

IC 4-4-11.2

Chapter 11.2. Additional Authority: Underground Petroleum Storage Tank Excess Liability Fund

IC 4-4-11.2-1

"Authority"

Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority.

As added by P.L.13-1990, SEC.1. Amended by P.L.235-2005, SEC.33.

IC 4-4-11.2-2

"Bonds"

Sec. 2. As used in this chapter, "bonds" means any bonds, notes, debentures, interim certificates, revenue anticipation notes, warrants, or any other evidences of indebtedness of the authority.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-3

"Financial institution"

Sec. 3. As used in this chapter, "financial institution" means a financial institution (as defined in IC 28-1-1).

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-4

"Holder"

Sec. 4. As used in this chapter, "holder" means a person who is:

- (1) the bearer of any outstanding bond or note registered to bearer or not registered; or
- (2) the registered owner of any outstanding bond or note that is registered other than to bearer.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-5

"Person"

Sec. 5. As used in this chapter, "person" means any individual, partnership, firm, association, joint venture, limited liability company, or corporation.

As added by P.L.13-1990, SEC.1. Amended by P.L.8-1993, SEC.16.

IC 4-4-11.2-6

"Reserve fund"

Sec. 6. As used in this chapter, "reserve fund" means a reserve fund established under section 15 of this chapter.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-7

Bonds; issuance; purposes; liability of authority; pledges as additional security

Sec. 7. (a) The authority may issue its bonds in principal amounts

that it considers necessary to provide funds for any purposes under this chapter, including the following:

(1) Providing a source of money for the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1.

(2) Payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds issued by it under this chapter whether the bonds or interest to be paid, funded, or refunded have or have not become due.

(3) Establishment or increase of reserves to secure or to pay bonds or interest on bonds and all other costs or expenses of the authority incident to and necessary or convenient to carry out the authority's corporate purposes and powers.

(b) Every issue of bonds shall be obligations of the authority payable solely out of the revenues or funds of the authority under section 15 of this chapter, subject to agreements with the holders of a particular series of bonds pledging a particular revenue or fund. Bonds may be additionally secured by a pledge of a grant or contributions from the United States, a political subdivision, or a person, or by a pledge of income or revenues, funds, or money of the authority from any source.

As added by P.L.13-1990, SEC.1. Amended by P.L.1-1996, SEC.21; P.L.9-1996, SEC.1.

IC 4-4-11.2-8

Bonds; state exemption; statement; pledge of state

Sec. 8. (a) A bond of the authority:

(1) is not a debt, liability, loan of the credit, or pledge of the faith and credit of the state or of any political subdivision;

(2) is payable solely from the money pledged or available for its payment under this chapter, unless funded or refunded by bonds of the authority; and

(3) must contain on its face a statement that the authority is obligated to pay principal and interest, and redemption premiums if any, and that the faith, credit, and taxing power of the state are not pledged to the payment of the bond.

(b) The state pledges to and agrees with the holders of the bonds issued under this chapter that the state will not:

(1) limit or restrict the rights vested in the authority to fulfill the terms of any agreement made with the holders of its bonds; or

(2) in any way impair the rights or remedies of the holders of the bonds;

until the bonds, together with the interest on the bonds, and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid, and discharged.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-9

Bonds; negotiability

Sec. 9. The bonds of the authority are negotiable instruments for all purposes of the Uniform Commercial Code (IC 26-1), subject only to the provisions of the bonds for registration.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-10

Bonds; issuance; terms; proceedings; interest; redemption

Sec. 10. (a) Bonds of the authority must be authorized by resolution of the authority, may be issued in one (1) or more series, and must:

- (1) bear the date;
- (2) mature at the time or times;
- (3) be in the denomination;
- (4) be in the form;
- (5) carry the conversion or registration privileges;
- (6) have the rank or priority;
- (7) be executed in the manner;
- (8) be payable from the sources in the medium of payment at the place inside or outside the state; and
- (9) be subject to the terms of redemption;

as the resolution of the authority or the trust agreement securing the bonds provides.

(b) Bonds may be issued under this chapter without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this chapter.

