

17D-2-402 Requirements for lease agreements.

- (1) Each lease agreement between a local building authority and its creating local entity shall:
 - (a) provide for the payment of lease payments sufficient:
 - (i) to pay:
 - (A) the principal of and interest on local building authority bonds the proceeds of which were used to construct, acquire, improve, or extend the project;
 - (B) all fees and expenses of trustees and paying agents for bonds described in Subsection (1)(a)(i)(A); and
 - (C) all costs of maintaining and operating the project; and
 - (ii) to accumulate any reasonable reserve that the local building authority considers necessary;
 - (b) provide that the creating local entity, if not in default under the lease agreement, may:
 - (i) subject to Subsection (2), renew the lease for a fixed term beyond the initial term by giving specified notice before the expiration of the initial term; and
 - (ii) subject to Subsection (3) and the terms of the lease agreement, purchase the leased property on a date fixed in the agreement;
 - (c) provide that a creating local entity under the lease agreement is not under any obligation:
 - (i) to purchase the leased property; or
 - (ii) to a creditor, shareholder, or security holder of the local building authority; and
 - (d) require that:
 - (i) title to the project vest in the creating local entity upon payment in full of all outstanding local building authority bonds issued to construct, acquire, improve, or extend a project; and
 - (ii) any remaining assets and net earnings of the local building authority be paid to the creating local entity upon dissolution of the local building authority, as provided in Section 17D-2-702.
- (2) The term of a lease agreement under this part, including any renewal of the lease agreement, may not exceed the lesser of:
 - (a) the estimated useful life of the project, as certified under Subsection 17D-2-302(1); and
 - (b) 40 years.
- (3) The purchase price of leased property under Subsection (1)(b)(ii) may not exceed the project costs that the local building authority actually invested in the project.

Enacted by Chapter 360, 2008 General Session