

### Part 3 State Building Ownership Authority Act

#### **63B-1-301 Title.**

This part shall be known as the "State Building Ownership Authority Act."

Renumbered and Amended by Chapter 86, 2003 General Session

#### **63B-1-302 Legislative findings.**

The Legislature finds and declares as follows:

- (1) it is the policy of this state to provide office space and related facilities for state bodies and such other governmental facilities and property, including highways and highway rights-of-way, as may be necessary or desirable, in the most efficient and economical way possible;
- (2) many state bodies are inadequately provided with necessary office space, related facilities, other governmental facilities, and property to serve the public welfare;
- (3) the state is renting space for state bodies in privately owned buildings with funds which could more efficiently and economically be put to use toward the purchase and acquisition of facilities by the state;
- (4) in order to provide for a fully adequate supply of office space, related facilities, other governmental facilities, and property at the lowest possible cost, this Legislature should establish a State Building Ownership Authority for the purpose of financing, owning, leasing, operating, or encumbering such facilities to meet the needs of the state government and to serve the public welfare;
- (5) the foregoing involve public purposes and uses for which public money may be borrowed, expended, advanced, loaned, or granted, the activities specified would serve a public purpose in improving or otherwise benefiting the people of this state and, therefore, this part is in the public interest and is declared to be in the public interest as a matter of express legislative determination; and
- (6) the compelling need within this state for the creation of an adequate supply of office space, related facilities, other government facilities, and property for state bodies at a low cost can be best met by the establishment of a body corporate and politic vested with the powers and duties specified in this part.

Renumbered and Amended by Chapter 86, 2003 General Session

#### **63B-1-303 Definitions.**

As used in this part:

- (1) "Acquire or construct," "acquired or constructed," "constructed or acquired," "acquiring or constructing," or "acquisition or construction" means any acquisition, construction, reconstruction, restoration, enlargement, improvement, renovation, repair, replacement, equipping or furnishing, in whole or in part, of a facility.
- (2) "Authority" means the State Building Ownership Authority created by this part.
- (3) "Division" means the Division of Facilities Construction and Management.
- (4)
  - (a) "Facility" or "facilities" means any public building, structure, highway, or property for any governmental purpose of state bodies, and the related and appurtenant easements, rights-of-way, improvements, paving, utilities, landscaping, parking facilities, and the lands, interests in

land, and grounds, together with the personal property necessary, convenient, or appurtenant to them.

- (b) "Facility" includes a golf course.
- (5) "Mortgage" means any mortgage, trust deed, indenture, pledge agreement, assignment, security agreement, financing statement, or other instrument that encumbers property as security for obligations.
- (6)
  - (a) "Obligations" means any mortgage certificates, notes, debentures, interim certificates, revenue bonds, or other evidences of financial indebtedness.
  - (b) "Obligations" does not mean general obligation bonds.
- (7)
  - (a) "State body" or "state bodies" means the state and any department, board, commission, or agency of the state.
  - (b) Except as provided in Subsection (7)(c), "state body" or "state bodies" does not mean colleges and universities.
  - (c) "State body" or "state bodies" includes a college or university when the obligation to be issued will finance the acquisition or construction of research facilities, housing facilities, or student centers at the college or university.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-304 State Building Ownership Authority created -- Members -- Compensation -- Location in Department of Administrative Services.**

- (1) There is created a body politic and corporate to be known as the State Building Ownership Authority composed of:
  - (a) the governor;
  - (b) the state treasurer; and
  - (c) the executive director of the Department of Government Operations.
- (2) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (3)
  - (a) Upon request, the division shall provide staff support to the State Building Ownership Authority.
  - (b) The State Building Ownership Authority may seek and obtain independent financial advice, support, and information from the state financial advisor created under Section 67-4-16.

