

## Chapter 27 Utah Refunding Bond Act

### 11-27-1 Short title -- Recital of authority required on face of bonds.

This chapter shall be known and may be cited as the "Utah Refunding Bond Act." All bonds issued under the authority provided for in this chapter shall contain on their face a recital to that effect.

Enacted by Chapter 43, 1981 General Session

### 11-27-2 Definitions.

As used in this chapter:

- (1) "Advance refunding bonds" means refunding bonds issued for the purpose of refunding outstanding bonds in advance of their maturity.
- (2) "Assessments" means a special tax levied against property within a special improvement district to pay all or a portion of the costs of making improvements in the district.
- (3) "Bond" means any revenue bond, general obligation bond, tax increment bond, special improvement bond, local building authority bond, or refunding bond.
- (4) "General obligation bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body payable in whole or in part from revenues derived from ad valorem taxes and that constitutes an indebtedness within the meaning of any applicable constitutional or statutory debt limitation.
- (5) "Governing body" means the council, commission, county legislative body, board of directors, board of trustees, board of education, board of higher education, or other legislative body of a public body designated in this chapter that is vested with the legislative powers of the public body, and, with respect to the state, the State Bonding Commission created by Section 63B-1-201.
- (6) "Government obligations" means:
  - (a) direct obligations of the United States of America, or other securities, the principal of and interest on which are unconditionally guaranteed by the United States of America; or
  - (b) obligations of any state, territory, or possession of the United States, or of any of the political subdivisions of any state, territory, or possession of the United States, or of the District of Columbia described in Section 103(a), Internal Revenue Code of 1986.
- (7) "Issuer" means the public body issuing any bond or bonds.
- (8) "Public body" means the state or any agency, authority, instrumentality, or institution of the state, or any municipal or quasi-municipal corporation, political subdivision, agency, school district, special district, special service district, or other governmental entity now or hereafter existing under the laws of the state.
- (9) "Refunding bonds" means bonds issued under the authority of this chapter for the purpose of refunding outstanding bonds.
- (10) "Resolution" means a resolution of the governing body of a public body taking formal action under this chapter.
- (11) "Revenue bond" means any bond, note, warrant, certificate of indebtedness, or other obligation for the payment of money issued by a public body or any predecessor of any public body and that is payable from designated revenues not derived from ad valorem taxes or from a special fund composed of revenues not derived from ad valorem taxes, but excluding all of the following:

- (a) any obligation constituting an indebtedness within the meaning of any applicable constitutional or statutory debt limitation;
  - (b) any obligation issued in anticipation of the collection of taxes, where the entire issue matures not later than one year from the date of the issue; and
  - (c) any special improvement bond.
- (12) "Special improvement bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body or any predecessor of any public body that is payable from assessments levied on benefitted property and from any special improvement guaranty fund.
- (13) "Special improvement guaranty fund" means any special improvement guaranty fund established under Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities; Title 11, Chapter 42, Assessment Area Act; or any predecessor or similar statute.
- (14) "Tax increment bond" means any bond, note, warrant, certificate of indebtedness, or other obligation of a public body issued under authority of Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

Amended by Chapter 16, 2023 General Session

**11-27-3 Action by resolution of governing body -- Purposes for bond issue -- Exchange or sale -- Interest rate limitations inapplicable -- Principal amount -- Investment of proceeds -- Safekeeping and application of proceeds -- Computing indebtedness -- Payment of bonds -- Combination issues -- Laws applicable to issuance -- Payment from taxes or pledged revenues.**

