

**§2221. Capital reserve funds; obligation of State**

**1. Capital reserve fund.** The agency may create and establish one or more capital reserve funds and may pay into any such capital reserve fund any money appropriated and made available by the State for the purposes of any such fund, any proceeds of sale by the agency of revenue obligation securities to the extent determined by the agency and any other money available to the agency. For purposes of this section, the amount of any letter of credit, insurance contract, surety bond, indemnification agreement or similar financial undertaking available to be drawn on and applied to obligations to which money in any such fund may be applied shall be deemed to be and counted as money in the capital reserve fund.

[PL 1989, c. 585, Pt. A, §7 (NEW).]

**2. Application.** Money in any capital reserve fund created pursuant to subsection 1, except as provided in this section, shall be used solely with respect to revenue obligation securities or mortgage loans, repayment of which is secured by any such fund and solely for the payment of principal, accrued interest and costs and expenses chargeable to the mortgage loan or securities, the purchase or redemption of the securities, including any fees or premiums or the payment of interest on the securities. Money in excess of the reserve requirement set forth in subsection 3 may be transferred to other funds and accounts of the agency.

[PL 1989, c. 585, Pt. A, §7 (NEW).]

**3. Reserve requirement.** The agency may provide that money in any such fund shall not be withdrawn at any time in an amount which would reduce the amount of any such fund to less than the maximum amount of principal and interest becoming due and payable under any applicable trust agreement or other agreement in the next succeeding 12-month period, the amount being referred to as the capital reserve requirement, except for the purpose of paying the amount due and payable with respect to revenue obligation securities or mortgage loans, repayment of which is secured by any such fund.

[PL 1989, c. 585, Pt. A, §7 (NEW).]

**4. Issuance limit.** The agency may provide that it shall not issue revenue obligation securities if the capital reserve requirement with respect to securities outstanding and then to be issued and secured by any such fund will exceed the amount of any such fund, including the amount available to be drawn on any letter of credit given to secure the capital reserve requirement, at the time of issuance, unless the agency, at the time of issuance of the securities, shall deposit in any such fund from proceeds of the securities to be issued, or from other sources, an amount which, together with the amounts then in any such fund and amounts available to be drawn under any letter of credit, will not be less than the capital reserve requirement.

[PL 1989, c. 585, Pt. A, §7 (NEW).]

**5. Security for mortgage loans.** With respect to any mortgage loans which may be secured under this article, the agency may provide that such mortgage loans shall be secured by one or more capital reserve funds established pursuant to subsection 1. Any commitment with respect to a mortgage loan executed and delivered pursuant to this section shall be conclusive evidence of the eligibility of the mortgage loan for capital reserve fund security and the validity of any such commitment or contract shall be incontestable in the hands of a mortgage lender except for fraud or misrepresentation on the part of the mortgage lender. Mortgages secured by capital reserve funds under this section are made legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, savings and loan associations, executors, trustees and other fiduciaries, public and private pension or retirement funds and other persons.

[PL 1989, c. 585, Pt. A, §7 (NEW).]

**6. Appropriation.** On or before December 1st, annually, the agency shall certify to the Governor the amount, if any, necessary to restore the amount in any capital reserve fund, to which this subsection

is stated in any written agreement, the trust agreement or other document to apply, to the capital reserve requirement. The Governor shall pay directly from the State Contingent Account to any such fund as much of the amount as is available in that account, as determined by the Governor, and shall transmit directly to the Legislature certification and a statement of the amount, if any, remaining to be paid. The certified amount shall be appropriated and paid to the agency during the current state fiscal year.

[PL 1989, c. 585, Pt. A, §7 (NEW).]

**7. Obligations and securities outstanding.** The agency may not have at any one time outstanding obligations or revenue obligation securities to which subsection 6 is stated in any agreement or the trust agreement or other document to apply in principal amount exceeding an amount equal to \$50,000,000. This subsection constitutes specific legislative approval to issue up to \$50,000,000 in tax-exempt revenue obligation securities. The amount of revenue obligation securities issued to refund securities previously issued may not be taken into account in determining the principal amount of securities outstanding, provided that proceeds of the refunding securities are applied as promptly as possible to the refunding of the previously issued securities. In computing the total amount of revenue obligation securities of the agency that may at any time be outstanding for any purpose, the amount of the outstanding revenue obligation securities that have been issued as capital appreciation bonds or as similar instruments shall be valued as of any date of calculation at their then current accreted value rather than their face value.

[PL 1989, c. 585, Pt. A, §7 (NEW); PL 1989, c. 869, Pt. A, §17 (AMD).]

#### SECTION HISTORY

PL 1989, c. 585, §A7 (NEW). PL 1989, c. 869, §A17 (AMD).

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