

## **IC 5-1-16.5**

### **Chapter 16.5. Indiana Health and Educational Facilities Financing Authority; Additional Provisions; Financing Projects for Private Colleges and Universities; Participation in Risk Retention Group**

#### **IC 5-1-16.5-1**

##### **Declaration; purpose**

Sec. 1. It is declared:

- (1) that for the benefit of the people of the state, the conduct and increase of their commerce, the protection and enhancement of their welfare, the development of continued prosperity and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities and skills;
- (2) that to achieve the ends in subdivision (1), it is of the utmost importance that nonprofit colleges or universities within Indiana be provided with appropriate additional means to assist youth in achieving the required levels of learning and development of their intellectual and mental capacities and skills; and
- (3) that it is the purpose of this chapter to provide a measure of assistance and an alternative method to enable nonprofit colleges or universities in Indiana to refund or refinance outstanding indebtedness incurred by nonprofit colleges or universities in Indiana for the renovation, construction, acquisition, or equipping of educational facilities, to establish liability or other loss insurance reserves or to contribute those insurance reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses, and to provide the needed additional educational facilities for the public benefit and good, and in execution of the public policy set forth in this section.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-2**

##### **Powers**

Sec. 2. The exercise of the powers granted by this chapter must be in all respects for the benefit of the people of Indiana, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-3**

##### **Liberal construction**

Sec. 3. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes of this chapter.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-4**

##### **Supplemental effect**

Sec. 4. This chapter provides a complete, an additional, and an alternative method for doing the things authorized under this chapter and is supplemental and additional to powers conferred by other laws. The adoption of rules and the issuance of bonds under this chapter need not comply with the requirements of any other law that would otherwise be applicable to the rules or issuance of bonds. Except as otherwise expressly provided in this chapter, none of the powers granted to the authority under this chapter are subject to the supervision or regulation or require the approval or consent of:

- (1) any municipality or political subdivision;
- (2) any department, division, commission, board, body, bureau, official, or agency of any municipality or political subdivision;
- or
- (3) the state.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-5**

##### **Applicability of authority**

Sec. 5. This chapter:

- (1) applies to the authority only when acting for the purposes set forth in this chapter; and
- (2) does not apply to the authority when acting under any other statute for any other purpose.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-6**

##### **Bond issues; authorized actions**

Sec. 6. Bonds issued and other actions taken under IC 20-12-63 before its repeal shall be treated as an action taken under this chapter.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-7**

##### **"Authority"**

Sec. 7. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.

*As added by P.L.2-2007, SEC.69. Amended by P.L.162-2007, SEC.19.*

#### **IC 5-1-16.5-8**

##### **"Bonds"**

Sec. 8. As used in this chapter, "bonds" means revenue bonds, notes, bond anticipation notes, or other obligations of the authority issued under this chapter, including refunding bonds, notes, bond anticipation notes, or other obligations.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-9**

##### **"Bond resolution"**

Sec. 9. As used in this chapter, "bond resolution" means the resolution or resolutions and the trust agreement, if any, authorizing or providing for the terms and conditions applicable to bonds issued under this chapter.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-10**

##### **"Cost"**

Sec. 10. As used in this chapter, "cost" means all costs necessary or incident to the acquisition, construction, or funding of a project, including the costs of refunding or refinancing outstanding indebtedness incurred for the financing of the project, reserves for principal and interest, engineering, legal, architectural, and all other necessary and incidental expenses, together with interest on bonds issued to finance the project to a date six (6) months after the estimated date of completion.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-11**

##### **"Educational facility"**

Sec. 11. As used in this chapter, "educational facility" means any property located within Indiana that:

(1) is suitable for:

- (A) the instruction, feeding, recreation, or housing of students;
- (B) the conduct of research or other work of a nonprofit college or university; or
- (C) use by a nonprofit college or university in connection with any educational, research, or related or incidental activity conducted by the nonprofit college or university;

(2) is suitable for use as or in connection with:

