

**§ 159D-40. Criteria and requirements.**

(a) In undertaking any project pursuant to this Article, the agency shall be guided by and shall observe the following criteria and requirements listed below. The determination of the agency as to its compliance with these criteria and requirements is conclusive.

- (1) No project shall be sold or leased nor any loan made to any participating institution that is not financially responsible and capable of fulfilling its obligations, including its obligations under an agreement of sale or lease or a loan agreement to make purchase price payments, to pay rent, to make loan repayments, to operate, repair and maintain at its own expense the project and to discharge any other responsibilities imposed under the agreement of sale or lease or loan agreement.
- (2) Adequate provision shall be made for the payment of the principal of and the interest on the bonds and any necessary reserves for payment and for the operation, repair and maintenance of the project at the expense of the participating institution.
- (3) The public facilities, including utilities, and public services necessary for the project will be made available.
- (4) The projects shall be operated to serve and benefit the public and there shall be no discrimination against any person based on race, creed, color, or national origin.

(b) In making these determinations, the agency may consider the participating institution's experience and ratio of current assets to current liabilities; the participating institution's net worth, earnings trends, and coverage of fixed charges; the nature of the project involved; and any additional security for payment of the bonds and performance of the participating institution's obligations under the agreement of sale or lease or loan agreement, such as credit enhancement, insurance, guaranties, or property pledged to secure the payment and performance. (1985 (Reg. Sess., 1986), c. 794, s. 6; 1998-124, s. 6; 2000-179, s. 2.)