unit in any year or on any assessment, levy, or other charge
28 made by the local governmental unit on any other political subdivision or instrumentality of the
29 state. This section shall constitute the bond act for the issuance of such local governmental
30 obligations by local governmental units. Any local governmental obligations issued in accordance
31 with this section shall recite on its face that it is a limited obligation payable solely from an
32 appropriation of general revenues in an amount not to exceed the projected energy savings
33 pledged to its payment.

34 (b) The issuance of local governmental obligations in accordance with this section, the

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

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

8 **46-12.2-14.1 Electric and gas demand side charge proceeds as further security for**
9 **debt funding energy efficiency improvements in public buildings. -- (a) Upon receipt of the**
10 **electric and gas demand side charge proceeds identified in §§ 39-2-1.2(1) and 39-2-1.2 (m), the**
11 **Rhode Island infrastructure bank shall deposit the electric and gas demand side charge proceeds**
12 **in a loan loss reserve fund to provide security for any loans made by the Rhode Island**
13 **infrastructure bank or any bonds of the Rhode Island infrastructure bank issued to fund energy**
14 **efficiency improvements in public buildings pursuant to § 46-12.2-4.2. The funds in the loan loss**
15 **reserve fund described therein shall only be used after all other available loan loss reserve funds**
16 **have been applied.**

17 (b) After all loans and bonds in connection with the efficient buildings fund have been
18 repaid in full, the balance of the loan loss reserve fund, including any accrued interest, shall be
19 remitted to the electric and gas utilities described in § 39-2-1.2, to be used for energy efficiency
20 programmatic purposes.

21 SECTION 19. Sections 46-12.8-1, 46-12.8-2 and 46-12.8-5 of the General Laws in
22 Chapter 46-12.10 entitled "Water Projects Revolving Loan Fund" are hereby amended to read as
23 follows:

24 **46-12.8-1 Legislative findings. --** (a) It is hereby found that there exists and will in the
25 future exist within the state of Rhode Island the need to construct and reconstruct facilities related
26 to and acquire watershed protection land in connection with the provision of safe drinking water
27 throughout the state of Rhode Island.

28 (b) It is hereby further found that to provide financial assistance for the acquisition,
29 design, planning, construction, enlargement, repair, protection or improvement of public drinking
30 water supplies or treatment facilities, including any of those actions required under the federal
31 Safe Drinking Water Act of 1974, 42 U.S.C., §§ 300f – 300j-9, including the Safe Drinking
32 Water Act (SDWA) amendments of 1996 (Pub. L. 104-182) and any amendments thereto, it is
33 necessary to establish a revolving loan fund program to provide a perpetual source of low cost
34 financing for safety drinking water projects.

1 (c) It is hereby further found that to secure maximum benefit to the state from a safe
2 drinking water revolving loan fund, it is necessary to place such fund within the jurisdiction and
3 control of the Rhode Island ~~clean water finance agency~~ [infrastructure bank](#), which agency
4 presently runs the state's revolving fund with respect to the state's wastewater pollution abatement
5 program, which agency shall exclusively administer the financing portion of the safe drinking
6 water revolving loan fund, but which shall nevertheless work, as necessary, with the department
7 of environmental management, the water resources board, the Rhode Island department of health,
8 the division of public utilities and carriers and any other agency or instrumentality of the state or
9 federal government with responsibility for the development or supervision of water supply
10 facilities within the state.

11 **46-12.8-2 Definitions.** -- (a) "Agency" means the Rhode Island ~~clean water finance~~
12 ~~agency~~ [infrastructure bank](#).

13 (b) "Approved project" means any project or portion thereof of a governmental unit or
14 privately organized water supplier that has been issued a certificate of approval by the department
15 for assistance through the agency; and, notwithstanding the foregoing, shall include safe drinking
16 water projects funded outside of the drinking water state revolving fund without the requirement
17 of the issuance of a certificate of approval.

18 (c) "Department" means the department of health.

19 (d) "Local governmental obligations" means bonds, notes or other evidences of
20 indebtedness in fully marketable form issued by a governmental unit to evidence a loan from the
21 agency in accordance with this chapter or otherwise as provided herein.

