

**DISTRICT OF COLUMBIA**  
**OFFICIAL CODE**

**TITLE 8.**  
**ENVIRONMENTAL AND ANIMAL CONTROL**  
**AND PROTECTION.**

**CHAPTER 17R.**  
**ENERGY EFFICIENCY FINANCING.**

**2001 Edition**

**DISTRICT OF COLUMBIA OFFICIAL CODE**  
**CHAPTER 17R. ENERGY EFFICIENCY FINANCING.**

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# **CHAPTER 17R. ENERGY EFFICIENCY FINANCING.**

## **SUBCHAPTER I. DEFINITIONS AND PURPOSE.**

### **§ 8-1778.01. DEFINITIONS.**

For the purposes of this chapter, the term:

- (1) "Administrator" means the person retained pursuant to the authority granted in § 8-1778.45 to administer the Energy Efficiency Loan program authorized by subchapter III of this chapter.
- (2) "Authorized Delegate" means:
  - (A) The City Administrator;
  - (B) The Chief Financial Officer;
  - (C) The District of Columbia Treasurer;
  - (D) The Deputy Mayor for Planning and Economic Development; or
  - (E) Any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated any of the Mayor's functions under this chapter pursuant to § 1-204.22(6) and who has been designated as an Authorized Delegate for purposes of this chapter.
- (3) "Bond Counsel" means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.
- (4) "Bonds" means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this chapter.
- (5) "Certification Standard" means a certification or accreditation standard for building energy retrofit installation, such as those provided by the Building Performance Institute, the Residential Energy Services Network, or a nationally recognized program approved by the United States Department of Energy or the Mayor.
- (6) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.
- (7) "Closing Documents" means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.
- (8) "Debt Service" means payment of principal, premium, if any, and interest on the bonds.
- (9) "Energy Efficiency Audit" means a formal evaluation by a certified contractor of the energy consumption of a residential, commercial, or other building for the purpose of identifying methods of improving energy efficiency and reducing energy waste.
- (10) "Energy Efficiency Improvement" means an installation or modification that is designed to reduce energy utility costs of residential, commercial, or other building types. The term "Energy Efficiency Improvement" includes:
  - (A) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;
  - (B) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
  - (C) Automatic energy control systems;
  - (D) Heating, ventilating, or air conditioning and distribution system modifications or replacement in buildings or central plants;

(E) Caulking or weather-stripping;

(F) Replacement or modifications of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a building unless the increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;

(G) Energy recovery systems;

(H) Daylighting systems;

(I) Renewable energy systems; and

(J) Any other modification, installation, retrofit, or remodeling approved as an electric or gas utility cost-savings measure by the administrator.

(11) "Energy Efficiency Loan" means a loan to a property owner for the purpose of installing one of more Energy Efficiency Improvements.

(12) "Financing Documents" means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds, including any required collection agreement, offering document, and any required supplements to any such documents.

(13) "Home Rule Act" means Chapter 2 of Title 1.

(14) "Indenture" means the trust indentures, including a master trust indenture and any supplemental trust indenture, pursuant to which one or more series of the bonds are issued.

(15) "Property owner" means an owner of real property in the District.

(16) "Qualified Apprenticeship Program" means an apprenticeship program registered with the District of Columbia Apprenticeship Council.

(17) "Quality Assurance Program" means a program that establishes energy benchmarks, monitors and verifies the quality of Energy Efficiency Improvements, and measures actual energy savings.

(18) "Special Assessment" means the special assessment authorized by subchapter IX of Chapter 8 of Title 47.

(19) "Trustee" means the trustee under the indenture.

(May 27, 2010, D.C. Law 18-183, § 101, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 101 of D.C. Law 18-156 added a section to read as follows:

"Sec. 101. Definitions.

"For the purposes of this act, the term:

"(1) 'Authorized Delegate' means any one of the following:

"(A) The City Administrator;

"(B) The Chief Financial Officer;

"(C) The District of Columbia Treasurer;

"(D) The Deputy Mayor for Planning and Economic Development; or

"(E) Any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated any of the Mayor's functions under this act pursuant to section 422(6) of the Home Rule Act and who has been designated as an Authorized Delegate for purposes of this act.

"(2) 'Bond Counsel' means a firm or firms of attorneys designated as bond counsel from time to time by the Mayor.

"(3) 'Bonds' means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this act

"(4) 'Chief Financial Officer' means the Chief Financial Officer of the District of Columbia.

"(5) 'Closing Documents' means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates letters, opinions, forms, receipts, and other similar instruments.

"(6) 'Debt Service' means payment of principal, premium, if any, and interest on the bonds.

"(7) 'Financing Documents' means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds, including any required collection agreement, offering document, and any required supplements to any such documents.

"(8) 'Home Rule Act' means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

"(9) 'Indenture' means the trust indentures, including a master trust indenture and any supplemental trust indenture, pursuant to which one or more series of the bonds are issued.

"(10) 'Special Assessment' means the special assessment authorized by subchapter IX of Chapter 8 of Title 47 of the District of Columbia Official Code.

"(11) 'Trustee' means the trustee under the indenture."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 101 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

Law 18-183, the "Energy Efficiency Financing Act of 2010", was introduced in Council and assigned Bill No. 18-580, which was referred to the Committee on Finance and Revenue and the Committee on Government Operations and the Environment. The bill was adopted on first and second readings on March 2, 2010, and March 16, 2010, respectively. Signed by the Mayor on April 7, 2010, it was assigned Act No. 18-382 and transmitted to both Houses of Congress for its review. D.C. Law 18-183 became effective on May 27, 2010.

