

2019 Regular Session

HOUSE BILL NO. 496

BY REPRESENTATIVES ABRAMSON, BOURRIAQUE, DAVIS, DEVILLIER,  
GAROFALO, HORTON, IVEY, JAY MORRIS, JIM MORRIS, STEFANSKI, AND  
STOKES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CAPITAL OUTLAY: Establishes the Unclaimed Property Revolving Loan Commission to provide financial assistance to local governments and political subdivisions for certain capital infrastructure projects

1 AN ACT

2 To enact R.S. 36:769(N) and Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised

3 Statutes of 1950, to be comprised of R.S. 39:462.1 through 462.5, and

4 1367(E)(2)(b)(vii), relative to the capital outlay program; to provide with respect to

5 the funding and financing of certain capital outlay projects; to provide a funding

6 source for certain capital outlay expenditures by local governments; to establish the

7 Unclaimed Property Revolving Loan Commission; to provide for a board of directors

8 to govern the commission; to provide for membership, duties, and authority of the

9 board; to provide for the adoption of bylaws, rules, and regulations by the board; to

10 provide for the capitalization, administration, investment, and disposition of monies

11 received by the commission; to authorize the commission to incur debt and issue

12 bonds, notes, or other evidences of indebtedness and to guarantee the debt of other

13 certain entities; to authorize loans from the commission to nonstate public entities

14 for certain eligible infrastructure projects; to provide procedures for local

15 governments to enter into such indebtedness and provide for repayment; to exempt

16 interest on such indebtedness from taxation; to provide with respect to loan

17 forgiveness; to establish the Unclaimed Property Revolving Loan Commission

18 within the Department of the Treasury; to provide for effectiveness; and to provide

19 for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 36:769(N) is hereby enacted to read as follows:

3 §769. Transfer of boards, commissions, departments, and agencies to Department  
4 of the Treasury

5 \* \* \*

6 N. The Unclaimed Property Revolving Loan Commission (R.S. 39:462.1 et  
7 seq.) is placed within the Department of the Treasury and shall perform and exercise  
8 its powers, duties, functions, and responsibilities in the manner provided by law.

9 Section 2. Chapter 3-C of Subtitle I of Title 39 of the Louisiana Revised Statutes of  
10 1950, to be comprised of R.S. 39:462.1 through 462.5, and 1367(E)(2)(b)(vii) are hereby  
11 enacted to read as follows:

12 CHAPTER 3-C. UNCLAIMED PROPERTY REVOLVING LOAN COMMISSION

13 §462.1. Unclaimed Property Revolving Loan Commission; purposes

14 A. The legislature finds that:

15 (1) State government has assisted in funding many local capital outlay  
16 projects that are necessary to provide local facilities, but the result of this state  
17 funding has been to either reduce the amount of funding available for state programs  
18 and services or ignore the need for assistance to local governments.

19 (2) Even with established state and federal government programs to assist  
20 local governments with needed and necessary funding for infrastructure projects,  
21 including those for clean water and sewerage projects, local governments encounter  
22 financial challenges in meeting match funding requirements and other required local  
23 contributions required by the existing state capital outlay program and other  
24 infrastructure programs.

25 (3) The most effective way of accomplishing the goal of providing for local  
26 infrastructure project financing and for preservation of the state fisc over the long  
27 term is to establish a low-interest-rate revolving loan fund to be available for local  
28 infrastructure projects to assist participating borrowers in meeting required match  
29 requirements and other required local contributions, and provide an alternative

1 means to fund appropriate local infrastructure projects that would otherwise compete  
2 with scarce state funding for state projects.