22 (e) "Local governmental unit" means any town, city, district, commission, agency,
23 authority, board of other political subdivision or instrumentality of the state or of any political
24 subdivision thereof responsible for the ownership or operation of water supply facilities within
25 the state.

26 (f) "Obligations of private water companies" means bonds, notes or other evidences of
27 indebtedness, of private water companies, in fully marketable form.

28 (g) "Privately organized water supplier" means any water company not owned or
29 operated by a local governmental unit, existing under the laws of the state, and in the business of
30 operating a safe drinking water facility.

31 (h) "Water supply facility or facilities" means water reservoirs, wells and well sites,
32 transmission or distribution system, any and all real estate or interests in real estate held in
33 connection therewith, all equipment and improvements held in connection therewith, and any
34 property or interests therein, real, personal or mixed, used or held on to be used in connection

1 therewith.

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

12 **46-12.8-5. Procedure for application, approval, and award of financial assistance. --**

13 (a) Any local governmental unit or privately organized water supplier may apply to the agency
14 for financial assistance in accordance with this chapter to finance all or any part of the cost of an
15 approved project. The agency shall not award financial assistance to such local government unit
16 or privately organized water supplier hereunder until and unless the department shall have issued
17 a certificate of approval of the project or portion thereof for which such financial assistance has
18 been sought. [Notwithstanding the foregoing, for safe drinking water projects funded outside of
19 the drinking water state revolving fund, the Agency may provide financial assistance without the
20 requirement of the issuance of a certificate of approval.](#)

21 (b) If the department shall determine, in accordance with rules and regulations
22 promulgated pursuant to this chapter, that an application for financial assistance or portion thereof
23 shall be approved, it shall deliver to the agency a certificate of approval of the project or a portion
24 thereof which shall specify the project or portion thereof eligible for financial assistance and such
25 other terms, conditions and limitations with respect to the construction and operation of the
26 project as the department shall determine. The agency shall specify, among other things, the type
27 and amount of financial assistance to be provided from the safe drinking water revolving loan
28 fund, the amount, if any, of subsidy assistance to be granted, the amount, if any, of other financial
29 assistance permitted by this chapter to be provided, and such other terms, conditions, and
30 limitations on the financial assistance, the expenditure of loan proceeds, and the construction and
31 operation of the project as the agency shall determine or approve.

32 (c) In addition to the authority provided by law, the department shall be responsible for,
33 and shall have all requisite power to, review and approve reports and plans for safe drinking
34 water projects and approved projects, or any part thereof, for which financial assistance has been

1 applied or granted in accordance with this chapter [from the safe drinking water revolving fund](#), to
2 enter into contracts with local governmental units and private water companies relative to
3 approved projects, including, without limiting the generality of the foregoing, the costs of
4 approved projects eligible for financial assistance, grants, and other terms, conditions and
5 limitations with respect to the construction and operation of the project, and to inspect the
6 construction and operation of approved projects in compliance with approved plans. Without
7 limiting the generality of the foregoing, in connection with the exercise of its powers and
8 performance of its duties under this chapter, the department shall have all the powers provided by
9 law to the department and its director. The department shall adopt rules, regulations, procedures,
10 and guidelines to carry out the purposes of this chapter and for the proper administration of its
11 powers and duties under this chapter. The rules, regulations, procedures, and guidelines shall
12 include among other things, criteria for determining those safe drinking water projects, to be
13 approved for financial assistance [from the safe drinking water revolving fund](#) and specification of
14 eligible costs of the projects. In order to provide for the expenses of the department under this
15 chapter, the agency shall transfer to the department for application to the expenses an amount
16 from the safe drinking water revolving loan fund equal to an amount as the agency and the
17 department shall reasonably determine. The agency and the department shall enter into an
18 operating agreement and amend the same, from time to time, allocating their respective rights,
19 duties, and obligations with respect to the award of financial assistance and grants to finance
20 approved projects under this chapter and establishing procedures for the application, approval,
21 and oversight of projects, financial assistance, and grants.