## **§ 8-1778.02. DECLARATION OF PUBLIC PURPOSE.**

(a) Energy conservation efforts, including the promotion of Energy Efficiency Improvements to residential, commercial, and other real property, are necessary to address the issue of global climate change and to reduce the consumers' energy costs.

(b) The upfront cost of making residential, commercial, or other real property more energy efficient prevents many property owners from making Energy Efficient Improvements. To make Energy Efficient Improvements more accessible and to promote the installation of those improvements, it is necessary to authorize a procedure to provide funds for the initial cost of installing Energy Efficiency Improvements.

(c) The Council declares that a public purpose will be served by a voluntary assessment program that provides the authority and the means to provide funds for the initial installation of Energy Efficiency Improvements that are permanently attached to residential, commercial, industrial, or other real property.

(d) Section 1-204.90 provides that the Council may, by act, authorize the issuance of District bonds to borrow money to finance, refinance, or reimburse, and to assist in the financing, refinancing, or reimbursing of, the cost of capital projects or undertakings that will contribute to the health, welfare, or safety of residents of the District as determined by the Council.

(e) The Council finds that authorization, issuance, sale, and delivery of bonds for the payment of costs of a program to provide funds for the initial installation of Energy Efficiency Improvements that are permanently attached to residential, commercial, or other real property will contribute to the health, welfare, and safety of residents of the District, are in the public interest, and will accomplish the purposes and intent of § 1-204.90.

(May 27, 2010, D.C. Law 18-183, § 102, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **SUBCHAPTER II. BOND FINANCING.**

### **§ 8-1778.21. ESTABLISHMENT OF THE SPECIAL ENERGY ASSESSMENT FUND.**

(a)(1) There is established as a nonlapsing fund the Special Energy Assessment Fund. The Chief Financial Officer shall establish additional accounts in the Special Energy Assessment Fund, consisting of a Special Energy Assessment Bond Debt Service Account for each series of bonds issued pursuant to this chapter and a single Special Energy Assessment Program Administrative Account. The Chief Financial Officer shall pay, or direct the payment of, all receipts of the principal and interest portion of each Special Assessment into the Special Energy Assessment Bond Debt Service Account applicable to the series of bonds secured by the payment of that Special Assessment, and the Chief Financial Officer shall pay, or direct the payment of, the receipt of the administrative costs portion of each Special Assessment

into the Special Energy Assessment Program Administrative Account. The Mayor shall pledge and create a security interest in the Special Assessment revenues and all other funds deposited in each Special Energy Assessment Bonds Debt Service Account to pay the Debt Service on the applicable series of bonds issued by the District pursuant to this chapter without further action by the Council as permitted by § 1- 204.90(f). The Chief Financial Officer shall pay from the Special Energy Assessment Program Administrative Account the annual costs of administering the collection and maintenance of the Special Assessment and the annual costs of administering the Energy Efficiency Loan program authorized by subchapter III of this chapter. Except for any amounts specifically authorized by the Council, all Debt Service and administrative costs shall be paid only from receipts from the Special Assessments.

(2) Except as provided by subsection (c) of this section, all funds deposited into the Special Energy Assessment Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in this section without regard to fiscal year limitation, subject to authorization by Congress.

(b) Receipt of the principal and interest portion of the Special Assessment and all amounts deposited in each Special Energy Assessment Bond Debt Service Account, plus all investments or earnings on those amounts, shall be irrevocably dedicated and pledged to the payment of the principal of, and interest on, the applicable bonds as provided in this chapter. Any escrow or other agreement entered into by the District providing for holding funds for the benefit of the holders of the bonds shall be maintained as long as any of the bonds are outstanding under the applicable Financing Documents. The administrative costs portion of the Special Assessment deposited in the Special Energy Assessment Program Administrative Account, plus all investments or earnings on those amounts, shall be used only for the payment of the costs of administering the Energy Efficiency Loan program authorized by subchapter III of this chapter.

(c) If, at the end of any fiscal year of the District following the issuance of bonds authorized by this chapter, the value of cash and investments in a Special Energy Assessment Bond Debt Service Account exceeds the amount of all payments authorized by this chapter and the Financing Documents applicable to that series of bonds, including required deposits into reserve funds, amounts to be set aside for additional series of bonds issued under this chapter, and any coverage requirements associated with the sale of the bonds, during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia, unless the District elects to use the excess to redeem that series of bonds prior to maturity. Amounts deposited in the Special Energy Assessment Program Administrative Account shall remain in, and shall be used for the purposes of, that account.

(May 27, 2010, D.C. Law 18-183, § 201, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 102 of D.C. Law 18-156 added a section to read as follows:

"Sec. 102. Creation of the Special Energy Assessment Fund.

"(a)(1) There is established as a nonlapsing fund the Special Energy Assessment Fund. The Chief Financial Officer shall establish additional accounts in the Special Energy Assessment Fund, consisting of a Special Energy Assessment Bond Debt Service Account for each series of bonds and a single Special Energy Assessment Program Administrative Account. The Chief Financial Officer shall pay, or direct the payment of, all receipts of the principal and interest portion of each Special Assessment into the Special Energy Assessment Bond Debt Service Account applicable to the series of bonds secured by the payment of that Special Assessment, and the Chief Financial Officer shall pay, or direct the payment of, the receipt of the administrative costs portion of each Special Assessment into the Special Energy Assessment Program Administrative Account. The Mayor shall pledge and create a security interest in the Special Assessment revenues and all other funds deposited in each Special Energy Assessment Bonds Debt Service Account to pay the Debt Service on the applicable series of bonds without further action by the Council as permitted by section 490(f) of the Home Rule Act. The Chief Financial Officer shall pay from the Special Energy Assessment Program Administrative Account the annual costs of administering the collection and maintenance of the Special Assessment and the annual costs of administering the energy efficiency loan program authorized by Title II. Except for the Special Assessment revenues and any other amounts specifically authorized by the Council, all Debt Service and administrative costs shall be paid only from receipts from the Special Assessments and no other District funds shall be deposited in any fund or account created by this act or used for the purposes of such fund or account.