Amended by Chapter 421, 2022 General Session

**63B-1-305 Powers and duties of authority.**

- (1) The authority shall have perpetual succession as a body politic and corporate.
- (2) The authority may:
  - (a) sue and to be sued in its own name;
  - (b) have, and alter at will, an official seal;
  - (c) contract with experts, advisers, consultants, and agents for needed services;

- (d) with the prior approval of the Legislature, borrow money and issue obligations, including refunding obligations;
  - (e) receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of this part, subject to the conditions upon which this aid and contributions are made, for any purpose consistent with this part;
  - (f) enter into agreements with any department, agency or instrumentality of the United States or this state, financial institutions, or contractors for the purpose of leasing, maintaining, and operating any facility;
  - (g) to the extent permitted under its contract with the holders of its obligations, consent to any modification relating to rate of interest, time and payment of any installment of principal or interest, security or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which it is a party;
  - (h) pledge revenues from any facility to secure the payment of obligations relating to that facility, including interest on obligations, and to redeem those obligations;
  - (i) cause to be executed mortgages, trust deeds, indentures, pledge agreements, assignments, security agreements, and financing statements encumbering property acquired, or constructed under this part;
  - (j) own, lease, operate, and encumber facilities acquired or constructed under this chapter by it or the division;
  - (k) exercise the power of eminent domain;
  - (l) rent or lease any facility in whole or in part to any state body; and
  - (m) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this part.
- (3)
- (a) The authority shall submit an annual written report of the authority's proceedings to the State Finance Review Commission created in Section 63C-25-201.
  - (b) The report shall include:
    - (i) a description of any outstanding money borrowed and obligations issued by the authority, including loan amounts, terms, and security;
    - (ii) facilities funded by the actions of the authority; and
    - (iii) an explanation of why the financing terms and obligations used for a facility are appropriate and in the best interest of the state.

Amended by Chapter 207, 2022 General Session

**63B-1-306 Obligations issued by authority -- Limitation of liability on obligations --  
Limitation on amount of obligations issued.**

- (1)
  - (a) All obligations issued by the authority under this part shall be limited obligations of the authority and may not constitute, nor give rise to, a general obligation or liability of, nor a charge against the general credit or taxing power of, this state or any of its political subdivisions.
  - (b) This limitation shall be plainly stated upon all obligations.
- (2)
  - (a) No authority obligations incurred under this section may be issued in an amount exceeding the difference between the total indebtedness of the state and an amount equal to 1-1/2% of the value of the taxable property of the state.

- (b) Debt issued under authority of the following parts or sections may not be included as part of the total indebtedness of the state of Utah in determining the debt limit established by this Subsection (2):
  - (i) Title 63B, Chapter 6, Part 2, 1997 Highway General Obligation Bond Authorization;
  - (ii) Title 63B, Chapter 6, Part 3, 1997 Highway Bond Anticipation Note Authorization;
  - (iii) Title 63B, Chapter 7, Part 2, 1998 Highway General Obligation Bond Authorization;
  - (iv) Title 63B, Chapter 7, Part 3, 1998 Highway Bond Anticipation Note Authorization;
  - (v) Title 63B, Chapter 8, Part 2, 1999 Highway General Obligation Bond Authorization;
  - (vi) Title 63B, Chapter 8, Part 3, 1999 Highway Bond Anticipation Note Authorization;
  - (vii) Title 63B, Chapter 10, Part 1, 2001 Highway General Obligation Bonds;
  - (viii) Title 63B, Chapter 10, Part 2, 2001 Highway General Obligation Bond Anticipation Notes Authorization;
  - (ix) Title 63B, Chapter 11, Part 5, 2002 Highway General Obligation Bonds for Salt Lake County;
  - (x) Title 63B, Chapter 11, Part 6, 2002 Highway General Obligation Bond Anticipation Notes for Salt Lake County;
  - (xi) Section 63B-13-102;
  - (xii) Section 63B-16-101;
  - (xiii) Section 63B-16-102;
  - (xiv) Section 63B-18-401;
  - (xv) Section 63B-18-402; and
  - (xvi) Title 63B, Chapter 27, Part 1, 2017 Highway General Obligation Bonds.
- (c) Debt issued under authority of Section 63B-7-503 may not be included as part of the total indebtedness of the state in determining the debt limit established by this Subsection (2).
- (3) The obligations shall be authorized by resolution of the authority, following approval of the Legislature, and may:
  - (a) be executed and delivered at any time, and from time to time, as the authority may determine;
  - (b) be sold at public or private sale in the manner and at the prices, either at, in excess of, or below their face value and at the times that the authority determines;
  - (c) be in the form and denominations that the authority determines;
  - (d) be of the tenor that the authority determines;
  - (e) be in registered or bearer form either as to principal or interest or both;
  - (f) be payable in those installments and at the times that the authority determines;
  - (g) be payable at the places, either within or without this state, that the authority determines;
  - (h) bear interest at the rate or rates, payable at the place or places, and evidenced in the manner, that the authority determines;
  - (i) be redeemable before maturity, with or without premium;
  - (j) contain any other provisions not inconsistent with this part that are considered to be for the best interests of the authority and provided for in the proceedings of the authority under which the bonds are authorized to be issued; and
  - (k) bear facsimile signatures and seals.
- (4) The authority may pay any expenses, premiums, or commissions, that it considers necessary or advantageous in connection with the authorization, sale, and issuance of these obligations, from the proceeds of the sale of the obligations or from the revenues of the projects involved.

