

Part 5

Local Building Authority Bonds

17D-2-501 Provisions applicable to issuance of local building authority bonds.

Except as otherwise provided in this chapter:

- (1) each local building authority that issues bonds shall:
 - (a) issue them as provided in Title 11, Chapter 14, Local Government Bonding Act, except Section 11-14-306; and
 - (b) receive the benefits of Title 11, Chapter 30, Utah Bond Validation Act;
- (2) bonds issued by a local building authority are governed by and subject to Title 11, Chapter 14, Local Government Bonding Act, except Sections 11-14-306 and 11-14-403; and
- (3) each local building authority that issues refunding bonds shall issue them as provided in Title 11, Chapter 27, Utah Refunding Bond Act.

Enacted by Chapter 360, 2008 General Session

17D-2-502 Required process for issuance of local building authority bonds.

- (1) A local building authority may not issue bonds unless the creating local entity's governing body approves the issuance and terms of the bonds.
- (2)
 - (a) Before issuing bonds, the authority board of a local building authority shall give public notice of the authority board's intent to issue bonds.
 - (b)
 - (i) A local building authority may not issue bonds without the approval of the creating local entity's voters if, within 30 days after the notice under Subsection (2)(a) is given, a written petition requesting an election is filed with the local building authority, signed by at least 20% of the active voters, as defined in Section 20A-1-102, within the creating local entity.
 - (ii) Each election under Subsection (2)(b)(i) shall be held as provided in Title 11, Chapter 14, Local Government Bonding Act, in the same manner as an election for general obligation bonds issued by the creating local entity.

Enacted by Chapter 360, 2008 General Session

17D-2-503 Proceedings for the issuance of local building authority bonds.

The proceeding under which a local building authority is authorized to issue bonds under this part may:

- (1) contain any agreement or provision customarily contained in an instrument securing bonds, including a provision regarding:
 - (a) the fixing and collection of lease payments for a project covered by the bond proceeding;
 - (b) the terms to be incorporated in the lease agreement with respect to the project;
 - (c) the operation, maintenance, and insurance of the project;
 - (d) the creation and maintenance of a reserve fund from the proceeds of the sale of bonds or from lease payment revenue; and
 - (e) any rights and remedies available to the holders of the bonds or to the trustee, in the event of a default, that the authority board of the local building authority determines in accordance with this part;

- (2) provide for the appointment of a trust company or bank, located inside or outside the state, as trustee; and
- (3) provide that upon default in the payment of the principal of or interest on the bonds or in the performance of any covenant or agreement contained in the proceedings, the payment or performance may be enforced by the appointment of a receiver for the project, with power:
 - (a) to rent or lease some or all of the property;
 - (b) to charge and collect rent; and
 - (c) to apply revenue from the project in accordance with the bond proceeding.

Enacted by Chapter 360, 2008 General Session

17D-2-504 Local building authority bonds payable solely from lease payments.

- (1) Except to the extent that they are secured as provided in Section 17D-2-505, bonds issued by a local building authority and interest on the bonds are payable solely from payments received under a lease agreement with the creating local entity with respect to the project that was financed with the bond proceeds.
- (2) Each bond issued by a local building authority shall recite on its face that the bond is payable as provided in Subsection (1).

Enacted by Chapter 360, 2008 General Session

17D-2-505 Security for local building authority bonds.

- (1) The principal of and interest on bonds that a local building authority issues under this part:
 - (a) shall be secured by a pledge and assignment of the revenue that the local building authority receives under its lease agreement with respect to the project that was financed with the bond proceeds;
 - (b) may be secured by:
 - (i) a mortgage covering some or all of the project;
 - (ii) a pledge and assignment of the lease agreement for that project;
 - (iii) money held in a reserve fund; and
 - (iv) any other security device with respect to the project that the local building authority considers most advantageous.
- (2) A proceeding under which a mortgage is given to secure the bonds of a local building authority may contain any agreement or provision listed in Section 17D-2-503 that could be contained in a proceeding under which a local building authority is authorized to issue bonds under this part.
- (3) A mortgage to secure bonds issued by a local building authority under this part may provide that:
 - (a) upon default in its payment or the violation of any covenant or agreement contained in the mortgage, the mortgage may be foreclosed in the manner permitted by law; and
 - (b) the trustee or holder of any bond secured by the mortgage may become the purchaser at a foreclosure sale, if the trustee or holder is the highest bidder.

Enacted by Chapter 360, 2008 General Session

17D-2-506 Other entities not responsible for local building authority bonds or breach of mortgage and other obligations.

- (1) Nothing in this part may be construed to require:
 - (a) the state or any political subdivision of the state to pay a bond issued under this part;

- (b) the state or, except the creating local entity, any political subdivision of the state to pay any rent or lease payment due to a local building authority under the terms of a lease agreement;
or
- (c) the creating local entity to appropriate money to pay:
 - (i) principal of or interest on bonds issued by a local building authority; or
 - (ii) the lease payments under a lease agreement with the local building authority.
- (2) A breach of a mortgage or a covenant or agreement in a mortgage may not impose a general obligation or liability upon or a charge against:
 - (a) the creating local entity; or
 - (b) the general credit or taxing power of the state or any political subdivision of the state.

Amended by Chapter 356, 2009 General Session

17D-2-507 Required provision in device securing payment of bonds.

Each mortgage, trust deed, security agreement, trust indenture, or other security device securing payment of bonds issued under this part shall provide that no deficiency judgment upon foreclosure may be entered against:

- (1) the local building authority;
- (2) the state; or
- (3) any political subdivision of the state.

Enacted by Chapter 360, 2008 General Session