"(2) Except as provided by subsection (c) of this section, all funds deposited into the Special Energy Assessment Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in this section without regard to fiscal year limitation, subject to authorization by Congress.

"(b) Receipt of the principal and interest portion of the Special Assessment and all amounts deposited in each Special Energy Assessment Bond Debt Service Account, plus all investments or earnings on those amounts,

shall be irrevocably dedicated and pledged to the payment of the principal of, and interest on, the applicable bonds as provided in this act. Any escrow or other agreement entered into by the District providing for holding funds for the benefit of the holders of the bonds shall be maintained as long as any of the bonds are outstanding under the applicable Financing Documents. The administrative costs portion of the Special Assessment deposited in the Special Energy Assessment Program Administrative Account, plus all investments or earnings or those amounts, shall be used only for the payment of the costs of administering the program authorized by Title II.

"(c) If, at the end of any fiscal year of the District following the issuance of bonds, the value of cash and investments in a Special Energy Assessment Bond Debt Service Account exceeds the amount of all payments authorized by this act and the Financing Documents applicable to that series of bonds, including required deposits into reserve funds, amounts to be set aside for additional series of bonds, and any coverage requirements associated with the sale of the bonds, during the upcoming fiscal year, the excess shall be transferred to the General Fund of the District of Columbia, unless the District elects to use the excess to redeem that series of bonds prior to maturity. Amounts deposited in the Special Energy Assessment Program Administrative Account shall remain in, and shall be used for the purposes of, that account."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see §§ 102, 201 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.22. BOND AUTHORIZATION.**

(a) The Council approves and authorizes the issuance of one or more series of bonds in an aggregate principal amount not to exceed \$250 million. The bonds, which may be issued at any time and from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in § 8-1778.23.

(b) The Mayor is authorized to pay from the proceeds of the bonds the financing costs and expenses of issuing and delivering the bonds, including underwriting fees, legal fees, accounting fees, financial advisory fees, bond insurance or other credit enhancement, expenses of marketing and selling the bonds, printing costs and expenses, and the costs of funding capitalized interest and required reserves.

(c) The remaining proceeds of the bonds shall be paid into the National Capital Energy Fund established by § 8-1778.41 and used to provide funds for the initial installation of Energy Efficiency Improvements that are permanently attached to residential, commercial, industrial, or other real property as authorized under subchapter III of this chapter.

(May 27, 2010, D.C. Law 18-183, § 202, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 103 of D.C. Law 18-156 added a section to read as follows:

"Sec. 103. Bond authorization.

"(a) The Council approves and authorizes the issuance of one or more series of bonds in an aggregate principal amount not to exceed \$250 million. The bonds, which may be issued at any time and from time to time, in one or more series, shall be tax-exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in section 104.

"(b) The Mayor is authorized to pay from the proceeds of the bonds the financing costs and expenses of issuing and delivering the bonds, including, but not limited to, underwriting, legal, accounting, and financial advisory fees; bond insurance or other credit enhancement; expenses for marketing and selling the bonds; printing costs and expenses; and the costs of funding capitalized interest and required reserves.

"(c) The remaining proceeds of the bonds shall be paid into the National Capital Energy Fund created by section 202 and used to provide funds for the initial installation of energy efficiency and renewable energy improvements that are permanently attached to residential, commercial, industrial, or other real property as authorized under Title II."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 103 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

For Law 18-183, see notes following § 8-1778.01.

### **§ 8-1778.23. PAYMENT AND SECURITY.**

(a) Except as may be otherwise provided in this chapter, Debt Service on each series of bonds shall be payable solely and only from proceeds received from the sale of that series of bonds, income realized from the temporary investment of those proceeds, Special Assessment revenues allocated to the applicable Special Energy Assessment Bond Debt Service Account, amounts received from prepayments of any loans made pursuant to this chapter, income realized from the temporary investment of those Special Assessment revenues prior to payment to the bond holders, and other moneys that, as provided in the Financing Documents, may be made available to the District for payment of the bonds from sources other than the District, all as provided for in the Financing Documents.

(b) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bondholders of certain of its rights under the Financing Documents and Closing Documents to the trustee for the bonds pursuant to the Financing Documents.

(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.

(May 27, 2010, D.C. Law 18-183, § 203, 57 DCR 3406.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Temporary Addition of Section*

Section 104 of D.C. Law 18-156 added a section to read as follows:

"Sec. 104. Payment and security.

"(a) Except as may be otherwise provided in this act, Debt Service on each series of bonds shall be payable solely and only from proceeds received from the sale of that series of bonds, income realized from the temporary investment of those proceeds, Special Assessment revenues allocated to the applicable Special Energy Assessment Bond Debt Service Account, amounts received from prepayments of any loans made pursuant to this act, income realized from the temporary investment of those Special Assessment revenues prior to payment to the bond holders, and other moneys that, as provided in the Financing Documents, may be made available to the District for payment of the bonds from sources other than the District, all as provided for in the Financing Documents.

"(b) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of the bond holders of certain of its rights under the Financing Documents and Closing Documents to the trustee for the bonds pursuant to the Financing Documents.