- (1) Any formal action taken by the governing body of a public body under the authority of this chapter may be taken by resolution of that governing body.
- (2)
- (a) The governing body of any public body may by resolution provide for the issuance of refunding bonds to refund outstanding bonds issued by the public body or its predecessor, either prior to or after the effective date of this chapter, only:
    - (i) to pay or discharge all or any part of any outstanding series or issue of bonds, including applicable interest, in arrears or about to become due and for which sufficient funds are not available;
    - (ii) to achieve a savings; or
    - (iii) to achieve another objective that the governing body finds to be beneficial to the public body.
  - (b) Any refunding bonds may be delivered in exchange for the outstanding bonds being refunded or may be sold in a manner, at terms, with details, and at a price above, at, or below par as the governing body determines advisable. The refunding bonds may be issued without an election, unless an election is required by the Utah Constitution.
  - (c) The governing body may, by resolution, delegate to one or more officers of the local political subdivision the authority to:
    - (i) in accordance with and within the parameters set forth in the resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and
    - (ii) approve and execute all documents relating to the issuance of a bond.
  - (d) It is the express intention of the Legislature that interest rate limitations elsewhere appearing in the laws of the state not apply to nor limit the rates of interest borne by refunding bonds.
- (3) Advance refunding bonds may be issued in a principal amount in excess of the principal amount of the bonds to be refunded as determined by the governing body. This amount

may be equal to the full amount required to pay the principal of, interest on, and redemption premiums, if any, due in connection with the bonds to be refunded to and including their dates of maturity or redemption in accordance with the advance refunding plan adopted by the governing body, together with all costs incurred in accomplishing this refunding. The principal amount of refunding bonds may be less than or the same as the principal amount of the bonds being refunded so long as provision is duly and sufficiently made for the retirement or redemption of the bonds to be refunded. Any reserves held or taxes levied or collected to secure the bonds to be refunded may be applied to the redemption or retirement of the bonds, or otherwise, as the governing body may determine.

- (4) Prior to the application of the proceeds derived from the sale of advance refunding bonds to the purposes for which the bonds have been issued, these proceeds, together with any other legally available funds, including reserve funds, may be invested and reinvested only in government obligations maturing at such times as may be required to provide funds sufficient to pay principal of, interest on, and redemption premiums, if any, due in connection with the bonds to be refunded or the advance refunding bonds, or both, in accordance with the advance refunding plan. To the extent incidental expenses have been capitalized, these bond proceeds may be used to defray these expenses.
- (5) The governing body may contract regarding the safekeeping and application of the proceeds of sale of advance refunding bonds and other funds included with them and the income from them, including the right to appoint a trustee, which may be any trust company or state or national bank having powers of a trust company inside or outside the state. The governing body may provide in the advance refunding plan that until such money is required to redeem or retire the bonds to be refunded, the advance refunding bond proceeds and other funds, and the income from them, shall be used to pay and secure payment of principal of, interest on, and redemption premiums, if any, due in connection with all or a portion of the advance refunding bonds or the bonds being refunded, or both.
- (6) In computing indebtedness for the purpose of any applicable constitutional or statutory debt limitation, there shall be deducted from the amount of outstanding indebtedness the principal amount of outstanding general obligation bonds for the payment of which there has been dedicated and deposited in escrow government obligations, the principal of or interest on which, or both, will be sufficient to provide for the payment of these general obligation bonds as to principal, interest, and redemption premiums, if any, when due at maturity or upon some earlier date upon which the bonds have been called for redemption in accordance with their terms.
- (7) When a public body has irrevocably set aside for and pledged to the payment of bonds to be refunded proceeds of advance refunding bonds and other money in amounts which, together with known earned income from their investment, will be sufficient in amount to pay the principal of, interest on, and any redemption premiums due on the bonds to be refunded as the same become due and to accomplish the refunding as scheduled, the refunded bonds shall be considered duly paid and discharged for the purpose of any applicable constitutional or statutory debt limitation.
- (8) Refunding bonds and bonds issued for any other purpose may be issued separately or issued in combination in one or more series or issues by the same issuer.
- (9) Except as specifically provided in this section, refunding bonds issued under this chapter shall be issued in accordance with the provisions of law applicable to the type of bonds of the issuer being refunded in effect either at the time of the issuance of the refunding bonds or at the time of issuance of the bonds to be refunded. Refunding bonds and coupons, if any, pertaining to them may bear facsimile signatures as provided in Section 11-14-304.