- (A) an academic facility;
- (B) an administrative facility;
- (C) an agricultural facility;
- (D) an assembly hall;
- (E) an athletic facility;
- (F) an auditorium;
- (G) a boating facility;
- (H) a campus;
- (I) a communication facility;
- (J) a computer facility;
- (K) a continuing education facility;
- (L) a classroom;
- (M) a dining hall;
- (N) a dormitory;
- (O) an exhibition hall;
- (P) a firefighting facility;
- (Q) a fire prevention facility;
- (R) a food service and preparation facility;
- (S) a gymnasium;

(T) a greenhouse;  
(U) a health care facility;  
(V) a hospital;  
(W) housing;  
(X) an instructional facility;  
(Y) a laboratory;  
(Z) a library;  
(AA) a maintenance facility;  
(BB) a medical facility;  
(CC) a museum;  
(DD) offices;  
(EE) a parking area;  
(FF) a physical education facility;  
(GG) a recreational facility;  
(HH) a research facility;  
(II) a stadium;  
(JJ) a storage facility;  
(KK) a student union;  
(LL) a study facility;  
(MM) a theater; or  
(NN) a utility;

(3) is not used or to be used for sectarian instruction or study or as a place for devotional activities or workshop; and

(4) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-12**

##### **"Eligible member"**

Sec. 12. As used in this chapter, "eligible member" means a state educational institution or any nonprofit college or university.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-13**

##### **"Liability"**

Sec. 13. As used in this chapter, "liability" means legal liability for damages (including costs of defense, legal costs and fees, and other claims for expenses) because of injuries to other persons or entities, damage to the property or business of other persons or entities, or other damage or loss to such other persons or entities resulting from or arising out of any activity of an eligible member.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-14**

##### **"Liability or loss insurance reserves"**

Sec. 14. As used in this chapter, "liability or loss insurance reserves" means a fund or funds set aside as a reserve to cover risk retained by an eligible member in connection with liability claims or other losses.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-15**

##### **"Nonprofit"**

Sec. 15. As used in this chapter, "nonprofit college or university" has the meaning set forth in IC 21-7-13-23(a).

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-16**

##### **"Project"**

Sec. 16. As used in this chapter, "project" means:

- (1) the acquisition, construction, enlarging, remodeling, renovation, improvement, furnishing, or equipping of an educational facility by the authority for a nonprofit college or university; or
- (2) the funding of any liability, other loss, or insurance reserves or the funding and contribution of such insurance reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-17**

##### **"Property"**

Sec. 17. As used in this chapter, "property" means any real, personal, or mixed property, or any interest in real property or mixed property, including:

- (1) any real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, or rights-of-way and structures; or
- (2) any interest in real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, or rights-of-way and structures.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-18**

##### **"Revenues"**

Sec. 18. As used in this chapter, "revenues" means with respect to any project the rents, fees, charges, and other income or profit derived from the project.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-19**

##### **"Risk retention group"**

Sec. 19. As used in this chapter, "risk retention group" means a trust, pool, corporation, limited liability company, partnership, or joint venture funded by and owned and operated for the benefit of more than one (1) eligible member.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-20**

**"State educational institution"**

Sec. 20. As used in this chapter, "state educational institution" has the meaning set forth in IC 21-7-13-32.

*As added by P.L.2-2007, SEC.69.*

**IC 5-1-16.5-21**

**Powers of authority**

Sec. 21. (a) The authority may determine the location and character of any project to be financed under this chapter.

(b) The authority may construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease as lessee or lessor, regulate any project, or enter into contracts for any purpose stated in this section.

(c) The authority may designate a nonprofit college or university as the authority's agent to carry out the authority of this section.

*As added by P.L.2-2007, SEC.69.*

**IC 5-1-16.5-22**

**Bonds; issuance; funding and refunding**

Sec. 22. The authority may issue bonds or fund and refund bonds as provided in this chapter.

*As added by P.L.2-2007, SEC.69.*

**IC 5-1-16.5-23**

**Rents and charges**

Sec. 23. The authority:

(1) may require that the rates, rents, fees, or charges established by a nonprofit college or university are sufficient to discharge the institution's obligations to the authority; but

(2) has no other jurisdiction over the rates, rents, fees, or charges.

*As added by P.L.2-2007, SEC.69.*

**IC 5-1-16.5-24**

**Rules for projects**

Sec. 24. The authority may:

(1) establish rules for the use of a project or any part of a project; and

(2) designate a nonprofit college or university as the authority's agent to establish rules for the use of a project undertaken for that nonprofit college or university.