3 B. In order to continue to provide match funds and other required local  
4 contributions to local governments for the planning, design, construction, and  
5 maintenance connected with needed infrastructure projects, it is the purpose of this  
6 Chapter to do the following:

7 (1) Provide for the establishment and administration of a commission to  
8 make loans from a revolving loan fund and to provide other assistance to local  
9 governments for use in meeting match funding requirements or other required local  
10 contributions in carrying out or proposing to carry out eligible infrastructure projects,  
11 and enter into cooperative endeavor agreements and interstate compacts as may be  
12 necessary and proper to fulfill the purposes of this Chapter.

13 (2) Provide for receipt, administration, and use by the commission of federal  
14 funds contributed to it pursuant to federal law, rule, or regulation, funds appropriated  
15 or otherwise provided by the state or any local governing authority, and funds  
16 derived or contributed from, or otherwise provided by, any other source.

17 (3) Authorize the commission to establish and administer a revolving loan  
18 fund for eligible infrastructure projects and to use the sums on deposit in, credited  
19 to, or otherwise received by the commission for the purposes provided in this  
20 Chapter.

21 §462.2. Unclaimed Property Revolving Loan Commission; definitions

22 The following terms as used in this Chapter shall have these meanings:

23 (1) "Approved infrastructure program" means a program through which an  
24 eligible infrastructure project may be funded including but not limited to the  
25 following programs:

26 (a) State Capital Outlay Budget Program as provided in R.S. 39:101 et seq.,  
27 administered by the Division of Administration, office of facility planning and  
28 control.

1           (b) Clean Water State Revolving Fund established pursuant to R.S. 30:2301

2           et seq.

3           (c) Drinking Water Revolving Loan Fund established pursuant to R.S.

4           40:2821 et seq.

5           (2) "Board" means the board of directors of the Unclaimed Property

6           Revolving Loan Commission.

7           (3) "Certifying department" means a state department or agency with

8           authority to administer and approve an eligible infrastructure project in accordance

9           with laws and regulations governing the respective approved infrastructure program.

10          (4) "Eligible infrastructure project" or "project" means a plan or proposal

11          approved by the respective certifying department with legal authority to administer

12          an approved infrastructure program, which would require or use a local match or

13          other required local contribution, or require funding for eligible infrastructure project

14          costs that can be provided by the commission.

15          (5) "Loan" means the loan from the commission to the local government

16          evidenced by a bond, note, or other evidence as provided in this Chapter.

17          (6) "Local" or "local government" means a public entity as defined in Article

18          VI, Section 44 of the Constitution of Louisiana.

19          (7) "Revolving loan fund" means a fund established in law to be used to

20          make loans through the commission with funding from unclaimed property.

21          §462.3. Unclaimed Property Revolving Loan Commission; structure; powers; duties

22                 A. There is hereby established within the Department of the Treasury the

23                 Unclaimed Property Revolving Loan Commission, hereinafter referred to as

24                 "commission", which shall be allocated to the Department of the Treasury in

25                 accordance with the provisions of Article IV, Section 1 and Article XIV, Section 6

26                 of the Constitution of Louisiana.

27                 B.(1) The commission shall be governed by a board of directors composed

28                 of the following members:

29                         (a) The state treasurer, or his designee.

1           (b) One member appointed by the state treasurer who possesses no less than  
2           five years of business or commercial lending experience.

3           (c) One member appointed by the governor who shall have experience with  
4           any of the following:

5           (i) The Clean Water State Revolving Loan Fund administered by the  
6           Department of Environmental Quality.

7           (ii) The Drinking Water Revolving Loan Fund administered by the office of  
8           public health.

9           (iii) The state capital outlay budget process administered by the Division of  
10          Administration, office of facility planning and control.

11          (d) One member appointed by the speaker of the House of Representatives  
12          who possesses no less than five years of business or commercial lending experience.

13          (e) One member appointed by the president of the Senate who possesses no  
14          less than five years of business or commercial lending experience.

15          (f) One member appointed by the state treasurer from a list of three nominees  
16          submitted by the Louisiana Municipal Association who possesses no less than five  
17          years of business or commercial lending experience.