"(c) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

##### *Emergency Act Amendments*

For temporary (90 day) addition, see § 104 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

#### *Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

### **§ 8-1778.24. BOND DETAILS.**

(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this chapter in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

- (1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book-entry form;
- (2) The principal amount of the bonds to be issued and denominations of the bonds;
- (3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;
- (4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the bonds and the maturity date or dates of the bonds;
- (5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated,



tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

(6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

(8) The time and place of payment of the bonds;

(9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this chapter;

(10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

(11) The terms and types of credit enhancement under which the bonds may be secured.

(b) The bonds shall contain a legend, which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the Special Assessment), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in § 1-206.02(a)(2).

(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

(e) The bonds of any series may be issued in accordance with the terms of an indenture to be entered into by the District and a trustee to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to § 1-204.90(a)(4).

(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

(g) The bonds are declared to be issued for essential public and governmental purposes. The bonds, the interest thereon, the income therefrom, and all funds pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

(h) The District does pledge and covenant and agree with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the basis on which the revenues pledged to secure the bonds are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, and will not in any way impair the rights or remedies of the holders of the bonds, until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection constitutes a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this chapter, this chapter shall be controlling.

(i) Consistent with § 1-204.90(a)(4)(B) and notwithstanding Chapter 9 of Title 28:

(1) A pledge made and security interest created in respect of the bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice; and

(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

(May 27, 2010, D.C. Law 18-183, § 204, 57 DCR 3406.)

#### *HISTORICAL AND STATUTORY NOTES*

##### *Temporary Addition of Section*

Section 105 of D.C. Law 18-156 added a section to read as follows:

"Sec. 105. Bond details.

"(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the

bonds of each series, including, but not limited to, determinations of:

"(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book-entry form;

"(2) The principal amount of the bonds to be issued and denominations of the bonds;

"(3) The rate or rates of interest or the method for determining the rate or rates of interest on the bonds;

"(4) The date or dates of issuance, sale, and delivery of, and the payment of interest on, the bonds, and the maturity date or dates of the bonds;

"(5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before their respective stated maturities;

"(6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

"(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

"(8) The time and place of payment of the bonds;

"(9) Procedures for monitoring the use of the proceeds received from the sale of the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of the Home Rule Act and this act;

"(10) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

"(11) The terms and types of credit enhancement under which the bonds may be secured.

"(b) The bonds shall contain a legend, which shall provide that the bonds are special obligations of the District, are without recourse to the District, are not a pledge of, and do not involve, the faith and credit or the taxing power of the District (other than the Special Assessment), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

"(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary's manual or facsimile signature.

"(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

"(e) The bonds of any series may be issued in accordance with the terms of an indenture to be entered into by the District and a trustee to be selected by the Mayor, and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

"(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

"(g) The bonds are declared to be issued for essential public and governmental purposes. The bonds, the interest thereon, and the income therefrom, and all funds pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

"(h) The District does pledge and covenant and agree with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the basis on which the revenues pledged to secure the bonds are collected or allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, and will not in any way impair the rights or remedies of the holders of the bonds, until the bonds, together with interest thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection constitutes a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

"(i) Consistent with section 490(a)(4)(B) of the Home Rule Act and notwithstanding Chapter 9 of Title 28 of the District of Columbia Official Code:

"(1) A pledge made and security interest created in respect of the bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action;

"(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract or otherwise against the District, whether or not such party has notice; and

"(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 105 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

**§ 8-1778.25. SALE OF THE BONDS.**

(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the bonds.

(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

(d) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for the purposes of federal income taxation.

(e) Chapter 3A of Title 2 shall not apply to any contract that the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this subchapter.

(May 27, 2010, D.C. Law 18-183, § 205, 57 DCR 3406; Sept. 26, 2012, D.C. Law 19-171, § 224(a), 59 DCR 6190.)

*HISTORICAL AND STATUTORY NOTES*

*Effect of Amendments*

D.C. Law 19-171, in subsec. (e), substituted "Chapter 3A of Title 2" for "Unit A of Chapter 3 of this title".

*Temporary Addition of Section*

Section 106 of D.C. Law 18-156 added a section to read as follows:

"Sec. 106. Sale of the bonds.

"(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

"(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the bonds.

"(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

"(d) The bonds shall not be issued until the Mayor receives an approving opinion from bond counsel as to the validity of the bonds of such series and, if the interest on the bonds is expected to be exempt from federal income taxation, the treatment of the interest on the bonds for purposes of federal income taxation.

"(e) Subchapter III-A of Chapter 3 of Title 47 of the District of Columbia Official Code shall not apply to any contract the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this act. The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), shall not apply to contracts the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this act until 3 years after the effective date of this act."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 106 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

For history of Law 19-171, see notes under § 8-105.02.

## **§ 8-1778.26. FINANCING AND CLOSING DOCUMENTS.**

(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

(May 27, 2010, D.C. Law 18-183, § 206, 57 DCR 3406.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Temporary Addition of Section*

Section 107 of D.C. Law 18-156 added a section to read as follows:

"Sec. 107. Financing and closing documents.

"(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

"(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

"(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds, the other Financing Documents, and the Closing Documents to which the District is a party.

"(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

"(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

#### *Emergency Act Amendments*

For temporary (90 day) addition, see § 107 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

#### *Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.27. LIMITED LIABILITY.**

(a) The bonds shall be special obligations of the District payable solely and only from the amounts deposited in the respective Special Energy Assessment Bond Debt Service Accounts and Bond Proceeds Account of the National Capital Energy Fund established by § 8-1778.41. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District (other than the Special Assessment), shall not constitute a debt of the District, and shall not constitute lending of the public credit

for private undertakings as prohibited in § 1-206.02(a)(2).