(c) The rate or rates of interest on the bonds may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds. Bonds bearing a variable rate of interest may be converted to bonds bearing a fixed rate or rates of interest, and bonds bearing a fixed rate or rates of interest may be converted to bonds bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds are issued. The interest on bonds may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds may be made subject to mandatory redemption by the authority at the times and under the circumstances set forth in the authorizing resolution.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-11

Bonds; sale; notice

Sec. 11. Bonds of the authority may be sold at public or private sale at the price the authority determines. If bonds of the authority are to be sold at public sale, the authority shall publish notice of the sale for two (2) weeks in two (2) newspapers published and of general circulation in the city of Indianapolis.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-12

Bonds; use of proceeds and funds in accordance with contract

Sec. 12. The authority may periodically issue its bonds under this chapter and pay and retire the principal of the bonds or pay the interest due thereon or fund or refund the bonds from proceeds of bonds, or from other funds or money of the authority available for that purpose in accordance with a contract between the authority and the holders of the bonds.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-13

Bonds; trust agreement or resolution; contents; expenses

Sec. 13. (a) In the discretion of the authority, any bonds issued under this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the state.

(b) The trust agreement or the resolution providing for the issuance of the bonds may contain provisions for protecting and enforcing the rights and remedies of the holders of any such bonds as are reasonable and proper and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the holders of any bonds and of the trustee and may restrict the individual right of action by the holders.

(d) In addition to the provisions of subsections (a), (b), and (c), any trust agreement or resolution may contain other provisions the authority considers reasonable and proper for the security of the holders of any bonds.

(e) All expenses incurred in carrying out the trust agreement or resolution may be paid from revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds or from any other funds available to the authority.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-14

Bonds; purchase by authority; presumption of holding for resale or transfer

Sec. 14. The authority may purchase bonds of the authority out of its funds or money available for the purchase of its own bonds. The authority may hold, cancel, or resell the bonds subject to, and in accordance with, agreements with holders of its bonds. Unless cancelled, bonds so held are considered to be held for resale or transfer and the obligation evidenced by the bonds shall not be considered to be extinguished.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-15

Debt service fund; reserve fund; deposits or transfers; reserve fund

disbursements and transfers

Sec. 15. (a) The authority may establish and maintain a debt service fund, and if necessary, a reserve fund, for each issue of bonds in which there shall be deposited or transferred:

- (1) all money appropriated by the general assembly for the purpose of the fund in accordance with section 18(a) of this chapter;
- (2) all proceeds of bonds required to be deposited in the fund by terms of a contract between the authority and its holders or a resolution of the authority with respect to the proceeds of bonds;
- (3) all other money appropriated by the general assembly to the funds; and
- (4) any other money or funds of the authority that it decides to deposit in either fund.

(b) Subject to section 18(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds of the authority as the interest and principal become due and payable and for the retirement of bonds.

(c) Money in any reserve fund in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the authority and transferred to another fund or account of the authority, subject to the provisions of any agreement with the holders of any bonds.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-16**Reserve fund; investments authorized**

Sec. 16. Money in any reserve fund may be invested in the manner provided in the trust agreement or the resolution authorizing issuance of the bonds.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-17**Reserve fund investments; valuation**

Sec. 17. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the authority. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-18**Debt service appropriation; deposits; nonliability of state; holding and application of funds; transfer of excess funds**

Sec. 18. (a) In order to assure the payment of debt service on bonds of the authority issued under this chapter or maintenance of the required debt service reserve in any reserve fund, the general assembly may annually or biannually appropriate to the authority for

deposit in one (1) or more of the funds the sum including particularly sums from the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1, that is necessary to pay the debt service on the bonds or to restore one (1) or more of the funds to an amount equal to the required debt service reserve. This subsection does not create a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any fund shall be held and applied in accordance with section 15(b) of this chapter. However, at the end of each fiscal year, if the amount in any fund exceeds the debt service or required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the funds that exceeds the expenses of the authority for that fiscal year may be transferred to the underground petroleum storage tank excess liability trust fund.

As added by P.L.13-1990, SEC.1. Amended by P.L.1-1996, SEC.22; P.L.9-1996, SEC.2.

IC 4-4-11.2-19

Reserve funds; combining

Sec. 19. Subject to any agreement with its holders, the authority may combine a reserve fund established for an issue of bonds into one (1) or more reserve funds.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-20

Funds, reserves, and accounts; establishment

Sec. 20. The authority may establish additional reserves or other funds or accounts as the authority considers necessary, desirable, or convenient to further the accomplishment of its purposes or to comply with any of its agreements or resolutions.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-21

Payment or retirement of bonds; use of funds or accounts

Sec. 21. Unless the resolution or trust agreement authorizing the bonds provides otherwise, money or investments in a fund or account of the authority established or held for the payment of bonds shall be applied to the payment or retirement of the bonds, and to no other purpose.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-22

Limitation of actions; contesting validity of bonds; presumption; applicability of chapter

Sec. 22. (a) No action to contest the validity of any bonds of the authority to be sold at public sale may be brought after the fifteenth day following the first publication of notice of the sale of the bonds. No action to contest the validity of any bond sale under this chapter may be brought after the fifth day following the bond sale.