*As added by P.L.2-2007, SEC.69.*

**IC 5-1-16.5-25**

**Employees**

Sec. 25. The authority may employ consulting engineers, architects, attorneys, accountants, trustees, construction and financial experts, superintendents, managers, and other employees and agents the authority believes are necessary, and fix their compensation.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-26**

#### **Receipt and use of funds**

Sec. 26. The authority may:

- (1) receive and accept from any source loans, contributions, or grants for or in aid of the construction or funding of a project or any part of a project in either money, property, labor, or other things of value; and
- (2) when required, use the funds, property, or labor only for the purposes for which the money, property, or labor was loaned, contributed, or granted.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-27**

#### **Loans**

Sec. 27. (a) The authority may make loans to any nonprofit college or university for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses in accordance with an agreement between the authority and the nonprofit college or university.

(b) A loan authorized under this section may not exceed the total cost of the project as determined by the nonprofit college or university and approved by the authority.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-28**

#### **Loans and bonds**

Sec. 28. (a) The authority may make loans to a nonprofit college or university to refund outstanding obligations or advances issued, made, or given by the nonprofit college or university for the cost of a project, including the establishment of liability or other loss insurance reserves or the contribution of those reserves to a risk retention group to provide insurance coverage against liability claims or other losses.

(b) The authority may issue bonds and make loans to a nonprofit college or university to refinance indebtedness incurred or to reimburse advances made for projects undertaken before the date of the bond issue whenever the authority finds that the financing is in the public interest and either:

- (1) alleviates a financial hardship upon the nonprofit college or university;
- (2) results in a lesser cost of education; or
- (3) enables the nonprofit college or university to offer greater security for a loan or loans to finance a new project or projects or to effect savings in interest costs or more favorable amortization terms.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-29**

## **Costs**

Sec. 29. The authority may charge to and apportion among nonprofit colleges or universities the authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

*As added by P.L.2-2007, SEC.69.*

## **IC 5-1-16.5-30**

### **Financing**

Sec. 30. (a) The authority may, for financing purposes, combine a project or projects and some or all future projects of any nonprofit college or university or nonprofit colleges or universities provided that:

- (1) the authority obtains the consent of all of the nonprofit colleges or universities that are involved, or when financing loans for the funding of liability or other loss insurance reserves or for the providing of those reserves or other capital to be contributed to a risk retention group, the authority obtains the consent of all of the eligible members that are involved; and
- (2) the money set aside in any fund or funds pledged for any series of bonds or issue of bonds is held for the sole benefit of a series or issue separate and apart from the money pledged for any other series or issue of bonds of the authority.

(b) To facilitate the combining of projects, bonds may be issued in series under one (1) or more resolutions or trust agreements and be:

- (1) fully open end, thus providing for unlimited issuance of additional series; or
- (2) partially open end, limited as to additional series;

all in the discretion of the authority.

(c) Notwithstanding any provision of this chapter, the authority may permit a nonprofit college or university to substitute one (1) or more educational facilities of similar value (as determined by an independent appraiser satisfactory to the authority) as security for any educational facility financed under this chapter on the terms and conditions that the authority may prescribe.

*As added by P.L.2-2007, SEC.69.*

## **IC 5-1-16.5-31**

### **Mortgages**

Sec. 31. The authority may mortgage all or any part of:

- (1) any project and any other educational facilities conveyed to the authority for an educational purpose; and
- (2) the site or sites of the facilities, whether presently owned or subsequently acquired;

for the benefit of the holders of the bonds of the authority issued to finance a project or any portion of a project or issued to refund or refinance outstanding indebtedness of a nonprofit college or university as permitted by this chapter.