(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

(c) No person, including, but not limited to, any bond holder, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this chapter, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

(May 27, 2010, D.C. Law 18-183, § 207, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 108 of D.C. Law 18-156 added a section to read as follows:

"Sec. 108. Limited liability.

"(a) The bonds shall be special obligations of the District payable solely and only from the amounts deposited in the respective Special Energy Assessment Bond Debt Service Accounts and Bond Proceeds Account of the National Capital Energy Fund created by section 202. The bonds shall be without recourse to the District. The bonds shall not be general obligations of the District, shall not be a pledge of, or involve, the faith and credit or the taxing power of the District (other than the Special Assessment), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

"(b) The bonds shall not give rise to any pecuniary liability of the District and the District shall have no obligation with respect to the purchase of the bonds.

"(c) No person, including, but not limited to any bond holder, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this act, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 108 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.28. DISTRICT OFFICIALS.**

(a) Except as otherwise provided in § 8-1778.27(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this chapter, the bonds, the Financing Documents, or the Closing Documents.

(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

(May 27, 2010, D.C. Law 18-183, § 208, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 109 of D.C. Law 18-156 added a section to read as follows:

"Sec. 109. District officials.

"(a) Except as otherwise provided in section 108(c), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal

liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this act, the bonds, the Financing Documents, or the Closing Documents.

"(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 109 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.29. INFORMATION REPORTING.**

Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

(May 27, 2010, D.C. Law 18-183, § 209, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 110 of D.C. Law 18-156 added a section to read as follows:

"Sec. 110. Information reporting.

"Within 3 days after the Mayor's receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 110 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.30. CLARIFICATION REGARDING THE DEBT CAP.**

For purposes of calculating the District's level of debt, the Special Assessments do not constitute revenues derived from taxes, fees, or other general revenues of the District, or its agencies or authorities, pursuant to the District's power to tax or impose fees within the definition of District Bonds in § 47-334(2).

(May 27, 2010, D.C. Law 18-183, § 210, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 111 of D.C. Law 18-156 added a section to read as follows:

"Sec. 111. Clarification regarding the debt cap.

"The voluntary Special Assessments do not constitute revenues derived from taxes, fees, or other general revenues of the District, or its agencies or authorities, pursuant to the District's power to tax or impose fees within the definition of District Bonds in D.C. Official Code § 47-334(2)."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 111 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

# **SUBCHAPTER III. ESTABLISHMENT OF THE NATIONAL CAPITAL ENERGY; ENERGY EFFICIENT LOAN PROGRAM.**

## **§ 8-1778.41. ESTABLISHMENT OF THE NATIONAL CAPITAL ENERGY FUND.**

(a) There is established as a nonlapsing fund the National Capital Energy Fund. The Chief Financial Officer shall create 2 accounts within the National Capital Energy Fund: the Bond Proceeds Account and the Federal Grant Account. The Chief Financial Officer shall deposit the proceeds from each sale of the bonds into the Bond Proceeds Account and shall deposit all Energy Efficiency Conservation Block Grant Retrofit Ramp-Up funds received from the United States Government as Energy Efficiency and Conservation Block Grants into the Federal Grant Account.

(b) All funds deposited into the National Capital Energy Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in this section without regard to fiscal year limitation, subject to authorization by Congress.

(c) The Mayor may use the funds in the National Capital Energy Fund to make Energy Efficiency Loans to property owners for the initial costs of the installation of Energy Efficiency Improvements. Each Energy Efficiency Loan shall be repaid by the revenues generated by the Special Assessment. Each Energy Efficiency Loan shall be evidenced by a loan, or other, agreement that obligates the property owner and all successor property owners to pay the Special Assessment and such other terms and conditions as the Mayor shall determine to be necessary or appropriate to carry out the provisions of this chapter.

(d) Prior to the 1st issuance of bonds, each Energy Efficiency Loan funded from grant proceeds shall bear interest at a rate equal to the interest rate on 10- Year United States Treasury Notes on the date of the execution of the loan, or other, agreement evidencing an Energy Efficiency Loan of the 1st series of Energy Efficiency Loans to be issued, plus 250 basis points. Upon the 1st issuance of bonds, the interest rate on the outstanding Energy Efficiency Loans used to secure payment of that issue of bonds shall convert automatically, and without action by either the District or the property owner, to the interest rate on the first series of bond, plus an amount determined by the Mayor to be sufficient to pay all administrative costs specified in § 8-1778.21. Thereafter, all Energy Efficiency Loans shall bear interest at the rate of interest on the series of bonds issued immediately preceding the date of execution of the Energy Efficiency Loan, plus an amount determined by the Mayor to be sufficient to pay all administrative costs specified in § 8-1778.21. The principal, interest, and administrative costs of the loans shall be separately stated to permit the allocation thereof as provided in this chapter.

(e) If the 1st source of funds deposited in the National Capital Energy Fund is not a grant but an obligation which requires the District to repay principal and interest thereon, the Energy Efficiency Loan loan, or other, agreement shall be structured to repay the funding source, plus administrative costs. Special Assessment payments shall be deposited in the same manner specified in § 8-1778.21.

(f) A Special Assessment payment received prior to the issue of bonds secured by the Special Assessment payments may be used to provide a debt service reserve fund for the bonds.

(May 27, 2010, D.C. Law 18-183, § 301, 57 DCR 3406.)

### *HISTORICAL AND STATUTORY NOTES*

#### *Temporary Addition of Section*

Sections 201 and 202 of D.C. Law 18-156 added sections to read as follows:

"Sec. 201. Definitions.