(b) If bonds are sold at private sale, no action to contest the validity of such bonds may be brought after the fifteenth day following the adoption of the resolution authorizing the issuance of the bonds.

(c) If an action challenging the bonds of the authority is not brought within the time prescribed by subsection (a) or (b), whichever is applicable, all bonds of the authority are conclusively presumed to be fully authorized and issued under the laws of the state, and a person or a qualified entity is estopped from questioning their authorization, sale, issuance, execution, or delivery by the authority.

(d) If this chapter is inconsistent with any other law (general, special, or local), this chapter controls.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-23

Property; exemption from execution and process; judgment lien; bondholder remedy

Sec. 23. All property of the authority is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the property. A judgment against the authority may not be a charge or lien upon its property. However, this section does not apply to or limit the rights of the holder of bonds to pursue a remedy for the enforcement of a pledge or lien given by the authority on its revenues or other money.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-24

Pledge of revenues; liens; records

Sec. 24. A pledge of revenues or other money made by the authority is binding from the time the pledge is made. Revenues or other money so pledged and thereafter received by the authority are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created needs to be filed or recorded except in the records of the authority.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-25

Funds of federal or state authorities; receipt and credit

Sec. 25. The chairman of the authority may receive from the United States of America or any department or agency thereof, or any state agency, including the department of environmental management, any amount of money as and when appropriated, allocated, granted, turned over, or in any way provided for the purposes of the authority or this chapter, and those amounts shall, unless otherwise directed by the federal authority, be credited to and be available to the authority.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-26

Financial institutions; deposits of funds; undertaking

Sec. 26. A financial institution may give to the authority a good and sufficient undertaking with such sureties as are approved by the authority to the effect that the financial institution shall faithfully keep and pay over to the order of or upon the warrant of the authority or its authorized agent all those funds deposited with it by the authority and agreed interest under or by reason of this chapter, at such times or upon such demands as may be agreed with the authority or instead of these sureties, deposit with the authority or its authorized agent or a trustee or for the holders of bonds, as collateral, those securities as the authority may approve. The deposits of the authority may be evidenced by an agreement in the form and upon the terms and conditions that may be agreed upon by the authority and the financial institution.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-27

Financial institutions; agreements or contracts for services; security

Sec. 27. The authority may enter into agreements or contracts with a financial institution inside or outside the state as the authority considers necessary, desirable, or convenient for rendering services in connection with the care, custody, or safekeeping of securities or other investments held or owned by the authority, for rendering services in connection with the payment or collection of amounts payable as to principal or interest, and for rendering services in connection with the delivery to the authority of securities or other investments purchased by or sold by the authority, and to pay the cost of those services. The authority may also, in connection with any of the services to be rendered by a financial institution as to the custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements in such form and amount as, the authority considers necessary or desirable.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-28

Bonds; legal investments; fiduciaries

Sec. 28. Notwithstanding the restrictions of any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds issued under this chapter.

As added by P.L.13-1990, SEC.1.

IC 4-4-11.2-29

Tax exemption; bonds and property of authority

Sec. 29. All property of the authority is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments, direct or indirect, of the state or a political subdivision of the state. All bonds issued under this chapter are issued by a body corporate and public of the state, but not a state agency, and for an essential public and governmental purpose and the bonds, the interest thereon, the proceeds received by a holder from the sale of the bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption prior to maturity, and proceeds received at maturity and the receipt of the interest and proceeds shall be exempt from taxation in the state for all purposes except a state inheritance tax imposed under IC 6-4.1.

As added by P.L.13-1990, SEC.1. Amended by P.L.254-1997(ss), SEC.2.

IC 4-4-11.2-30

Bonds; exemption; securities registration laws

Sec. 30. Any bonds issued by the authority under this chapter are exempt from the registration and other requirements of IC 23-19 and any other securities registration laws.

As added by P.L.13-1990, SEC.1. Amended by P.L.27-2007, SEC.2.

IC 4-4-11.2-31

Application of chapter

Sec. 31. This chapter is supplemental to all other statutes governing the authority.

As added by P.L.13-1990, SEC.1.