*As added by P.L.2-2007, SEC.69.*



### **IC 5-1-16.5-32**

#### **Risk retention**

Sec. 32. The authority may join in a risk retention group with state educational institutions or any nonprofit college or university.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-33**

#### **Authority**

Sec. 33. The authority may do all things necessary to carry out the purposes of this chapter.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-34**

#### **Payment of expenses**

Sec. 34. All expenses incurred in carrying out this chapter are payable solely from funds provided under the authority of this chapter. No liability may be incurred by the authority beyond the extent to which money has been provided under this chapter.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-35**

#### **Acquisitions**

Sec. 35. The authority may acquire:

- (1) directly;
- (2) by and through a nonprofit college or university as the private institution's agent;
- (3) by purchase solely from funds provided under this chapter;
- or
- (4) by gift or devise;

lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and other interests in lands, including lands lying under water and riparian rights that are located in Indiana, as the authority finds necessary or convenient, for the construction or operation of a project, upon the terms and at the prices as are agreed upon between the authority and the owner of a property interest. The authority may take title to property in the authority's own name or in the name of a nonprofit college or university as the authority's agent.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-36**

#### **Conveyance of title**

Sec. 36. The authority shall promptly take any action and execute any deeds and conveyances necessary and required to convey the title to a project or projects to the appropriate nonprofit college or university whenever:

- (1) the principal of and interest on bonds of the authority issued to finance the cost of a project or projects for a nonprofit college or university, including any refunding bonds issued to refund and refinance the bonds, have been fully paid and retired; or

(2) adequate provision has been made to fully pay and retire bonds of the authority issued to finance the cost of a project or projects for a nonprofit college or university, all other conditions of the bond resolution have been satisfied, and the lien created by the bond resolution has been released in accord with the provisions of the bond resolution.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-37**

##### **Issuance of bonds**

Sec. 37. The authority may periodically issue bonds for any corporate purpose. All bonds or other obligations of the authority issued under this chapter are negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-38**

##### **Bonds of issue**

Sec. 38. The bonds of every issue are payable solely out of revenues of the authority, including accumulated reserves or sinking funds. Any income received from the investment of reserves or sinking funds must be applied in reduction of the rentals or other amounts paid by the nonprofit college or university or nonprofit colleges or universities for whose project or projects the reserves or sinking funds were created. Funds held as reserves or sinking funds when invested must be allocated to a specific project or projects of the institution for which the fund was created, and the income from the investment must be used to reduce the bonded indebtedness attributable to the project or projects.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-39**

##### **Bonds; serial and term**

Sec. 39. (a) The bonds issued by the authority may be issued as serial bonds or term bonds, or both. The bonds:

- (1) must be authorized by a bond resolution of the authority; and
- (2) must:
  - (A) bear the date or dates;
  - (B) mature at the time or times not exceeding forty (40) years from their respective dates of issue;
  - (C) bear interest at the rate or rates, without regard to any limit contained in any other statute or law of Indiana;
  - (D) be payable at the time or times;
  - (E) be in the denominations;
  - (F) be in the form, either coupon or fully registered;
  - (G) carry the registration and conversion privileges;
  - (H) be payable in lawful money of the United States of America at the places; and

(I) be subject to the terms of redemption;  
as are in current or customary usage in municipal bond markets  
and as the bond resolution may provide.

(b) The bond resolution for bonds of the authority may set the maximum interest rate or rates that the bonds may bear and delegate to an officer or agent of the authority power to set an interest rate or rates that the bonds may bear at the time of sale of the bonds. However, the rate or rates may not exceed the maximum rate established by the authority in the bond resolution.

(c) The bonds of the authority must be executed by the manual or facsimile signatures of the officers or agents of the authority designated by the authority. In the case of bonds having a maturity of one (1) year or less, the bond resolution that authorizes the bonds may concurrently provide for the issuance, delivery, and sale of refunding bonds subject to the terms and conditions prescribed in the bond resolution and this chapter. The bonds must be sold in the manner that the authority determines. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates, which must be exchanged for the definitive bonds.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-40**

##### **Bond resolutions**

Sec. 40. Any bond resolution of the authority may contain provisions that become part of the contract with the holders of the bonds to be authorized, as to:

- (1) pledging or assigning the revenues of the project or projects with respect to which the bonds are to be issued;
- (2) the rentals, fees, and other amounts to be charged, and the sums to be raised in each year, and the use, investment, and disposition of the sums;
- (3) the setting aside of reserves or sinking funds, and the regulation, investment, and disposition of reserves or sinking funds;
- (4) limitations on the use of the project;
- (5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds may be applied;
- (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;
- (7) the refunding of outstanding bonds;
- (8) the procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds the holders of which must give consent and the manner in which the consent may be given;
- (9) defining the acts or omissions to act that constitute a default in the duties of the authority to holders of the authority's obligations and providing the rights and remedies of the holders

in the event of a default;

