

IC 21-32-3

Chapter 3. Sale of Bonds

IC 21-32-3-1

Power to issue bonds

Sec. 1. A state educational institution with power to issue bonds may sell bonds at public or negotiated sale:

- (1) for the price or prices;
- (2) in the manner; and
- (3) at the time or times;

determined by the state educational institution.

As added by P.L.2-2007, SEC.273.

IC 21-32-3-2

Sale of bonds; value

Sec. 2. A state educational institution may not sell bonds:

- (1) for less than ninety percent (90%); or
- (2) with an underwriter's discount that exceeds three percent (3%);

of the par value of the bonds.

As added by P.L.2-2007, SEC.273.

IC 21-32-3-3

Sale of bonds; conditions

Sec. 3. (a) A state educational institution that determines to sell bonds at public sale shall give notice under subsection (b) or (c).

(b) A state educational institution that gives notice under this subsection shall:

- (1) publish the notice once each week for two (2) weeks in:
 - (A) an English language newspaper of general circulation published in the county in which the principal office of the state university or college is located; and
 - (B) an English language newspaper of general circulation published in the state capital;
- (2) publish the last of the publications under subdivision (1) at least seven (7) days before the date of sale; and
- (3) include in the notice the following with respect to the bonds:
 - (A) The amount to be offered.
 - (B) The denominations.
 - (C) The dates of maturity.
 - (D) The maximum rate or rates of interest or the maximum net interest cost.
 - (E) The date, time, and place of sale.
 - (F) The minimum price to be paid for the bonds.

(c) A state educational institution that gives notice under this section shall:

- (1) publish the notice once each week for two (2) weeks in:
 - (A) an English language newspaper of general circulation published in the county in which the principal office of the state university or college is located; and

- (B) an English language newspaper of general circulation published in the state capital; and
- (2) include in the notice:
 - (A) a statement that any person interested in submitting a bid for the bonds may furnish in writing to the treasurer of the state educational institution at the address set forth in the notice the person's:
 - (i) name, address, and telephone number; and
 - (ii) telex number, if any; and
 - (B) the following with respect to the bonds:
 - (i) The amount to be offered.
 - (ii) The denominations.
 - (iii) The dates of maturity.
 - (iv) The maximum rate or rates of interest or the maximum net interest cost.
 - (v) The place of sale.
 - (vi) The time within which the information referred to in clause (A) must be furnished. The time within which the information referred to in clause (A) must be furnished must be at least seven (7) days after the last publication of the notice of intent to sell.
 - (vii) The minimum price to be paid.

As added by P.L.2-2007, SEC.273.

IC 21-32-3-4

Notice of sale of bond

Sec. 4. (a) This section applies when notice is given under section 3 of this chapter for a public sale.

- (b) The treasurer of the state educational institution:
 - (1) shall cause each person furnishing the information required under section 3(c) of this chapter to be notified of the date and time bids will be received at least twenty-four (24) hours before the date and time;
 - (2) shall give the notification under subdivision (1):
 - (A) by telephone at the number furnished by the person; and
 - (B) by telex if the person furnishes a telex number; and
 - (3) may not receive bids for more than ninety (90) days after the first publication of the notice of intent to sell bonds.

As added by P.L.2-2007, SEC.273.

IC 21-32-3-5

Determination of interest cost

Sec. 5. A state educational institution shall award bonds sold at public sale to the bidder offering the lowest interest cost to be determined by:

- (1) computing the total interest on the bonds from the date of the sale to the date of maturity; and
- (2) either:
 - (A) deducting from the total interest the amount of any premium bid; or

(B) adding to the total interest the amount of any discount.
As added by P.L.2-2007, SEC.273.

IC 21-32-3-6

Acceptability of bids

Sec. 6. If no acceptable bid is received at the time fixed for sale of the bonds at a public sale, the state educational institution:

- (1) may continue the sale from day to day for a period not to exceed thirty (30) days without readvertising; and
- (2) may not accept a bid during the continuation of the sale that offers a higher interest cost than the best bid received at the time fixed for the sale under section 3 of this chapter.

The acceptability of a bid is within the sole discretion of the state educational institution issuing the bonds. A state educational institution may not negotiate a sale for an issue of bonds without public bidding under section 1 of this chapter until the thirty (30) day period required by this section has passed for that issue if the state educational institution has conducted a public sale for that issue under sections 3 and 4 of this chapter.

As added by P.L.2-2007, SEC.273.

IC 21-32-3-7

Restrictions on the acceptability of bids

Sec. 7. (a) As used in this section, "check" includes electronic transfer by wire transfer or other similar means.

(b) A state educational institution may not:

- (1) accept a bid for the bonds, other than a bid submitted by the federal government or any agency of the federal government; or
- (2) execute and deliver a contract of sale for the bonds;

unless the bid or contract is accompanied by a certified check or cashier's check in an amount equal to one percent (1%) of the principal amount of the bonds sold.

(c) The check required by subsection (b) must be:

- (1) payable to the state educational institution issuing the bonds; and
- (2) drawn on a bank or trust company, in or out of state, that is insured by the Deposit Insurance Fund of the Federal Deposit Insurance Corporation.

(d) The state educational institution shall:

- (1) hold the check required by subsection (b) as a guaranty of the performance of:
 - (A) the bid, if the bid is accepted; or
 - (B) the contract, if the contract is signed; and
- (2) return the check required under subsection (b) to a bidder if that bidder's bid is not accepted.

(e) If a bid is accepted and the bidder fails to perform the bid, the check required under subsection (b) and the proceeds of the check are:

- (1) the property of the state educational institution; and
- (2) considered liquidated damages to the state educational

institution arising from the default.

(f) A contract for the purchase of bonds at negotiated sale must provide that if the purchaser fails to perform the purchaser's obligation to pay for the bonds, the check required under subsection (b) and the proceeds from the check are:

- (1) the property of the state university or college; and
- (2) considered liquidated damages to the state educational institution arising from the default.

As added by P.L.2-2007, SEC.273. Amended by P.L.79-2010, SEC.3.

IC 21-32-3-8

Filing of affidavit

Sec. 8. Before the delivery of the bonds to a successful bidder at a public sale, other than the federal government or any agency of the federal government, the bidder shall cause to be filed with the secretary of state before the published date of sale a sworn affidavit that:

- (1) is acceptable to the secretary of state; and
- (2) states that no collusion or binding agreement existed between:
 - (A) the successful bidder; and
 - (B) an official of the issuing state university or college;

As added by P.L.2-2007, SEC.273.

IC 21-32-3-9

Applicability of chapter

Sec. 9. This chapter is not applicable to bonds advertised for sale or sold or contracted to be sold before March 13, 1959.

As added by P.L.2-2007, SEC.273.