"For the purposes of this act, the term:

"(1) 'Administrator' means the person retained pursuant to the authority granted in section 205 to administer the energy efficiency loan program authorized by this title.

"(2) 'Certification Standard' means a certification or accreditation standard for building energy retrofit installation, such as those provided by the Building Performance Institution, RESNET, or other nationally-recognized program approved by U.S. Department of Energy or the Mayor.

"(3) 'Energy efficiency audit' means a formal evaluation by a certified contractor of the energy consumption of a residential, commercial, or other building for the purpose of identifying methods of improving energy efficiency and reducing energy waste.

"(4) 'Energy efficiency improvement' means an installation or modification that is designed to reduce energy

consumption and result in savings, including energy and operational savings, in residential or commercial buildings and includes the following:

"(A) Insulation in walls, roofs, floors, and foundations and in heating and cooling distribution systems;

"(B) Storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflecting glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

"(C) Automatic energy control systems;

"(D) Heating, ventilating, or air conditioning and distribution system modifications or replacement in buildings or central plants;

"(E) Caulking or weather-stripping;

"(F) Replacement or modifications of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a residential or commercial building unless the increase in illumination is necessary to conform to the applicable building code for the proposed lighting system;

"(G) Energy recovery systems;

"(H) Daylighting systems;

"(I) Renewable energy improvements; and

"(J) Any other modification, installation, retrofit, or remodeling approved as a energy cost-savings measure by the administrator.

"(5) 'Energy efficiency loan' means a loan to a property owner for the purpose of installing one of more energy efficiency improvements.

"(6) 'PACE bonds' means the property-assessed clean energy bonds issued pursuant to the authority granted in Title I.

"(7) 'Property owner' means an owner of real property in the District.

"(8) 'Qualified Apprenticeship Program' means an apprenticeship program registered with the District of Columbia Apprenticeship Council.

"(9) 'Quality Assurance Program' means a program that establishes the energy benchmarks, monitors and verifies the quality of the energy retrofits and renewable energy installations, and measures actual energy savings for the National Capital Energy Fund.

"Sec. 202. Creation of the National Capital Energy Fund.

"(a) There is established as a nonlapsing fund the National Capital Energy Fund. The Chief Financial Officer shall create 2 accounts within the National Capital Energy Fund: the Bond Proceeds Account and the Federal Grant Account. The Chief Financial Officer shall deposit the proceeds from each sale of the PACE bonds into the Bond Proceeds Account and shall deposit all Energy Efficiency Conservation Block Grant Retrofit Ramp-Up funds received from the United States government as Energy Efficiency and Conservation Block Grants into the Federal Grant Account.

"(b) All funds deposited into the National Capital Energy Fund, and any interest earned on those funds, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in this section without regard to fiscal year limitation, subject to authorization by Congress.

"(c) The Mayor may use the funds in the National Capital Energy Fund to make energy efficiency loans to property owners for the initial costs of the installation of energy efficiency improvements. Each energy efficiency loan shall be repaid by the revenues generated by the Special Assessment. Each energy efficiency loan shall be evidenced by a loan, or other, agreement that obligated the property owner and all successor property owners to pay the Special Assessment and includes such other terms and conditions as the Mayor shall determine to be necessary or appropriate to carry out the provisions of this act.

"(d) Prior to the 1st issuance of PACE bonds, each energy efficiency loan funded from grant proceeds shall bear interest at a rate equal to the interest rate on 10-year United States Treasury Notes on the date of the execution of the loan or other agreement evidencing an energy efficiency loan of the 1st series of energy efficiency loans to be issued, plus 250 basis points. Upon the 1st issuance of PACE bonds, the interest rate on the outstanding energy efficiency loans used to secure payment of that issue of PACE bonds shall convert automatically, and without action by either the District or the property owner, to the interest rate on the 1st series of PACE bonds, plus an amount determined by the Mayor to be sufficient to pay all administrative costs specified in section 102. Thereafter, until the interest rate is converted as described in the prior sentence, all energy efficiency loans shall bear interest at the rate of interest on the series of PACE bonds issued immediately preceding the date of execution of the energy efficiency loan, plus an amount determined by the Mayor to be sufficient to pay all administrative costs specified in section 102. In all cases, the principal, interest, and administrative costs shall be separately stated to permit the allocation thereof as provided in this act.



"(e) If the 1st source of funds deposited in the National Capital Energy Fund is not a grant but an obligation which requires the District to repay principal and interest thereon, the energy efficiency loan, or other, agreement shall be structured to repay such funding source plus administrative costs. Special Assessment payments shall be deposited in the same manner specified in section 102.

"(f) A Special Assessment payment received prior to the issue of bonds secured by the Special Assessment payments may be used to provide a debt service reserve fund for the bonds."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) additions, see § 201, 202 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.42. QUALIFICATION FOR LOANS.**

(a) To qualify for a loan from the National Capital Energy Fund, the property owner shall file with the administrator a loan application including the following:

- (1) The amount of loan requested;
- (2) The agreement of the property owner to pay the full amount of the Special Assessment;
- (3) A description of the Energy Efficiency Improvements that the property owner proposes to install and an estimate of the cost of the installation;
- (4) An Energy Efficiency Audit from an auditor approved by the administrator stating the amount of energy used by the subject property and the amount of the energy to be saved by the installation of the Energy Efficiency Improvements;
- (5) A statement establishing that the value of the energy saved by the installation of the Energy Efficiency Improvement is reasonably expected to equal or exceed the amount of the principal of, and interest on, the Energy Efficiency Loan and, if the property owner requests financing under § 8-1778.43(b), the cost of the Energy Efficiency Audit;
- (6) Credit information and information regarding the subject property as determined by the administrator; and
- (7) Property owner certification that the Special Assessment will not violate any agreements with any other lender or provision of applicable lender consents.