18          (g) One member appointed by the state treasurer from a list of three  
19          nominees submitted by the Louisiana Police Jury Association who possesses no less  
20          than five years of business or commercial lending experience.

21          (2) The board shall adopt bylaws for its own internal organization and  
22          governance, including the election of officers and conduct of meetings in accordance  
23          with the Open Meetings Law, R.S. 42:11 et seq.

24          (3) The board shall promulgate rules and regulations, in accordance with the  
25          Administrative Procedure Act, R.S. 49:950 et seq., for the appointment of  
26          committees, for consideration and approval or rejection of applications for loans, and  
27          for the administration of the commission and fulfillment of any and all  
28          responsibilities and duties and exercise of any rights and authority of the commission  
29          as provided in this Chapter.

1           (4) The board shall exercise its duties and responsibilities and grant or deny  
2           approval to applicants.

3           C. The board shall have authority and responsibility for review and approval  
4           or denial of applications for loans or other assistance requested by a local  
5           government for an eligible infrastructure project. No loan or other assistance shall  
6           be made without the prior approval of the proposed project by the respective  
7           certifying department. Each respective certifying department shall retain its  
8           discretion, authority, and control over all aspects of the review of any and all  
9           construction, engineering, and related technical aspects of a project in accordance  
10          with the rules and regulations of the respective approved infrastructure program.

11          D. The commission shall have the powers necessary or convenient to carry  
12          out its mission and purpose described in this Chapter, including the following:

13               (1) To sue and be sued.

14               (2) To adopt an official seal and alter the same at its pleasure.

15               (3) To appoint an executive director to administer the affairs of the  
16          commission, who shall be appointed and serve at the pleasure of the board.

17               (4) To make and execute contracts and other agreements, instruments, and  
18          documents necessary or convenient for the exercise of its powers and functions under  
19          this Chapter, with any federal or state government agency, local government, or  
20          other public or private entity, and to act in furtherance of its interests therein,  
21          including but not limited to credit enhancement devices, guarantees, pledges, interest  
22          rate swap agreements, contracts, and agreements with federal agencies, local  
23          government entities, public trusts, departments, boards, agencies, commissions of the  
24          state, and other parties to the extent necessary or convenient for the implementation  
25          of the purpose of the commission as provided for in this Chapter.

26               (5) To receive and administer grants from the federal government or its  
27          agencies allotted to the state for the capitalization of the bank, any fund administered  
28          by the commission, state funds when required or otherwise made available, or any  
29          other funds or property loaned, granted, donated or otherwise provided for the

1 purposes established in this Chapter, subject to compliance with the terms of a  
2 federal or state grant, if any, and other applicable state or federal law, rule, or  
3 regulation.

4 (6) To make loans from a revolving loan fund, federal funds, or funds on  
5 deposit in, credited to, or to be received by the commission, and interest on the loans  
6 shall be at or below market interest rates for a period not to exceed twenty years from  
7 the completion of the construction of the project.

8 (7) To provide the following assistance regarding local government projects:

9 (a) Offer and make or enter into loan guarantees, letters of credit, grants, or  
10 other forms of assistance.

11 (b) Provide payments to reduce interest on loans.

12 (c) Make bond interest subsidies for bonds.

13 (d) Provide bond guarantees.

14 (e) Assist with respect to the non-federal share of project costs.

15 (f) Finance the cost and the preparation of project plans, specifications, and  
16 estimates for construction.

17 (g) Improve credit market access by guaranteeing, arranging, or purchasing  
18 bond insurance or other credit enhancement devices for debt obligations issued for  
19 an eligible infrastructure project.

20 (8) To finance any programs which the federal government authorizes by a  
21 grant made for purposes of the revolving loan fund or made for purposes for which  
22 the revolving loan fund is authorized.

23 (9) To provide for any other expenditure consistent with a federal grant  
24 program and state law.