(10) mortgaging the project or projects with respect to which any bonds are to be issued and other educational facilities conveyed to the authority for a purpose for the benefit of the holders of the bonds;

(11) the establishment of liability or other loss insurance reserves or the contribution of those reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses; and

(12) any other matters relating to the bonds which the authority considers desirable.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-41**

##### **Immunity for executing bonds**

Sec. 41. Neither the members of the authority nor any person executing the bonds of the authority may be held liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-42**

##### **Bonds; purchasing**

Sec. 42. The authority may purchase bonds issued by the authority using any funds available for the purpose. The authority may hold, pledge, cancel, or resell bonds issued by the authority subject to and in accordance with agreements with bond holders.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-43**

##### **Bonds; trust agreements**

Sec. 43. (a) The authority may secure any bonds issued under this chapter by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank in Indiana having the powers of a trust company.

(b) The bond resolution providing for the issuance of bonds secured by a trust agreement:

(1) must pledge the revenues to be received by the authority from the project or projects;

(2) may contain provisions for protecting and enforcing the rights and remedies of the bondholders as are reasonable and proper and not in violation of law, including provisions specifically authorized to be included in any bond resolution of the authority; and

(3) may restrict the individual right of action by bondholders.

(c) Any bond resolution may contain any other provisions that the authority determines reasonable and proper for the security of the bondholders.

(d) All expenses incurred in carrying out the provisions of the bond resolution may be treated as a part of the cost of the operation

of a project.  
*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-44**

##### **Bonds; restrictions**

Sec. 44. (a) Bonds issued under this chapter do not, and must state upon the face of each bond that the bonds do not:

(1) represent or constitute:

(A) a debt of the authority or of the state within the meaning of the provisions of the Constitution or statutes of the state of Indiana; or

(B) a pledge of the faith and credit of the authority or the state; or

(2) grant to the owners or holders of the bonds any right to have the authority or the general assembly levy any taxes or appropriate any funds for the payment of the principal or interest due on the bonds.

(b) Bonds issued under this chapter are payable and must state that the bonds are payable solely from the funds pledged for payment of the bonds in accordance with the bond resolution.

(c) This chapter may not be construed to authorize the authority or any department, board, commission or other agency to create an obligation of the state of Indiana within the meaning of the Constitution of the State of Indiana or the statutes of Indiana.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-45**

##### **Leases**

Sec. 45. (a) In connection with any lease entered into between the authority and any nonprofit college or university, the authority shall fix, revise, charge, and collect rents for the use of each project and contract with any person, partnership, association, limited liability company, or corporation, or other body, public or private, in respect thereof.

(b) Each lease entered into by the authority with a nonprofit college or university must provide that the rents or other money payable by the nonprofit college or university is sufficient at all times:

(1) to pay the private institution's share of the administrative costs and expenses of the authority;

(2) to pay the principal of the premium, if any, and the interest on outstanding bonds of the authority issued in respect of the project as the bonds become due and payable; and

(3) to create and maintain reserves that may be required or provided for in the bond resolution relating to the bonds of the authority.

(c) The authority shall pledge the revenues derived and to be derived from a project for the purposes specified in subsection (b).

(d) Additional bonds may be issued that rank on a parity with other bonds relating to the project to the extent and on the terms and

conditions provided in the bond resolution.

(e) A pledge is valid and binding from the time the pledge is made. The revenues pledged by the authority are immediately subject to the lien of a pledge without any physical delivery of the pledge document or further act. The lien of a pledge is valid and binding against all parties having claims of any kind in tort or contract or otherwise against the authority, irrespective of whether the parties have notice of the lien.