(b) The property owner shall pay a fee at the time of filing the application in an amount to be determined by the administrator to be sufficient to cover the cost of processing the application and making the Energy Efficiency Loan.

(May 27, 2010, D.C. Law 18-183, § 302, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 203 of D.C. Law 18-156 added a section to read as follows:

"Sec. 203. Qualification for loans.

"(a) To qualify for a loan from the National Capital Energy Fund, the property owner shall file with the administrator a loan application containing the following:

- "(1) The amount of loan requested;
- "(2) The agreement of the property owner to pay the full amount of the Special Assessment;
- "(3) A description of the energy efficiency improvement that the property owner proposes to install and an estimate of the cost of the installation;
- "(4) An energy efficiency audit from an auditor approved by the administrator stating the amount of energy used by the subject property and the amount of the energy to be saved by the installation of the energy efficiency improvement;
- "(5) A statement establishing that the value of the energy saved by the installation of the energy efficiency improvement exceeds the amount of the principal of, and interest on, the energy efficiency loan;
- "(6) Credit information and information regarding the subject property as determined by the administrator; and
- "(7) Property owner certification that the Special Assessment will not violate any agreements with any other lender or provision of applicable lender consents.

"(b) The property owner shall pay a fee at the time of filing the application in an amount to be determined by the administrator to be sufficient to cover the cost of processing the application and making the energy efficiency loan."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 203 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

### **§ 8-1778.43. APPROVAL OF APPLICATION.**

(a) The administrator shall review the property owner's application and, if it finds that the application satisfies all requirements, shall enter into a loan, or other, agreement with the property owner.

(b) The property owner may request in the loan application that the Energy Efficiency Loan include an amount equal to all or part of the cost of the Energy Efficiency Audit. If the amount requested is reasonable, the administrator shall include the amount in the Energy Efficiency Loan.

(c) Before entering into a loan, or other, agreement with a property owner, the administrator shall verify, based upon information provided in the property owner's application, that the value of the energy saved by the installation of the Energy Efficiency Improvements is reasonably expected to exceed the amount of the principal of, and interest on, the Energy Efficiency Loan, including any cost of the Energy Efficiency Audit included pursuant to subsection (b) of this section.

(May 27, 2010, D.C. Law 18-183, § 303, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 204 of D.C. Law 18-156 added a section to read as follows:

"Sec. 204. Approval of application.

"The administrator shall review the property owner's application and, if it finds that the application satisfies all requirements, shall enter into a loan, or other, agreement with the property owner.

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 204 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

### **§ 8-1778.44. DUTIES OF ADMINISTRATOR.**

The administrator shall provide general management, oversight, and coordination of the Energy Efficiency Loan program and its related services, including performing the following duties:

- (1) Outreach and marketing to eligible property owners to inform them of the existence and benefits of the Energy Efficiency Loan program in conjunction with the brand name established pursuant to § 8-1774.06;
- (2) Establishing loan and credit standards and processes;
- (3) Underwriting and servicing all Energy Efficiency Loan applications;
- (4) Identifying market opportunities and funding leverage opportunities;
- (5) Collecting appropriate documents and recording the tax liens;
- (6) Sending sufficient information to the Office of Tax and Revenue to enable the Office of Tax and Revenue to collect the Special Assessments, including the allocations of Debt Service and administrative costs;
- (7) Evaluating, retaining, and overseeing firms to perform energy audits, (including maintaining a list of approved auditors for use by property owners), energy benchmarking, and energy savings verification;

- (8) Implementing the Quality Assurance Program;
- (9) Certifying and pre-qualifying all contractors authorized to provide Energy Efficiency Improvements or other work under this chapter;
- (10) Approving forms and quality standards to perform installation of Energy Efficiency Improvements;
- (11) Maintaining a list of pre-qualified contractors authorized to provide Energy Efficiency Improvements under this chapter; and
- (12) Reporting to the Mayor and the Council on the progress of the Energy Efficiency Loan program.

(May 27, 2010, D.C. Law 18-183, § 304, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 205 of D.C. Law 18-156 added a section to read as follows:

"Sec. 205. Duties of administrator.

"The administrator shall provide general management, oversight, and coordination of the energy efficiency loan program and its related services, including performing the following duties:

"(1) Outreach and marketing to eligible property owners to inform them of the existence and benefits of the energy efficiency loan program in conjunction with the brand established pursuant to section 206 of the Clean and Affordable Energy Act of 2008, effective October 22, 2008 (D.C. Law 17-250; D.C. Official Code § 8-1774.06);

"(2) Establishing loan and credit standards and processes;

"(3) Underwriting and servicing all energy efficiency loan applications;

"(4) Identifying market opportunities and funding leverage opportunities;

"(5) Collecting appropriate documents and recording the tax liens;

"(6) Sending sufficient information to the Office of Tax and Revenue to enable the Office of Tax and Revenue to collect the Special Assessments, including the allocations of Debt Service and administrative costs;

"(7) Evaluating, retaining, and overseeing firms to perform energy audits, (including providing a list of approved auditors for use by property owners), energy benchmarking, and energy savings verification;

"(8) Oversee the Quality Assurance Program and energy audits and verify the quality of the outcome;

"(9) Certify and pre-qualify all contractors performing work within the loan program and authorized to provide energy conservation and retrofit services financed under this act; and

"(10) Maintain a list of pre-qualified contractors authorized to provide energy conservation services under this act."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 205 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.45. AUTHORITY TO RETAIN ADMINISTRATOR.**

(a) The Mayor may contract with an administrator to administer the Energy Efficiency Loan program created by this subchapter.

