

## CHAPTER 206

**AN ACT** authorizing the expenditure of funds by the New Jersey Infrastructure Bank for the purpose of making loans to eligible project sponsors to finance the cost to construct transportation infrastructure projects, and making an appropriation.

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

1. a. The New Jersey Infrastructure Bank, established pursuant to P.L.1985, c.334 (C.58:11B-1 et seq.), is authorized to expend the aggregate sum of \$68,349,007 or such amounts as can be supported through balances in the State Transportation Infrastructure Bank Fund, established pursuant to section 34 of P.L.2016, c.56 (C.58:11B-10.4), and via direct appropriation through the State transportation capital program for the purpose of making loans to or, on behalf of, local government units to finance all or a portion of the cost of construction of transportation infrastructure projects listed in section 3 of this act.

b. The bank is authorized to increase the aggregate sums specified in subsection a. of this section for the bank's costs to acquire lending capital, specifically:

(1) the amounts of capitalized interest and the bond issuance expenses as provided in subsection b. of section 6 of this act;

(2) the amounts of reserve capacity expenses and debt service reserve fund requirements as provided in subsection c. of section 6 of this act;

(3) the interest earned on amounts deposited for project costs pending their distribution to project sponsors as provided in subsection d. of section 6 of this act;

(4) the amounts of the loan origination fee as provided in subsection e. of section 6 of this act.

c. For the purposes of this act:

“bank” means the New Jersey Infrastructure Bank, established pursuant to section 4 of P.L.1985, c.334 (C.58:11B-4);

“capitalized interest” means an amount equal to interest paid on bank transportation bonds which is funded with bank transportation bond proceeds and the earnings thereon;

“debt service reserve fund expenses” means the debt service reserve fund costs associated with reserve capacity expenses;

“issuance expenses” means any costs related to the issuance of bank transportation bonds and includes, but is not limited to, the costs of financial document printing, bond insurance premiums or other credit enhancement, underwriters' discount, verification of financial calculations, the services of bond rating agencies and trustees, the employment of accountants, attorneys, financial advisors, loan servicing agents, registrars, and paying agents;

“loan origination fee” means the fee charged by the bank to pay a portion of the costs incurred by the bank and the Department of Transportation in the implementation of the New Jersey Transportation Infrastructure Financing Program;

“project sponsor” means a local government unit receiving a loan from the bank pursuant to this act; and

“reserve capacity expenses” means those project costs for reserve capacity which are eligible for loans from the bank in accordance with the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State fiscal year 2022 Transportation Infrastructure Financing Program Financial Plan.

2. The New Jersey Infrastructure Bank is authorized to make loans to or on behalf of the project sponsors for the transportation projects listed in subsection a. of section 3 of this act up to the individual amounts indicated and in the priority stated, except that any such amount may be reduced by the bank pursuant to subsection a. of section 6 of this act, or if a project fails to meet the requirements of section 5 of this act. The bank is authorized to increase any such amount pursuant to subsection b. through subsection e. of section 6 or section 7 of this act.

3. a. The following transportation infrastructure projects shall be known and may be cited as the “State Fiscal Year 2022 Transportation Financing Program Project Eligibility List”:

| Applicant                 | Project No. | Total Allowable State Loan Amount | Estimated Total Allowable Loan Amount |
|---------------------------|-------------|-----------------------------------|---------------------------------------|
| Burlington County         | TB0300-001  | \$ 1,662,500                      | \$ 3,325,000                          |
| Bayonne City              | TB0901-001  | \$ 1,460,615                      | \$ 2,921,230                          |
| Cape May County           | TB0500-007  | \$ 5,050,000                      | \$ 10,100,000                         |
| Essex County              | TB0700-003  | \$ 1,125,000                      | \$ 2,250,000                          |
| Camden County             | TB0400-001  | \$ 1,250,000                      | \$ 2,500,000                          |
| Orange City               | TB0717-001  | \$ 4,955,000                      | \$ 9,910,000                          |
| Little Silver Borough     | TB1325-002  | \$ 1,195,500                      | \$ 2,391,000                          |
| Hackensack City           | TB0223-001  | \$ 1,960,890                      | \$ 3,921,780                          |
| Little Silver Borough     | TB1325-001  | \$ 229,500                        | \$ 459,000                            |
| Somerdale Borough         | TB0431-002  | \$ 526,775                        | \$ 1,053,550                          |
| Somerdale Borough         | TB0431-001  | \$ 500,000                        | \$ 1,000,000                          |
| Essex County              | TB0700-004  | \$ 2,586,269                      | \$ 5,172,537                          |
| Orange City               | TB0717-002  | \$ 4,606,000                      | \$ 9,212,000                          |
| Flemington Borough        | TB1009-001  | \$ 835,775                        | \$ 1,671,550                          |
| Raritan Township          | TB1021-001  | \$ 1,411,475                      | \$ 2,822,950                          |
| Bloomfield Township       | TB0702-001  | \$ 3,490,352                      | \$ 6,980,703                          |
| Orange City               | TB0717-003  | \$ 934,250                        | \$ 1,868,500                          |
| Raritan Township          | TB1021-004  | \$ 394,604                        | \$ 789,207                            |
| <b>Total Projects: 18</b> |             | <b>\$34,174,505</b>               | <b>\$68,349,007</b>                   |