Amended by Chapter 64, 2021 General Session

**63B-1-307 Lease of facilities to state bodies -- Rental.**

- (1) The authority and state bodies shall enter into leases or agreements for the use and occupancy of any portion of any facility constructed or acquired under this part.
- (2) The leases or agreements may provide for the operation, maintenance, and insurance of the facility.
- (3) The leases and agreements shall provide that:
  - (a) the rental to be paid annually by each state body to the authority for the use and occupancy is in proportion to the space occupied in the facility by that state body;
  - (b) those rentals shall be in an amount sufficient to completely pay all principal and interest on those obligations as they come due; and
  - (c) those rentals may include:
    - (i) the cost of maintenance, operation, and insurance of those facilities;
    - (ii) the expenses of the authority in administering the facilities under this part;
    - (iii) amounts needed to provide reserves to secure obligations, to maintain, repair, renovate, reconstruct, or replace those facilities; and
    - (iv) any other reserves and funds that the authority considers necessary or advisable in order to sell its obligations.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-308 Payment of obligations out of rentals -- Other governmental entities not liable for payment -- Appropriations for increased rentals -- Defaulting bodies to quit premises.**

- (1) Except as secured as provided in this part:
  - (a) each obligation issued or caused to be issued by the authority, and the interest on that obligation, is payable solely out of rentals or lease payments received by the authority for the facilities constructed or acquired under this part; and
  - (b) each obligation shall state that information on its face.
- (2) Except to the extent that facilities are encumbered, nothing in this part may be construed to:
  - (a) require the state, or any department, board, commission, agency, or political subdivision of the state, other than the authority, to pay any part of any obligation issued or caused to be issued under this part, or any interest on any of those obligations;
  - (b) require the state or any department, board, commission, agency or political subdivision of the state, other than the state body or state bodies leasing any portion of the facilities, to pay any rental due to the authority by any state body under the terms of any lease of facilities; or
  - (c) require the Legislature to appropriate any money to pay these obligations, interest, or rentals.
- (3) If the rentals paid by a state body to the authority are insufficient to pay the principal and interest on the obligations or other amounts payable from rentals when due, the governor may request the Legislature to appropriate additional funds to that body for the payment of increased rentals.
- (4) If a state body fails to pay any rentals due to the authority under the terms of any lease or agreement for facilities, that body shall immediately quit and vacate the portion of that facility that it has occupied under that lease or agreement, and the rental or lease obligation under the lease or agreement shall then cease.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-309 Securing of obligations -- Provisions in mortgages given as security -- Procedure upon default.**

- (1) The principal and interest on any obligation issued under this part:

- (a) shall be secured by a pledge and assignment of the revenues out of which that obligation shall be made payable;
  - (b) may be secured by a mortgage covering all or any part of the facility for which the revenues from the obligation were used;
  - (c) may be secured by a pledge and assignment of the lease of that facility; and
  - (d) may be secured by any other security device on that facility that is considered most advantageous by the authority.
- (2)
- (a) The proceedings under which the obligations are authorized to be issued under this part and any mortgage given to secure the obligations may contain any agreements and provisions customarily contained in instruments securing obligations, including, but not limited to, provisions respecting:
    - (i) the fixing and collection of rents for any facility covered by the proceedings or mortgage;
    - (ii) the terms to be incorporated in the lease of that facility;
    - (iii) the operation, maintenance, and insurance of that facility;
    - (iv) the creation and maintenance of special reserve or other funds and accounts from the proceeds of sale of obligations or from the revenues of that facility; and
    - (v) the rights and remedies available in the event of a default to the holders of obligations or to the trustee under a mortgage, as the authority may determine in accordance with this part.
  - (b) All these mortgages, trust deeds, security agreements, or trust indentures shall provide that no deficiency judgment upon foreclosure may be entered against the authority, this state, or any of its political subdivisions.
- (3) The proceedings authorizing obligations under this part, and any mortgage securing these obligations, may provide that, if there is a default in the payment of the principal of or the interest on these obligations or in the performance of any agreement contained in the proceedings or mortgage, the payment or performance may be enforced by the appointment of a receiver relative to that facility with power to charge and collect rents and to apply the revenues from the facility in accordance with the proceedings or the provisions of the mortgage.
- (4)
- (a) Any mortgage made under this part to secure obligations issued pursuant to it may also provide that, in the event of a default in the payment of the mortgage 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.
  - (b) The mortgage may also provide that any trustee under the mortgage or the holder of any of the obligations secured by the mortgage may become the purchaser at any foreclosure sale, if that trustee is highest bidder.
  - (c) A breach of the agreement does not impose any general obligation or liability upon, nor a charge against, the authority or the general credit or taxing power of this state or any of its political subdivisions.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-310 Proceeds from sale of obligations -- Use.**

- (1) The proceeds from the sale of obligations issued under this part may be applied only for the purposes for which the obligations were issued.
- (2) Any accrued interest and premium received upon the sale, and any portion of the proceeds that may not be needed for the purposes for which the obligations were issued, shall be applied to the payment of the principal of, or the interest on, the obligations.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-311 Cost of acquiring or constructing facility.**

The cost of acquiring or constructing any facility shall be considered to include the following:

- (1) the actual cost of acquiring or improving real estate;
- (2) the actual cost of enlarging, constructing, reconstructing, improving, replacing, restoring, renovating, maintaining, equipping, or furnishing all or any part of a facility, including architects' or engineers' fees; and
- (3) all expenses connected with the authorization, sale, and issuance of the obligations to finance the acquisition or construction, including:
  - (a) fees for outside attorneys or accountants whose opinions are required to secure the issuance of those obligations;
  - (b) financial advisors' fees and commissions;
  - (c) printing costs;
  - (d) those amounts that the authority considers necessary to establish bond reserves and maintenance, repair, replacement, and contingency funds and accounts; and
  - (e) the interest on these obligations for a reasonable time before, during, and for a reasonable period of time after, completion of the acquisition or construction.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-312 Signature of former member or officer of authority -- Continuing validity.**

If any of the members or officers of the authority no longer occupy their position at the time of the delivery of any obligations signed by them, their signatures or facsimiles of their signatures are valid and sufficient for all purposes, as if they had remained in office until that delivery.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-313 Negotiability of obligations -- Registration.**

All obligations of the authority are negotiable instruments within the meaning of, and for all purposes of Title 70A, Uniform Commercial Code, subject only to any provisions of those obligations relating to registration.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-314 Person executing obligations not personally liable.**

No person executing any obligations issued under this part is subject to personal liability or accountability because of the issuance.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-315 Tax exemption.**

- (1) All property acquired or held by the authority under this part is declared to be public property used for essential public and governmental purposes.
- (2) All property and income from it, and all obligations issued under this part, the interest payable on them, and income derived from them, are exempt from all taxation imposed by this state or any of its political subdivisions, except for the corporate franchise tax.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-316 Obligations as legal investments -- Deposit of obligations.**

- (1) The obligations issued under this part are securities in which all persons and organizations authorized to invest in any obligations of this state may properly and legally invest any funds, including capital belonging to them or within their control.
- (2) These obligations are also declared to be securities that may properly and legally be deposited with, and received by, any state, county, or municipal officer, or agency of the state for any purpose for which the deposit of any obligations of the state is authorized by law.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-317 Publication of resolution or other proceeding -- Contest of proceedings -- Mandamus to compel official to sign obligations.**