- (10) Refunding bonds may be made payable from any taxes or pledged revenues, or both, or any assessments, special improvement guaranty funds, or other funds which might be legally pledged for the payment of the bonds to be refunded at the time of the issuance of the refunding bonds or at the time of the issuance of the bonds to be refunded, as the governing body may determine.

Amended by Chapter 145, 2011 General Session

Amended by Chapter 342, 2011 General Session

**11-27-3.5 Tax levy to pay state refunding bonds -- Sinking fund -- Payments -- Abatement of tax -- Investment of fund -- Interest rates on bonds -- Security for bonds.**

- (1)
  - (a) Each year after issuance of refunding bonds by the State Bonding Commission until all outstanding refunding bonds are retired, there is levied a direct annual tax on all real and personal property within the state subject to state taxation, sufficient to pay:
    - (i) applicable refunding bond redemption premiums, if any;
    - (ii) interest on the refunding bonds as it becomes due; and
    - (iii) principal on the refunding bonds as it becomes due.
  - (b) The rate of the direct annual tax shall be fixed each year by the State Tax Commission at the rate fixed for state taxes and the tax shall be collected and the proceeds applied as provided in this chapter.
  - (c) The proceeds of the taxes levied under this section may be appropriated to the applicable sinking fund.
- (2) A sinking fund may be created by resolution of the State Bonding Commission for administration by the state treasurer. The resolution may provide that all money deposited in the sinking fund, from whatever source, shall be used to pay debt service on the refunding bonds.
- (3) The Division of Finance, on or before any interest, principal, or redemption premiums become due on the refunding bonds, shall draw warrants on the state treasury which the treasurer shall promptly pay from funds within the applicable sinking fund. The amount paid shall be transmitted immediately to the paying or transfer agent for the refunding bonds.
- (4) The direct annual tax imposed under this section is abated to the extent money is available from sources, other than ad valorem taxes in the applicable sinking fund, for the payment of refunding bond interest, principal, and redemption premiums.
- (5) The state treasurer may invest any money in sinking funds in accordance with Title 51, Chapter 7, State Money Management Act of 1974, until the time it is needed for the purposes for which each fund is created. All income from the investment of sinking fund money shall be deposited to that sinking fund and used for the payment of debt service on the refunding bonds.
- (6) The proceedings of the State Bonding Commission may specify the rates of interest on the refunding bonds or the method, formula, or indexes by which a variable interest rate on the bonds may be determined while the bonds are outstanding.
- (7) In connection with any refunding bond issued by the State Bonding Commission the state treasurer may enter into arrangements on behalf of the state with financial, and other institutions for letters of credit, standby letters of credit, reimbursement agreements, and remarketing, indexing, and tender agent agreements to secure the refunding bonds and for the payment of fees, charges, and other amounts coming due under those agreements for the purpose of enhancing the credit worthiness of the refunding bonds.

Enacted by Chapter 6, 1984 General Session

**11-27-4 Publication of resolution -- Notice of bond issue -- Contest of resolution or proceeding.**

- (1) The governing body of any public body may provide for the publication of any resolution or other proceeding adopted by it under this chapter:
  - (a) for the public body, as a class A notice under Section 63G-30-102, for at least seven days; and
  - (b) as required in Section 45-1-101.
- (2) In case of a resolution or other proceeding providing for the issuance of refunding bonds (or for a combined issue of refunding bonds and bonds issued for any other purpose), the governing body may, instead of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, entitled accordingly, and containing:
  - (a) the name of the issuer;
  - (b) the purposes of the issue;
  - (c) the maximum principal amount which may be issued;
  - (d) the maximum number of years over which the bonds may mature;
  - (e) the maximum interest rate which the bonds may bear;
  - (f) the maximum discount from par, expressed as a percentage of principal amount, at which the bonds may be sold;
  - (g) a general description of the security pledged for repayment of the bonds; and
  - (h) the times and place where a copy of the resolution or other proceeding authorizing the issuance of the bonds may be examined, which shall be at an office of the governing body identified in the notice, during regular business hours of the governing body as described in the notice and for a period of at least 30 days after the publication of the notice.
- (3) For a period of 30 days after the publication, any person in interest shall have the right to contest the legality of the resolution or proceeding or any bonds which may be so authorized or any provisions made for the security and payment of these bonds; and after this time no person shall have any cause of action to contest the regularity, formality, or legality thereof for any cause.