b. The bank is authorized to adjust the allowable State loan amount and estimated total allowable loan amount for each project authorized in this section as appropriate, provided that the total amount of loan issuance remains within available funds and that each loan is issued pursuant to the terms and conditions of the financing program from the year in which each construction contract for a project was certified, if subject to an interim financing program loan or, in the absence of an interim financing program loan, the terms and conditions of the State Fiscal Year 2022 Financing Program.

c. The bank is authorized to increase the loan amount of projects authorized pursuant to this section in the future to compensate for a refunding of the issue, provided adequate savings are achieved, for the loans issued pursuant to this act.

4. In accordance with and subject to the provisions of sections 5, 6, and 23 of P.L.1985, c.334 (C.58:11B-5, 58:11B-6, and 58:11B-23), and as set forth in the financial plan required pursuant to section 37 of P.L.2016, c.56 (C.58:11B-22.3), any proceeds from bonds issued by the bank to make loans for priority transportation infrastructure projects listed in section 3 of this act which are not expended for that purpose may be applied for the payment of all or any part of the principal of, or interest and premium on, the bank transportation bonds whether due at stated maturity, the interest payment dates, or earlier upon redemption. A portion of the proceeds from bonds issued by the bank to make loans for priority transportation infrastructure projects pursuant to this act may be applied for the payment of capitalized interest and for the payment of any issuance expenses; for the payment of reserve capacity expenses; for the payment of debt service reserve fund expenses; for the payment of the loan origination fees; and for the payment of increased costs, as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and satisfies the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan.

5. Any loan made by the New Jersey Infrastructure Bank pursuant to this act shall be subject to the following requirements:

a. The chairperson, vice-chairperson or secretary of the bank shall certify that the project is in compliance with the provisions of P.L.1984, c.73, P.L.1985, c.334, P.L.2016, c.56, and any amendatory and supplementary acts thereto, and any rules and regulations adopted pursuant thereto, as applicable, and satisfies the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan. In making this certification, the chairperson, vice-chairperson or secretary may conclusively rely on the project review conducted by the Department of Transportation without any independent review thereof by the bank;

b. The loan shall be conditioned upon inclusion of the project on a project eligibility list approved pursuant to section 36 of P.L.2016, c.56 (C.58:11B-20.2);

c. The loan shall be repaid within a period not to exceed 31 years of the making of the loan or, for loans funded pursuant to the "Transportation Infrastructure Finance and Innovation Act" (TIFIA), 23 U.S.C. s.601 et seq., as amended and superseded, not later than the maximum time period allowed by the TIFIA;

d. The loan shall not exceed the allowable project cost of the transportation infrastructure project, exclusive of capitalized interest, administrative expenses associated with federal funding programs, if applicable, and issuance expenses as provided in subsection b. of section 6 of this act, reserve capacity expenses and the debt service reserve fund expenses as provided in subsection c. of section 6 of this act, interest earned on project costs as provided in subsection d. of section 6 of this act, the amounts of the loan origination fee as provided in subsection e. of section 6 of this act, refunding increases as provided in section 7 of this act, and increased costs as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and satisfies the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan;

e. The loan shall bear interest, exclusive of any, cost of issuance charges, late charges or administrative fees payable to the bank pursuant to subsection o. of section 5 of P.L.1985, c.334 (C.58:11B-5) by the project sponsors receiving bank transportation loans, at or below the interest rate paid by the bank on the bonds issued to make or refund the loans authorized by this act, adjusted for underwriting discount and original issue discount or premium, in accordance with the terms and conditions set forth in the financial plan required pursuant to section 37 of P.L.2016, c.56 (C.58:11B-22.3); and

