§ 2815. Health facility restructuring program. 1. Definitions. As used in this section, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

(a) "Agency" shall mean the New York state housing finance agency created by article three of the private housing finance law.

(b) "Authority" shall mean the dormitory authority of the state of New York created by title four of article eight of the public authorities law which has succeeded to the powers, functions and duties of the medical care facilities finance agency pursuant to chapter eighty-three of the laws of nineteen hundred ninety-five.

(c) "Participating borrower" shall mean a not-for-profit general hospital, a not-for-profit diagnostic center, a not-for-profit treatment center, a not-for-profit residential health care facility or any other not-for-profit entity in possession of a valid operating certificate issued pursuant to this article, each organized under the laws of this state, which has been approved for participation in this program by the commissioner.

(d) "Restructuring pool" shall mean the health facility restructuring pool authorized to be established by the authority pursuant to this section.

2. The authority shall establish the restructuring pool. Funds shall be transferred by the commissioner to the authority for deposit in the restructuring pool as authorized pursuant to paragraph (d) of subdivision one of section twenty-eight hundred seven-l and paragraph (b) of subdivision nineteen of section twenty-eight hundred seven-c of this article or any other provision of law. Funds in the restructuring pool shall be held by the authority pursuant to this section as custodian, administered by the authority pursuant to an agreement with the commissioner and invested by the authority in accordance with the investment guidelines of the authority. All investment income shall be credited to, and any repayments of loans as hereinafter provided shall be deposited in, the restructuring pool, and spent therefrom only for the purposes set forth in this section.

3. The commissioner, the authority and the agency shall enter into an

agreement, subject to the approval of the director of the budget, for the purpose of administering the funds in the restructuring pool in a manner that will benefit the public health by encouraging improvements in the health care delivery system in the state. A copy of such agreement, and any amendment thereto, shall be provided to the chair of the senate finance committee, the director of the division of budget, and the chair of the assembly ways and means committee. Such agreement shall include, but not be limited to, the following provisions:

(a) for the receipt, management and expenditure of funds held in the restructuring pool by the authority;

(b) for the development and implementation of business plans for participating borrowers, addressing the development of service delivery strategies, including strategies for the formation or strengthening of networks, affiliations or other business combinations, designed to provide long-term financial stability within and among participating borrowers;

(c) for the expenditure or loan of funds by the authority from the restructuring pool to reimburse the authority or the agency, where appropriate, for the costs of engaging management, legal or accounting consultants to identify, develop and implement improved strategies for one or more participating borrowers for implementing the recommendations of such consultants, where appropriate, and for the payment of debt service on bonds, notes or other obligations issued or incurred by the authority or the agency to fund loans to one or more participating borrowers;

(d) for assurances that participating borrowers will address the recommendations of such consultants and furnish the commissioner, the authority, and where applicable, the agency, with such additional financial, management, legal and operational information as each may deem necessary to monitor the performance of a participating borrower; and

(e) for the agency to obtain funds from the restructuring pool to be used for the purposes set forth in this section.

3-a. Any participating borrower may apply for restructuring pool funds to the extent such funds are derived from deposits made pursuant to paragraph (d) of subdivision one of section twenty-eight hundred seven-l

of this article, provided, however, that, in reviewing such applications, the commissioner and the authority shall consider the extent to which the applicant hospital has alternative available sources of funds, including, but not limited to, funds available through affiliation agreements with other hospitals or entities.

4. To the extent funds are available from a participating borrower therefor, expenditures from the restructuring pool shall be repaid to the restructuring pool from repayments received by the authority, or the agency where applicable, from a participating borrower pursuant to the terms of any financing agreement, mortgage or loan document permitting the recovery from the participating borrower of such expenditures. The authority shall record and account for all such payments, which shall be deposited in the restructuring pool.

5. Loans from the restructuring pool shall be made pursuant to an agreement with the participating borrower specifying the terms thereof, including repayment terms. The authority shall record and account for all such repayments, which shall be deposited in the restructuring pool. The authority shall notify the chair of the senate finance committee, the director of the division of budget, the chair of the assembly ways and means committee, the chair of the senate committee on health, and the chair of the assembly health committee, five days prior to the making of a loan from the restructuring pool. The authority shall also report quarterly to such chairpersons on the transactions in the pool, including but not limited to receipts or deposits to the pool, disbursements or loans made from the pool, investment income, and the balance on hand as of the end of the month for each such quarter.

5-a. Notwithstanding anything in this section to the contrary, the authority is authorized and directed to transfer from the restructuring pool to the department, upon written request of the director of the budget and within thirty days thereof, funds repaid by participating borrowers, and held by the authority relating to restructuring pool loans funded by amounts transferred to the restructuring pool by the department or remaining funds in the restructuring pool that were transferred by the department, not to exceed a total of eighty-three

million five hundred thousand dollars, excepting therefrom amounts necessary to pay expenses of the authority as provided in the agreement described in subdivision three of this section. All participating borrowers shall be obligated in their loan agreement to repay no later than March thirty-first, two thousand twenty all funds borrowed from the eighty-three million five hundred thousand dollars transferred by the department pursuant to this section, to fund these restructuring pool loans. Further, in respect of these borrowed funds, all participating borrowers shall be required under the terms of their loan agreement to immediately upon receipt of quality improvement incentive payments or additional supplemental assistance initiate repayment of an amount equal to the quality improvement incentive payments or additional supplemental assistance not to exceed the amount of such borrowed funds, unless a waiver or extension of repayment has been approved by the director of the budget.

6. The commissioner is authorized, with the assistance and cooperation of the authority, to provide a program of technical assistance to participating borrowers.