

Part 5 Agency Bonds

17C-1-501.1 Title.

This part is known as "Agency Bonds."

Enacted by Chapter 350, 2016 General Session

17C-1-501.5 Resolution authorizing issuance of agency bonds -- Characteristics of bonds.

- (1) An agency may not issue a bond under this part unless the board first adopts a resolution authorizing the bond issuance.
- (2)
 - (a) As provided in the agency resolution authorizing the issuance of a bond under this part or the trust indenture under which the bond is issued, a bond issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.
 - (b) A bond issued by an agency under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the agency resolution authorizing the bond issuance or the trust indenture under which the bond is issued.

Renumbered and Amended by Chapter 350, 2016 General Session

17C-1-502 Sources from which bonds may be made payable -- Agency powers regarding bonds.

- (1) The principal and interest on a bond issued by an agency may be paid from:
 - (a) the income and revenues of the project area development financed with the proceeds of the bond;
 - (b) the income and revenue of certain designated project area development regardless of whether the project area development is financed in whole or in part with the proceeds of the bond;
 - (c) the income, proceeds, revenue, property, or agency funds derived from or held in connection with the agency's undertaking and implementation of project area development;
 - (d) project area funds;
 - (e) agency revenues generally;
 - (f) a contribution, loan, grant, or other financial assistance from a public entity in aid of project area development, including the assignment of revenue or taxes in support of an agency bond; or
 - (g) funds derived from any combination of the methods listed in Subsections (1)(a) through (f).
- (2) In connection with the issuance of an agency bond, an agency may:
 - (a) pledge all or any part of the agency's gross or net rents, fees, or revenues to which the agency's right then exists or may thereafter come into existence;
 - (b) encumber by mortgage, deed of trust, or otherwise all or any part of the agency's real or personal property, then owned or thereafter acquired; and
 - (c) make the covenants and take the action that:

- (i) may be necessary, convenient, or desirable to secure the bond; or
- (ii) except as otherwise provided in this chapter, will tend to make the bond more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Amended by Chapter 350, 2016 General Session

17C-1-503 Signature of officer who leaves office.

If an agency officer whose signature appears on a bond issued under this part leaves office before delivery of the bond, the signature shall continue to be valid as if the official had remained in office until delivery of the bond.

Renumbered and Amended by Chapter 359, 2006 General Session

17C-1-504 Contesting the legality of resolution authorizing bonds -- Time limit -- Presumption.

- (1) Any person may contest the legality of the resolution authorizing issuance of the bond or any provisions for the security and payment of the bond for a period of 30 days after:
 - (a) publication of the resolution authorizing the bond; or
 - (b) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).
- (2) After the 30-day period described in Subsection (1), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.
- (3) In a lawsuit or other proceeding involving the question of whether a bond issued under this part is valid or enforceable or involving the security for a bond, if a bond recites that the agency issued the bond in connection with project area development:
 - (a) the bond shall be conclusively presumed to have been issued for that purpose; and
 - (b) the project area plan and project area shall be conclusively presumed to have been properly formed, adopted, planned, located, and implemented in accordance with this title.

Amended by Chapter 350, 2016 General Session

17C-1-505 Authority to purchase agency bonds.

- (1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase a bond issued by an agency under this part with funds owned or controlled by the purchaser.
- (2) Nothing in this section may be construed to relieve a purchaser of an agency bond of any duty to exercise reasonable care in selecting securities.

Amended by Chapter 350, 2016 General Session

17C-1-506 Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

- (1) A member of a board or other person executing an agency bond is not liable personally on the bond.
- (2)
 - (a) A bond issued by an agency is not a general obligation or liability of the community, the state, or any of the state's political subdivisions and does not constitute a charge against their general credit or taxing powers.

- (b) A bond issued by an agency is not payable out of any funds or properties other than those of the agency.
 - (c) The community, the state, and the state's political subdivisions may not be liable on a bond issued by an agency.
 - (d) A bond issued by an agency does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.
- (3) A bond issued by an agency under this part is fully negotiable.

Amended by Chapter 350, 2016 General Session

17C-1-507 Obligee rights -- Board may confer other rights.

- (1) In addition to all other rights that are conferred on an obligee of a bond issued by an agency under this part and subject to contractual restrictions binding on the obligee, an obligee may:
- (a) by mandamus, suit, action, or other proceeding, compel an agency and the agency's board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the agency with or for the benefit of the obligee, and require the agency to carry out the covenants and agreements of the agency and to fulfill all duties imposed on the agency by this part; and
 - (b) by suit, action, or other proceeding, enjoin any acts or things that may be unlawful or violate the rights of the obligee.
- (2)
- (a) In a board resolution authorizing the issuance of a bond or in a trust indenture, mortgage, lease, or other contract, a board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.
 - (b)
 - (i) The rights that the board may confer under Subsection (2)(a) are the rights to:
 - (A) cause possession of all or part of the project area development to be surrendered to an obligee;
 - (B) obtain the appointment of a receiver of all or part of an agency's project area development and of the rents and profits from the project area development; and
 - (C) require the agency and the board and employees to account as if the agency and the board and employees were the trustees of an express trust.
 - (ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i) (B), the receiver:
 - (A) may enter and take possession of the project area development or any part of the project area development, operate and maintain the project area development, and collect and receive all fees, rents, revenues, or other charges arising from the project area development after the receiver's appointment; and
 - (B) shall keep money collected as receiver for the agency in a separate account and apply the money pursuant to the agency obligations as the court directs.

Amended by Chapter 350, 2016 General Session

17C-1-508 Bonds exempt from taxes -- Agency may purchase an agency's own bonds.

- (1) A bond issued by an agency under this part is issued for an essential public and governmental purpose and is, together with interest on the bond and income from it, exempt from all state taxes except the corporate franchise tax.
- (2) An agency may purchase the agency's own bonds at a price that the board determines.
- (3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by an agency on the agency's rents, fees, grants, properties, or revenues.

Amended by Chapter 350, 2016 General Session