25 (10) To establish, by rule, a schedule of reasonable fees and charges to pay  
26 the costs of administering the commission.

27 E. Money needed for the operation of the commission or on deposit in the  
28 revolving loan fund shall be invested by the state treasurer as provided by law,  
29 except as may be limited by federal law or the terms and conditions of any grant

1 related to money deposited in the revolving loan fund. All interest earned on  
2 investments shall be credited to the revolving loan fund.

3 §462.4. Revolving loan fund; loans for eligible infrastructure projects; authorizing  
4 and issuing debt; security; interest rates; tax exemption

5 A.(1) Notwithstanding any provision of law to the contrary, and in addition  
6 to the authority to lend or borrow money or incur or guarantee indebtedness provided  
7 by any other provisions of law, sums on deposit in and credited to the commission  
8 may be loaned from the revolving loan fund to local governments for use in  
9 connection with eligible infrastructure projects. However, this Section shall not be  
10 deemed to be the exclusive authority under which a local government may otherwise  
11 borrow money or incur indebtedness from other sources.

12 (2) Local governments may enter into loans from the revolving loan fund in  
13 accordance with this Section, but no such loan shall be made nor debt evidencing the  
14 loan shall be issued or incurred without the approval of the board, followed by  
15 written approval of the State Bond Commission.

16 B. All bonds, notes, or other evidences of indebtedness of any local  
17 government issued to represent a loan shall be authorized and issued pursuant to a  
18 resolution or ordinance of the governing authority of that entity, hereinafter referred  
19 to collectively as "resolution". The resolution shall prescribe the form and details  
20 thereof, including the terms, security for, manner of execution, repayment schedule,  
21 and redemption features thereof and the resolution may provide that an officer of that  
22 entity may execute in connection with such obligation any related contract, including  
23 but not limited to a credit enhancement device, indenture of trust, loan agreement,  
24 pledge agreement, or other agreement or contract needed to accomplish the purposes  
25 for which the evidence of indebtedness is given, in substantially the form referenced  
26 in the resolution, but which final executed credit enhancement device, indenture of  
27 trust, loan agreement, pledge, or other contract or agreement may contain such  
28 changes, additions and deletions as shall in the sole opinion of the executing officer  
29 be appropriate under the circumstances. The resolution shall include a statement as



1 to the maximum principal amount of any such obligation, the maximum interest rate  
2 to be incurred or borne by said obligation or guaranteed by said obligation, the  
3 maximum redemption premium, if any, and the maximum term in years for such  
4 obligation, guarantee, or pledge.

5 C. Notwithstanding any other provision of law to the contrary, a local  
6 government, upon entering into a loan as provided in this Chapter, may dedicate and  
7 pledge a portion of any revenues it has available to be pledged and dedicated,  
8 including but not limited to revenues from the general revenue fund, sales taxes,  
9 sewer user fees, assessments, parcel fees, or ad valorem property taxes, for a  
10 sufficient term to repay the principal of, interest on, and any premium, administrative  
11 fee or other fee or cost incurred, in connection with the loan.

12 D. Any evidence of indebtedness authorized pursuant to this Chapter shall  
13 bear a rate or rates of interest that shall not exceed the rate or rates set forth in the  
14 resolution authorizing and providing for the issuance thereof. Any such rate or rates  
15 of interest may be at fixed, variable, or adjustable rates.

16 E. The general laws of the state governing fully registered securities of  
17 public entities shall be applicable to the bonds, notes, or other evidences of  
18 indebtedness issued pursuant to this Section.