Amended by Chapter 435, 2023 General Session

**11-27-5 Negotiability of bonds -- Intent and construction of chapter -- Budget for payment of bonds -- Proceedings limited to those required by chapter -- Notice -- No election required -- Application of chapter.**

- (1) Refunding bonds shall have all the qualities of negotiable paper, shall be incontestable in the hands of bona fide purchasers or holders for value, and are not invalid for any irregularity or defect in the proceedings for their issuance and sale. This chapter is intended to afford an alternative method for the issuance of refunding bonds by public bodies and may not be construed to deprive any public body of the right to issue bonds for refunding purposes under authority of any other statute, but this chapter, nevertheless, shall constitute full authority for the issue and sale of refunding bonds by public bodies. Section 11-1-1, however, is not applicable to refunding bonds.
- (2) Any public body subject to any budget law shall in its annual budget make proper provision for the payment of principal and interest currently falling due on refunding bonds, but no provision need be made in the budget prior to the issuance of the refunding bonds for their issuance or for the expenditure of the proceeds from them.

- (3)
- (a) No ordinance, resolution, or proceeding concerning the issuance of refunding bonds nor the publication of any resolution, proceeding, or notice relating to the issuance of the refunding bonds shall be necessary except as specifically required by this chapter.
  - (b) A publication made under this chapter may be made:
    - (i) for the public body, as a class A notice under Section 63G-30-102; and
    - (ii) as required in Section 45-1-101.
- (4) No resolution adopted or proceeding taken under this chapter shall be subject to any referendum petition or to an election other than as required by this chapter. All proceedings adopted under this chapter may be adopted on a single reading at any legally-convened meeting of the governing body. This chapter shall apply to all bonds issued and outstanding at the time this chapter takes effect as well as to bonds issued after this chapter takes effect.

Amended by Chapter 435, 2023 General Session

**11-27-6 Bonds and interest exempt from taxation except corporate franchise tax.**

All refunding bonds, and interest accruing on them, shall be exempt from all taxation in this state, except for the corporate franchise tax.

Amended by Chapter 61, 1984 General Session

**11-27-7 Chapter inapplicable to anticipation bonds and obligations.**

This chapter does not apply to bonds or obligations issued in anticipation of the collection of taxes where the entire issue matures not later than one year from the date of the issue.

Amended by Chapter 142, 1987 General Session

**11-27-8 Chapter controlling in conflict of laws.**

To the extent that provisions of this chapter shall be in conflict with any other law or laws, the provisions of this chapter shall be controlling.

Enacted by Chapter 43, 1981 General Session

**11-27-9 Prerequisites to issuance of state general obligation refunding bonds.**

No general obligation refunding bonds of the state may be issued under this chapter, unless:

- (1) the tax provided in Section 11-27-3.5 is sufficient to pay annual interest and to pay the principal of the refunding bonds within 20 years from the final passage of the law authorizing the bonds to be refunded thereby; or
- (2) the legislature has approved the issuance of general obligation refunding bonds and provided for levying a tax annually, sufficient to pay the annual interest and to pay the principal of the general obligation refunding bonds within 20 years from the final passage of the law approving the refunding bonds as provided in Article XIII, Sec. 2(11), Utah Constitution.

Amended by Chapter 258, 2015 General Session

**11-27-10 Legal investment status of refunding bonds.**

Refunding bonds issued under this chapter are legal investments for all state trust funds, insurance companies, banks, trust companies, and the state school fund, and may be used as collateral to secure legal obligations.

Enacted by Chapter 6, 1984 General Session