

**11-17-5 Security for bonds -- Provisions in security agreements -- Limitations -- Liens.**

- (1) The principal of and interest on any bonds issued under this chapter:
  - (a) shall be secured by a pledge and assignment of the revenues out of which the bonds are made payable or by such other sinking fund or security provision as shall in the judgment of the governing body be reasonably designed to assure payment of the obligations to the purchasers thereof; however, the bond purchasers may not in any event have recourse against the general funds or general credit of the governmental offeror;
  - (b) may be secured by a mortgage covering all or any part of the project; and
  - (c) may be secured by any other security device deemed most advantageous by the governing body issuing the bonds.
- (2) The proceedings under which the bonds are authorized to be issued under this chapter and any mortgage given to secure them may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting:
  - (a) the fixing and collection of revenues for any project covered by the proceedings or mortgage;
  - (b) the terms to be incorporated in the lease, installment purchase agreement, rental agreement, mortgage, trust indenture, loan agreement, financing agreement, or other agreement for the project;
  - (c) the maintenance and insurance of the project;
  - (d) the creation and maintenance of special funds from the revenues of projects; and
  - (e) the rights and remedies available in the event of a default to the bondholders or to the trustee under a mortgage, all as the governing body deems advisable and which is not in conflict with this chapter, except that in making any agreements or provisions a municipality or county may not obligate itself except with respect to the project and the application of the revenues from it and may not incur a general obligation or liability or a charge upon its general credit or against its taxing powers.
- (3) The proceedings authorizing any bonds under this chapter and any mortgage securing bonds may provide that, in the event of a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or mortgage, payment and performance may be enforced by the appointment of a receiver with power to charge and collect the revenues from the project and to apply the revenues from the project in accordance with the proceedings or the provisions of the mortgage.
- (4) Any mortgage made under this chapter to secure bonds issued under it may also provide that, in the event of a default in payment or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed or otherwise realized on in any manner permitted by law. The mortgage may also provide that any trustee under the mortgage or the holder of any of the bonds secured by the mortgage may become the purchaser at any foreclosure sale if the highest bidder. No breach of any agreement imposes any general obligation or liability upon a municipality or county or any charge upon their general credit or against their taxing powers.
- (5) The revenues pledged and received are immediately subject to the lien of the pledge without any physical delivery of any lease, purchase agreement, financing agreement, loan agreement, note, debenture, bond, or other obligation under which the revenues are payable, or any other act, except that the proceedings or agreement by which the pledge is created shall be recorded in the records of the municipality, county, or state university. The proceedings or agreement by which the pledge is created, or a financing statement, need not be filed or recorded under the Uniform Commercial Code, or otherwise, except in the records of the municipality, county, or state university as provided in this Subsection (5). The lien of any pledge is valid and binding

and has priority as against all parties having claims of any kind in tort, contract, or otherwise against the municipality, county, or state university, irrespective of whether the parties have notice of the lien. Each pledge and agreement made for the benefit or security of any of the revenue bonds issued under this chapter shall continue effective until the principal, interest, and premium, if any, on the revenue bonds have been fully paid or provision for payment has been made.

Amended by Chapter 378, 2010 General Session