19 F. A resolution authorizing a loan pursuant to this Section shall be published  
20 once in the official journal or a newspaper of general circulation in the parish or local  
21 government entity incurring the loan. It shall not be necessary to publish exhibits to  
22 the resolution, but the exhibits shall be made available for public inspection at the  
23 offices of the governing authority of the parish, municipality, or other political  
24 subdivision at reasonable times and notice of the availability of these documents  
25 shall be stated in the publication within the official journal or newspaper of general  
26 circulation in the parish or local government entity incurring the loan. For a period  
27 of thirty days after the date of publication, any person in interest may contest the  
28 legality of the resolution authorizing the evidence of indebtedness or other loan and  
29 any provision thereof made for the security and payment of the debt. After such

1        thirty-day period, no one shall have any cause or right of action to contest the  
 2        regularity, formality, legality, or effectiveness of the resolution and the provisions  
 3        thereof or of the bonds, notes, or other evidences of indebtedness or other loan, or  
 4        to provide for the payment of the debt, or the legality thereof, and all of the  
 5        provisions of the resolution and such evidence of indebtedness shall be  
 6        conclusively presumed, and no court shall have authority or jurisdiction to inquire  
 7        into the matter.

8                G. Interest on bonds, notes, or other evidences of indebtedness issued or any  
 9        loan entered into under the authority of this Section shall be exempt from all  
 10        taxation. The bonds, notes, or other evidences of indebtedness or loans may be used  
 11        for deposit with any officer, board, municipality, or other political subdivision of the  
 12        state, in any case where, by present or future laws, deposit of security is required for  
 13        state funds.

14        §462.5. General power to issue and incur debt; to issue and undertake guarantees of  
 15        the debt of other entities

16                A. The commission may issue, incur, and deliver debt evidenced by bonds,  
 17        notes, or other evidences of indebtedness, payable from or secured by sums  
 18        deposited in, credited to, or to be received by the commission. The commission is  
 19        further authorized to undertake and to issue and deliver evidences of its guarantee  
 20        of the debt of other entities and is authorized to enter into and execute pledges of the  
 21        sums deposited in, credited to, or to be received by the commission, including  
 22        payments pursuant to letters of credit, to secure the debt or performance of  
 23        obligations of a local government for a project. Bonds, notes, or other evidences of  
 24        indebtedness, guarantees, and pledges issued and delivered pursuant to this authority  
 25        shall constitute special and limited obligations of the commission and shall not be  
 26        secured by the full faith and credit of the state or any source of revenue of the state  
 27        other than those sums on deposit in or credited to the revolving loan fund, or to be  
 28        received by the commission, including payments to be made pursuant to letters of  
 29        credit.



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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 496 Reengrossed

2019 Regular Session

Abramson

**Abstract:** Establishes the Unclaimed Property Revolving Loan Commission to provide financial assistance for eligible infrastructure projects of local governments and political subdivisions.

Proposed law provides definitions for purposes of proposed law including those for "approved infrastructure program", "eligible infrastructure project", "certifying department", and "local government".

Proposed law establishes within the Department of the Treasury, the Unclaimed Property Revolving Loan Commission, hereinafter "commission", and provides for its structure, powers, and duties.

Proposed law provides that the commission shall be governed by a board of seven directors, hereinafter "board", as follows:

- (1) The state treasurer, or his designee.
- (2) One member appointed by the state treasurer.
- (3) One member appointed by the governor who has experience with the Clean Water State Revolving Loan Fund, the Drinking Water Revolving Loan Fund, or the state capital outlay budget process.
- (4) One member appointed by the speaker of the House of Representatives.
- (5) One member appointed by the president of the Senate.
- (6) One member appointed by the state treasurer from a list of three nominees submitted by the Louisiana Municipal Association.
- (7) One member appointed by the state treasurer from a list of three nominees submitted by the Louisiana Police Jury Association.

Proposed law requires the appointees of the state treasurer, the speaker of the House, and the president of the Senate to possess no less than five years of business or commercial lending experience.

Proposed law provides that the board may appoint an executive director to administer the affairs of the commission, who shall be appointed and serve at the pleasure of the board.

Proposed law requires the board to adopt bylaws and to promulgate rules and regulations in accordance with the Administrative Procedure Act concerning its fulfillment of the requirements of proposed law.