- (1) The authority may provide for the publication of any resolution it adopts for the authorization of obligations under this part:
  - (a) in one issue of a newspaper having general circulation in this state; and
  - (b) as required in Section 45-1-101.
- (2) In case of resolution or other proceeding providing for the issuance of obligations under this part, the authority may, in lieu of publishing the entire resolution or other proceeding, publish a notice of obligations to be issued, titled as such, containing:
  - (a) the name of the authority;
  - (b) the purpose of the issue;
  - (c) the type of obligations and the principal amount to be issued;
  - (d) the maximum maturity of the obligations;
  - (e) the maximum net effective rate of interest payable on the issue of obligations;
  - (f) the maximum discount from par which is to be permitted if the obligations may be sold at a discount below par value; and
  - (g) the times and place where a copy of the resolution or other proceeding may be examined, during regular business hours, for a period of at least 30 days after the publication of the notice.
- (3)
  - (a) For a period of 30 days after the date of publication under Subsection (1) or (2), any interested person may contest the legality of the resolution, of the obligations authorized by it, or any of the provisions made for the security and payment of these obligations.
  - (b) After this period, no one shall have any cause of action to contest the regularity, formality, or legality of same for any cause whatsoever, except as provided in Subsection (4).
- (4)
  - (a) If any official required to sign the obligations refuses to sign them because the official alleges that the obligations to be signed are illegal, the authority may bring an original action in the supreme court for a writ of mandamus requiring the official to sign the obligations.
  - (b) Because of the importance of the facilities construction and acquisition program provided for in this part, the Utah Supreme Court shall:
    - (i) give this action precedence over any other matters pending before the court; and
    - (ii) consider and determine these matters at the earliest possible time.

Amended by Chapter 388, 2009 General Session



**63B-1-318 Division duties -- Reimbursement.**

- (1) The division shall:
  - (a) construct, maintain, allocate the space in, and dispose of all facilities acquired or constructed for the authority with the proceeds of obligations of the authority; and
  - (b) do all things necessary to keep those facilities in good order and repair.
- (2) The division may perform all of the duties established in Subsection (1) pursuant to contracts with the authority.
- (3) The division shall be reimbursed for all direct costs of maintenance by the authority from funds derived from rental or lease payments.
- (4) Nothing contained in this part may be construed to limit, supersede, or otherwise change in any way the authority of the division provided in Title 63A, Chapter 5b, Administration of State Facilities.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-319 Legal, accounting, and auditing services.**

- (1) The attorney general shall provide all legal services, and the state auditor shall provide all accounting and auditing services, required by the authority, without reimbursement from that authority.
- (2) Subsection (1) does not apply to attorneys' or accountants' opinions required for the issuance of any obligations.
- (3) The authority may:
  - (a) obtain accounting and auditing services in addition to those specified in Subsections (1) and (2) from outside accountants and auditors, with the consent of the state auditor;
  - (b) obtain legal services in addition to those specified in Subsections (1) and (2) from outside attorneys, with the consent of the attorney general; and
  - (c) include the costs of these services:
    - (i) in the rentals and charges payable to it under leases or agreements between it and state bodies for the use of space in facilities; or
    - (ii) as a cost payable from the proceeds of the sale of obligations for which those services were provided.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-320 State to succeed to property of authority when encumbrances paid or authority dissolved.**

- (1) Each facility shall immediately vest in and become the property of this state when the obligations encumbering it are paid.
- (2) If the authority is dissolved at any time, for any reason, all property of the authority shall immediately vest in and become the property of this state, which shall succeed to all rights of the authority and to any encumbrances which may then exist on any particular facilities, to the extent provided by this part.

Renumbered and Amended by Chapter 86, 2003 General Session

**63B-1-321 Validation of prior obligations.**

All obligations issued by the authority before the effective date of this part and all proceedings had in the authorization and issuance of these obligations and all agreements with respect to them and the security for them are:

- (1) validated, ratified, and confirmed; and
- (2) all these obligations, agreements, and security are declared to constitute legally binding obligations of the authority and all state bodies relating to them in accordance with their terms.

Renumbered and Amended by Chapter 86, 2003 General Session