(f) Neither the bond resolution nor any financing statement, continuation statement, or other instrument by which a pledge is created or by which the authority's interest in revenues is assigned need be filed or recorded in public records to perfect the lien created by a pledge of revenues by the authority as against third parties, except that a copy of the pledge document must be filed in the records of the authority and with the treasurer of state.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-46**

##### **Bond proceeds**

Sec. 46. All money received under this chapter, whether as proceeds from the sale of bonds or as revenues, are trust funds to be held and applied solely as provided in this chapter. Any officer with whom, or any bank or trust company with which, money received under this chapter is deposited shall act as trustee of the moneys and shall hold and apply the money for the purposes described in this chapter, subject to any provisions set forth in this chapter and the bond resolution authorizing the bonds of any issue.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-47**

##### **Rights of bond holders and trustees**

Sec. 47. Any holder of bonds issued under this chapter or a trustee under a trust agreement entered into under this chapter, except to the extent that the rights of a holder or a trustee are restricted by any bond resolution, may, by any suitable form of legal proceedings, protect and enforce any rights under the laws of Indiana or granted by the bond resolution. These rights include the right:

- (1) to compel the performance of all duties of the authority required by this chapter or the bond resolution;
- (2) to enjoin unlawful activities; and
- (3) in the event of default with respect to the payment of any principal of, premium, if any, and interest on any bond or in the performance of any covenant or agreement on the part of the authority in the bond resolution, to apply to the circuit court to appoint a receiver:

(A) to administer and operate the project or projects, the revenues of which are pledged to the payment of principal of, premium, if any, and interest on the bonds;

(B) with full power to pay, and to provide for payment of, principal of premium, if any, and interest on the bonds; and

(C) with the powers, subject to the direction of the court, as are permitted by law and are accorded receivers, excluding any power to pledge additional revenues of the authority to the payment of the principal, premium and interest.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-48**

##### **Refunding bonds generally**

Sec. 48. The authority may provide for the issuance of bonds of the authority:

- (1) to refund any bonds of the authority then outstanding, including the payment of any redemption premium on the bonds and any interest accrued or to accrue to the earlier or any subsequent date of redemption, purchase, or maturity of the bonds; and
- (2) if determined advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any part of an addition, improvement, extension, or enlargement of a project.

However, no refunding bonds may be issued unless the authority provides for the payment of rentals adequate to satisfy the requirements of section 34 of this chapter.

*As added by P.L.2-2007, SEC.69. Amended by P.L.3-2008, SEC.17.*

#### **IC 5-1-16.5-49**

##### **Issuance of bonds to refund outstanding bonds**

Sec. 49. The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority:

- (1) be applied to the purchase or retirement at maturity or redemption of the outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity of the outstanding bonds; and
- (2) pending the application of the proceeds, be placed in escrow to be applied to the purchase or retirement at maturity or redemption of the outstanding bonds on a date determined by the authority.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-50**

##### **Proceeds of refunding bonds; disposition**

Sec. 50. Any escrowed proceeds, pending use for the refunding of outstanding bonds, may be invested and reinvested in:

- (1) direct obligations of the United States of America; or
- (2) obligations having the timely payment of principal and interest unconditionally guaranteed by the United States of America;

maturing at a time or times that are appropriate to assure the prompt payment of the principal and interest and redemption premium, if any, on the outstanding bonds to be refunded. Any interest, income,

and profits earned or realized on any investment may also be applied to the payment of the outstanding bonds to be refunded. Only after the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and any interest, income and profits earned or realized on the investments described in this section must be returned to the nonprofit college or university for use by the nonprofit college or university in any lawful manner.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-51**

##### **Bonds; authority to refund**

Sec. 51. All bonds issued to refund outstanding bonds of the authority are subject to this chapter in the same manner and to the same extent as other bonds issued under this chapter.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-52**

##### **Power to invest bonds**

Sec. 52. Except as otherwise provided in section 50 of this chapter or in any trust indenture providing for the issuance of bonds, the authority may invest:

- (1) the authority's money, funds, and accounts;
- (2) any money, funds, and accounts in the authority's custody; and
- (3) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-53**

##### **Authority to invest bonds**

Sec. 53. All:

- (1) banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and insurance companies and associations; and
- (2) executors, administrators, guardians, trustees, and other fiduciaries;

may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds issued by the authority under this chapter.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-54**