Proposed law requires the board to exercise its duties and responsibilities and grant or deny approval to applicants.

Proposed law provides for the powers of the board and the commission, which include the following:

- (1) To execute contracts and other instruments necessary for the exercise of its powers and functions, including credit enhancement devices, guarantees, pledges, and interest rate swap agreements, necessary for the implementation of the purpose of the commission.
- (2) To receive and administer all monies and any other property available for purposes of the commission.
- (3) To make low interest loans from a revolving loan fund or from any other monies on deposit with the commission.
- (4) To provide the following assistance regarding local government capital infrastructure projects:
  - (a) Offer or enter into loan guarantees, letters of credit, grants, or other forms of assistance, payments to reduce interest on loans, bond interest subsidies for bonds, provide bond guarantees, and assistance with respect to the non-federal share of project costs.
  - (b) Finance the cost and the preparation of project plans, specifications, and estimates for projects.
  - (c) Improve credit market access by guaranteeing, arranging, or purchasing bond insurance or other credit enhancement devices for debt obligations issued for the project.
  - (d) Finance programs authorized under a federal grant.
  - (e) Establish by rule, a schedule of reasonable fees and charges to pay the costs of administering the commission.

Proposed law requires that before a loan or other assistance may be requested from the commission, the project shall first have been approved by the "certifying department" of state government that has authority to administer and approve the project in accordance with present law governing the respective approved infrastructure program.

Proposed law, with respect to a bond, note, or other evidence of indebtedness of a local government issued through a loan, requires the same requirements concerning interest rates and public notice as provided in present law concerning the adoption of a resolution or ordinance authorizing the issuance of indebtedness.

Proposed law authorizes a local government to pledge as security for a loan and any ancillary fees or other costs, any revenues from its general revenue fund, sales taxes, sewer user fees, assessments, parcel fees, or ad valorem property taxes.

Proposed law exempts from taxation any interest on bonds, notes, or other evidences of indebtedness issued through a loan.

Proposed law for purposes of security of debt or performance obligations of debt for projects, authorizes the commission to issue and deliver evidences of its guarantee of the debt of other entities, and to execute pledges of the monies on deposit in the commission, including payments pursuant to letters of credit. All evidences of indebtedness, guarantees, and pledges delivered pursuant to this authority shall constitute limited obligations of the commission and shall not be secured by the full faith and credit of the state.

Proposed law provides that the withdrawal of monies from the revolving loan fund to pay debt service on any bond, note, or other evidence of indebtedness, obligation of guarantee

of any debt, or pledge to secure any debt shall not constitute or be subject to appropriation by the legislature.

Present law provides for the definition of "net state tax supported debt" and includes those issuances excluded from the definition.

Proposed law retains present law and adds as an exclusion, any bond, note, certificate, warrant, reimbursement obligation, or other evidence of indebtedness issued pursuant to proposed law.

Effective July 1, 2019.

(Adds R.S. 39:462.1 through 462.5 and 1367(E)(2)(b)(vii))

#### Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change proposed law from a program that establishes the La. Capital Outlay Revolving Loan Bank to the establishment of the Unclaimed Property Revolving Loan Commission and change the word "bank" to "commission" throughout proposed law as well as "bank loan" to "loan".
2. Change the board's duties from being in accordance with the duties, responsibilities, and processes of the State Bond Commission to the board exercising the ability to grant or deny approval to applicants independently.
3. Remove the board's power to secure principal, interest, and premium on bonds or other evidences of indebtedness.
4. Remove the provision that prevents money in the revolving loan fund from being expended or used without approval of the board followed by written approval of the State Bond Commission.
5. Remove requirement for the repayment of an obligation to commence after completing the project.
6. Make technical changes.

#### The House Floor Amendments to the engrossed bill:

1. Establish the Unclaimed Property Revolving Loan Commission within the Dept. of the Treasury.
2. Technical amendments.