f. The loan shall be subject to all other terms and conditions as the bank shall determine to be consistent with the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) and any rules and regulations adopted pursuant thereto, the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9), any policy statements relating to the Transportation Bank Infrastructure Financing Program and with the financial plan required by section 37 of P.L.2016, c.56 (C.58:11B-22.3). The eligibility lists and authorization for the making of loans pursuant to this act shall expire on July 1, 2022, and any project sponsor which has not executed and delivered a loan agreement with the bank for a loan authorized in this act shall no longer be entitled to that loan.

6. a. The New Jersey Infrastructure Bank is authorized to reduce the individual amount of loan funds made available to or on behalf of project sponsors pursuant to section 3 of this act based upon final building costs defined in and determined in accordance with rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan. The bank is authorized to use any such reduction in the loan amount made available to a project sponsor to cover that project sponsor's increased costs due to differing site conditions or other allowable expenses as defined and determined in accordance with the rules and regulations adopted by the bank pursuant to section 27 of P.L.1985, c.334 (C.58:11B-27) and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan.

b. The bank is authorized to increase each loan amount authorized in section 3 of this act by the amount of capitalized interest, issuance expenses and administrative expenses

associated with federal funding programs allocable to each loan made by the bank pursuant to this act.

c. The bank is authorized to increase each loan amount authorized in section 3 of this act by the amount of reserve capacity expenses, and by the debt service reserve fund expenses associated with the costs identified in subsection b. of section 1 of this act.

d. The bank is authorized to increase each loan amount authorized in section 3 of this act by the interest earned on amounts deposited for project costs pending their distribution to project sponsors.

e. The bank is authorized to increase each loan amount authorized in section 3 of this act by the loan origination fee.

7. The New Jersey Infrastructure Bank is authorized to utilize the proceeds from the refunding of bank transportation bonds to increase the individual amount of loan funds made available to project sponsors by the bank pursuant to this act provided that the amount of the increase is limited to the amount of savings achieved by the refunding of bank transportation bonds issued to make loans authorized by this act.

8. The expenditure of funds authorized pursuant to this act is subject to the provisions of P.L.1985, c.334 (C.58:11B-1 et seq.) as amended and supplemented by P.L.2016, c.56, and the requirements of subsection g. of section 9 of P.L.1985, c.334 (C.58:11B-9) and any policy statements relating to the Transportation Bank Infrastructure Financing Program to be set forth in the State Fiscal Year 2022 Transportation Infrastructure Financing Program Financial Plan, as appropriate.

9. a. There is appropriated to the New Jersey Infrastructure Bank for deposit in the transportation subaccount of the special fund created and established by the bank for the short-term or temporary loan financing or refinancing under the “Disaster Relief Emergency Financing Program,” program authorized pursuant to subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5), such sums as needed consisting of:

(1) sums from the “Interim Transportation Financing Program Fund” as needed by the bank to make short-term or temporary loans pursuant to the “Disaster Relief Emergency Financing Program” to any one or more of the project sponsors, for the respective projects thereof; and

(2) such other amounts to be deposited in the “Disaster Relief Emergency Financing Program Fund,” established pursuant to subsection a. of section 1 of P.L.2013, c.93 (C.58:11B-9.5), provided that the amount so appropriated to the bank for deposit in the “Disaster Relief Emergency Financing Program Fund” shall be utilized by the bank to make short-term or temporary loans pursuant to the “Disaster Relief Emergency Financing Program” to any one or more of the project sponsors, for the respective projects thereof. Any transportation projects funded by the “Disaster Relief Emergency Financing Program” shall be subject to the approval of the Commissioner of Transportation.

b. The Transportation Disaster Relief Emergency Financing Program Project Priority List shall be submitted to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1) at least once in each fiscal year. Any transportation infrastructure project or the project sponsor thereof not identified in the Transportation Disaster Relief Emergency Financing Program Project Priority List shall not be eligible for a short-term or temporary loan from the Transportation Disaster Relief Emergency Financing Program Fund.

10. Notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the bank shall not be required to adopt rules and regulations governing the issuance of loans under the "Disaster Relief Emergency Financing Program."

11. This act shall take effect immediately.

Approved August 24, 2021.