22 (d) Upon issuance of a certificate of approval, the agency shall award as soon as
23 practicable the financial assistance [from the safe drinking water revolving fund](#) to the local
24 governmental unit or privately organized water supplies for any approved project specified in the
25 certificate; provided, however, the agency may decline to award any financial assistance which
26 the agency determines will have a substantial adverse effect on the interests of holders of bonds,
27 notes or other evidences of indebtedness of the agency or the interests of other participants in the
28 financial assistance program, or for other good and sufficient cause affecting the finances of the
29 agency. All financial assistance shall be made pursuant to a loan agreement between the agency
30 and the local governmental unit or privately organized water supplier, acting by and through the
31 officer or officers, board, committee, or other body authorized by law, or otherwise its chief
32 executive officer, according to the terms and conditions of the certificate of approval and such
33 other terms and conditions as may be established by the agency, and each loan shall be evidenced
34 and secured by the issue to the agency of the local governmental obligations or obligations of the

1 privately organized water supplier, in fully marketable form in principal amount, bearing interest
2 at the rate or rates specified in the applicable loan agreement, and shall otherwise bear such terms
3 and conditions as authorized by this chapter and the loan agreement.

4 (e) The agency shall adopt rules, regulations, procedures, and guidelines for the proper
5 administration of its financial assistance programs and the provision of financial assistance under
6 this chapter. The rules, regulations, procedures, and guidelines shall be consistent with any rules,
7 regulations, procedures, and guidelines adopted by the department, and may include, without
8 limitation, forms of financial assistance applications, loan agreements, and other instruments, and
9 provisions for submission to the agency and the department by a local governmental unit or a
10 privately organized water supplier of the information regarding the proposed safe drinking water
11 project, the distribution system of which it is a part, and the local governmental unit or privately
12 organized water supplies as the agency or the department shall deem necessary to determine the
13 eligibility of a project, for financial assistance under this chapter, the financial feasibility of a
14 project, and the sufficiency of general revenues or system revenues to secure and pay the loan and
15 the local governmental obligations or obligations of the privately organized water supplier issued
16 to evidence the same.

17 (f) In addition to other remedies of the agency under any loan agreement or otherwise
18 provided by law, the agency may also recover from a local governmental unit or privately
19 organized water supplier, in an action in superior court, any amount due the agency together with
20 any other actual damages the agency shall have sustained from the failure or refusal of the local
21 governmental unit or privately organized water supplier to make the payments.

22 SECTION 20. Section 46-15.1-22 of the General Laws in Chapter 46-15.1 entitled
23 "Water Supply Facilities" is hereby amended to read as follows:

24 **46-15.1-22 Discontinuation of borrowing authority and abolishment of water**
25 **resources board (corporate).** -- (a) Notwithstanding any law to the contrary, including, but not
26 limited to, § 46-15.1-10, upon the effective date of this section, the water resources board
27 (corporate), established as a body politic and corporate and public instrumentality pursuant to this
28 chapter, shall be prohibited from borrowing money or issuing bonds for any purpose.

29 (b) The water resources board (corporate) shall continue to repay existing debt until all
30 such debt is fully repaid. Upon the repayment by the water resources board (corporate) of all such
31 existing obligations, the water resources board (corporate) shall be dissolved and all existing
32 functions and duties of the water resources board (corporate) shall be transferred to the Rhode
33 Island ~~clean water finance agency~~ [infrastructure bank](#), a body politic and corporate and public
34 instrumentality of the state established pursuant to chapter 46-12.2.

1 SECTION 21. Section 46-15.3-25 of the General Laws in Chapter 46-15.3 entitled
2 "Public Drinking Water Supply System Protection" is hereby amended to read as follows:

3 ~~46-15.3-25. Transfer of charges to Rhode Island Clean Water Finance Agency~~
4 ~~Rhode Island infrastructure bank~~ **Transfer of charges to Rhode Island infrastructure bank.**

5 ~~==~~ Notwithstanding any law, rule or regulation to the contrary, upon the dissolution of the water
6 resources board (corporate) pursuant to § 46-15.1-22, any charges remitted to the water resources
7 board (corporate) pursuant to this chapter shall be remitted to the Rhode Island ~~clean water~~
8 ~~finance agency~~ infrastructure bank, a body politic and corporate and public instrumentality of the
9 state established pursuant to chapter 46-12-2.

10 SECTION 22. This article shall take effect upon passage.

11