##### **Repealed**

*(Repealed by P.L.162-2007, SEC.42.)*

#### **IC 5-1-16.5-55**

##### **Competitive bidding requirement**

Sec. 55. Except as provided in IC 21-36-2, a project is not subject



to any statutory requirement of competitive bidding or other restriction imposed on the procedure for award of contracts or the lease, sale, or other disposition of property with regard to any action taken under authority of this chapter. If, however, the prospective lessee so requests in writing, the authority shall call for the construction bids in the manner determined by the authority with the approval of the lessee.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-56**

##### **Powers of authority; financing**

Sec. 56. Notwithstanding any other provision of this chapter, the authority may:

- (1) finance the cost of an educational facility or refund outstanding indebtedness of a nonprofit college or university, as authorized under section 28 of this chapter; or
- (2) finance the establishment of liability or other loss insurance reserves or the contribution of reserves or other capital to a risk retention group to provide insurance coverage against liability claims or other losses;

by issuing the authority's bonds for the purpose of loaning the proceeds to a nonprofit college or university for the cost of a project or to refund or refinance outstanding indebtedness or reimburse advances made in connection with a project in accordance with an agreement between the authority and the institution and in exchange for the institution's promissory note or notes.

*As added by P.L.2-2007, SEC.69.*

#### **IC 5-1-16.5-57**

##### **Promissory notes**

Sec. 57. (a) Any promissory notes received under section 56 of this chapter:

- (1) must have the same principal amounts, maturities, and interest rates as the bonds being issued;
- (2) may be secured by a first mortgage lien on the educational facility being financed or by a first mortgage lien or security interest in other real or personal property or funds acceptable to the authority subject to any exceptions that the authority may approve and created by a mortgage instrument or security agreement satisfactory to the authority; and
- (3) may be insured or guaranteed by others.

(b) Any bonds described in section 56 of this chapter must be payable solely out of the payments to be made on the promissory notes and under the corresponding agreement. Any bonds described in section 56 of this chapter may not exceed in principal amount the cost of the educational facility, as determined by the nonprofit college or university, or the necessary amount of these liability or other loss insurance reserves, and approved by the authority. In other respects:

- (1) the bonds are subject to the provisions of section 39 of this

chapter; and

(2) the trust agreement or indenture creating the bonds may contain any of the provisions set forth in section 40 of this chapter that the authority determines appropriate.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-58**

#### **Mortgages**

Sec. 58. If an educational facility is financed and mortgaged under sections 56 and 57 of this chapter:

(1) the title to the facility must remain in the nonprofit college or university owning the facility, subject to the lien of the mortgage securing the promissory notes then being purchased; and

(2) there may not be a lease of the facility between the authority and the institution.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-59**

#### **Power of authority; restrictions**

Sec. 59. Section 36 of this chapter does not apply to any educational facility or any liability or other loss insurance reserves financed under sections 56 through 58 of this chapter and this section. However, the authority shall return the promissory notes purchased through the issuance of bonds under this chapter to the nonprofit college or university issuing the promissory notes when:

(1) the bonds have been fully paid and retired or adequate provision has been made to pay and retire the bonds fully;

(2) all other conditions of the trust agreement or indenture creating the bonds have been satisfied; and

(3) the lien has been released in accordance with the provisions of the instrument creating the lien.

*As added by P.L.2-2007, SEC.69.*

### **IC 5-1-16.5-60**

#### **Power of authority; operation and maintenance of projects**

Sec. 60. Because the operation and maintenance of a project by the authority or the authority's agent constitutes the performance of an essential public function, neither the authority nor the authority's agent are required to pay any taxes or assessments, including mortgage recording taxes, upon or in respect of:

(1) a project or any property acquired or used by the authority or the authority's agent under this chapter or upon the income from the project or property;

(2) the bonds issued under this chapter or the interest on those bonds; and

(3) the proceeds received from bonds issued under this chapter:

(A) by a holder from the sale of such bonds, to the extent of the holder's cost of acquisition;

(B) upon redemption before maturity; or

(C) at maturity.  
*As added by P.L.2-2007, SEC.69.*

**IC 5-1-16.5-61**

**Bonds; tax exemption**

Sec. 61. All bonds and the interest on bonds issued under this chapter are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

*As added by P.L.2-2007, SEC.69.*