(b) Chapter 3A of Title 2 shall not apply to the contract authorized by subsection (a) of this section until 3 years after May 27, 2010.

(May 27, 2010, D.C. Law 18-183, § 305, 57 DCR 3406; Sept. 26, 2012, D.C. Law 19-171, § 224(b), 59 DCR 6190.)

*HISTORICAL AND STATUTORY NOTES*

*Effect of Amendments*

D.C. Law 19-171, in subsec. (b), substituted "Chapter 3A of Title 2" for "Unit A of Chapter 3 of this title".

*Temporary Addition of Section*

Section 206 of D.C. Law 18-156 added a section to read as follows:

"Sec. 206. Authority to retain administrator.

"(a) The Mayor may contract with an administrator to administer the energy efficiency loan program created by this title.

"(b) The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), shall not apply to the contract authorized by subsection (a) of this section until 3 years after the effective date of this act.

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 206 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

For history of Law 19-171, see notes under § 8-105.02.

## **§ 8-1778.46. ESTABLISHMENT OF QUALITY ASSURANCE PROGRAM.**

The Mayor shall establish a Quality Assurance Program to promote transparency, assure the competence of contractors and individuals performing retrofits, analyze energy savings, and achieve the following goals:

- (1) Establishment and publication of the Certification Standards required of contractors and subcontractors to be eligible to receive contracts or subcontracts under this chapter, which at a minimum shall require contractors to comply with:
  - (A) All applicable business licensing, insurance, tax, and bonding laws and regulations of the District; and
  - (B) All applicable federal and District wage and hour, employment, workplace health and safety, equal employment opportunity, and other standards of labor and employment law, including proper classification of workers;
- (2) Providing private investors, lenders, and property owners with the certification and performance standards required of auditors, inspectors, contractors, subcontractors, maintenance companies, and other entities that provide construction, installation, repairs, and maintenance of Energy Efficiency Improvements as a result of an Energy Efficiency Loan;
- (3) Conducting quality control inspections of services rendered by contractors and subcontractors; and
- (4) Verifying and analyzing energy savings following the installation of Energy Efficiency Improvements.

(May 27, 2010, D.C. Law 18-183, § 306, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 207 of D.C. Law 18-156 added a section to read as follows:

"Sec. 207. Establishment of a Quality Assurance Program.

"The Mayor shall establish a Quality Assurance Program to promote transparency, competence of contractors and employees performing retrofits, and analysis of the underlying energy savings, to achieve the following goals:

"(1) Establish and publish the Certification Standards required of contractors and subcontractors for such businesses to be eligible to receive a contract funded from the National Capital Energy Fund, which, at a minimum, shall require contractors to comply with:

"(A) All applicable business licensing, insurance, tax, and bonding laws and regulations of the District of Columbia; and

"(B) All applicable federal and District wage and hour, employment, workplace health and safety, and equal employment opportunity laws, and other standards of labor law, including proper classification of workers.

"(2) Provide private investors, lenders, and property owners with the Certification Standards and performance metrics required of auditors, inspectors, contractors, subcontractors, maintenance companies, and others who provide construction, repairs, and maintenance of energy retrofit services as a result of an energy efficiency loan;

"(3) Conduct quality control inspections of services rendered by contractors and subcontractors to ensure proper auditing, installation, and other standards; and

"(4) Verify and analyze the energy savings achieved post-retrofit."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 207 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.47. WORKFORCE DEVELOPMENT AND EMPLOYMENT PLAN.**

In an effort to maximize employment opportunities to District residents, the Mayor shall establish a workforce development and employment plan that shall incorporate the first source hiring requirements of § 2-219.03, with priority given to employment of:

- (1) Residents of economically distressed neighborhoods;
- (2) Low-income individuals; and
- (3) Unemployed and underemployed residents.

(May 27, 2010, D.C. Law 18-183, § 307, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 208 of D.C. Law 18-156 added a section to read as follows:

"Sec. 208. Workforce development and employment plan; Qualified Apprenticeship Programs.

"In an effort to maximize employment opportunities to District residents, the Mayor shall:

"(1) Establish a workforce development and employment plan, which shall incorporate the District's first source agreement hiring requirement, with priority given to employment of:

"(A) Residents of economically distressed neighborhoods;

"(B) Low-income individuals; and

"(C) Unemployed and underemployed residents; and

"(2) Leverage Qualified Apprenticeship Programs to train individuals for advancement to living wage career path employment."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 208 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

## **§ 8-1778.48. RULES.**

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, shall issue rules to implement the provisions of this chapter.

(May 27, 2010, D.C. Law 18-183, § 308, 57 DCR 3406.)

*HISTORICAL AND STATUTORY NOTES*

*Temporary Addition of Section*

Section 209 of D.C. Law 18-156 added a section to read as follows:

"Sec. 209. Rules.

"The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act."

Section 402(b) of D.C. Law 18-156 provides that the act shall expire after 225 days of its having taken effect.

*Emergency Act Amendments*

For temporary (90 day) addition, see § 209 of Energy Efficiency Emergency Act of 2009 (D.C. Act 18-324, March 1, 2010, 57 DCR 1851).

*Legislative History of Laws*

For Law 18-183, see notes following § 8-1778.01.

*Delegation of Authority*

Delegation of Authority--Energy Efficiency Financing Act of 2010, see Mayor's Order 2010-118, July 16, 2010 (57 DCR 6212).