

IC 36-9-13

Chapter 13. County Building Authority

IC 36-9-13-1

Application of chapter; "eligible entities" defined

Sec. 1. This chapter applies to all counties and to the following municipal corporations in each county:

- (1) Municipalities.
- (2) Townships.
- (3) School Corporations.
- (4) Health and hospital corporations.

The municipal corporations to which this chapter applies are referred to as "eligible entities" in this chapter.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-2

Governing bodies

Sec. 2. For purposes of this chapter, the following are considered the governing bodies of their respective eligible entities:

- (1) Board of commissioners, for a county not subject to IC 36-2-2.5, IC 36-2-3.5, or IC 36-3-1.
- (2) County council, for a county subject to IC 36-2-2.5 or IC 36-2-3.5.
- (3) City-county council, for a consolidated city or county having a consolidated city.
- (4) Common council, for a city other than a consolidated city.
- (5) Town council, for a town.
- (6) Trustee and township board, for a civil or school township.
- (7) Board of school trustees, board of school commissioners, or school board, for a school corporation.
- (8) Board of trustees, for a health and hospital corporation.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1982, P.L.33, SEC.47; P.L.8-1987, SEC.84; P.L.8-1989, SEC.99; P.L.77-2014, SEC.22.

IC 36-9-13-3

"Government building" defined

Sec. 3. (a) As used in this chapter, "government building" means all or part of any structure used for:

- (1) governmental and public activities;
- (2) the detention of prisoners;
- (3) hospitals; or
- (4) city markets.

(b) For purposes of this chapter, "government building" includes:

- (1) the land used in conjunction with such a structure; and
- (2) the equipment, facilities, appurtenances, materials, and supplies that the board of directors of the building authority considers necessary or convenient to make such a structure and land suitable for use under this chapter, including:

- (A) heating and air conditioning facilities;

- (B) sewage disposal facilities;
- (C) landscaping;
- (D) walks;
- (E) drives; and
- (F) parking facilities.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.28.

IC 36-9-13-3.5

"System" defined

Sec. 3.5. As used in this chapter, "system" means any of the following:

- (1) A computer (as defined in IC 36-8-15-4).
- (2) A communications system (as defined in IC 36-8-15-3(1)).
- (3) Mobile or remote equipment that is coordinated by or linked with a computer or communication system.
- (4) Upon the request of:
 - (A) the fiscal body of an eligible entity having a fiscal body;
or
 - (B) the governing body of an eligible entity not having a fiscal body;
security services provided by human or nonhuman means.

As added by P.L.37-1988, SEC.29. Amended by P.L.270-1993, SEC.1.

IC 36-9-13-4

Building authorities; authorization; purposes

Sec. 4. A county may establish a separate municipal corporation to be known as the "_____ building authority" (including the name of the county seat and county) for the purpose of:

- (1) acquiring land; and
- (2) financing, acquiring, improving, constructing, reconstructing, renovating, equipping, and operating government buildings and systems;

and leasing them to eligible entities.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.188, SEC.5; P.L.37-1988, SEC.30.

IC 36-9-13-5

Procedure for establishment of authority; notice and hearing

Sec. 5. (a) Whenever the county auditor receives a notice that:

- (1) is signed by the presiding officers of the county executive, the county fiscal body, and the municipal fiscal body of the county seat;
- (2) states that those bodies have agreed to hold a public hearing on and consider the creation of a county building authority; and
- (3) fixes a time and place for that hearing;

he shall give notice by publication of the hearing. The notice shall be published in accordance with IC 5-3-1, and must set out the time, place, and purpose of the hearing.

(b) The members of the executive of the county and the fiscal bodies of the county and county seat shall meet at the time and place fixed in the notice. The presiding officers of each of the three (3) bodies shall elect one (1) of their number to preside as chairman at the hearing, another as vice chairman, and another as secretary.

(c) All interested citizens and taxpayers of the county may appear and are entitled to be heard at the hearing.

(d) The authority shall be established if, within sixty (60) days after the hearing, a concurrent resolution declaring a need for the authority is agreed upon and separately adopted by the county executive and county and municipal fiscal bodies.

(e) A copy of the concurrent resolution that is certified by affidavits of the county auditor and municipal clerk showing the date of adoption of the resolution by the three (3) bodies must be filed in the office of the recorder of the county for recording in the miscellaneous records. The certified and recorded copy of the resolution is admissible in evidence in any action or proceeding as proof of the establishment of the authority.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.46.

IC 36-9-13-6

Trustees; appointment; terms of office; oaths

Sec. 6. (a) Within sixty (60) days after the adoption of the concurrent resolution under section 5 of this chapter, a board of building authority trustees shall be appointed. The board consists of five (5) trustees who are appointed in the following manner and for the following initial terms:

(1) One (1) appointed by the municipal fiscal body of the county seat, for a term of one (1) year.

(2) One (1) appointed by the county fiscal body, for a term of two (2) years.

(3) One (1) appointed by the county executive, for a term of three (3) years.

(4) One (1) appointed by the municipal executive of the county seat, for a term of four (4) years.

(5) One (1) appointed by the county executive, for a term of four (4) years.

(b) A person may be appointed as a trustee only if he:

(1) is at least thirty (30) years of age;

(2) has been a resident of the county for five (5) years immediately preceding his appointment; and

(3) is not an officer or employee of an eligible entity.

(c) The names of all persons appointed under subsection (a) shall be transmitted in writing to the circuit court for the county at least ten (10) days before the end of the sixty (60) day period. The court shall mail a notice of appointment to each trustee immediately after the sixty (60) day period.

(d) Before entering upon his duties, each trustee shall take and subscribe an oath of office (in the usual form), which shall be

endorsed upon his certificate of appointment. The certificate shall be promptly filed with the county clerk.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.7-1983, SEC.39.

IC 36-9-13-7

Trustees; appointment of successors

Sec. 7. (a) As the term of a trustee expires, his successor shall be appointed by the same appointing authority, for a term of four (4) years.

(b) A trustee holds over after the expiration of his term until his successor is appointed and qualified.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-8

Trustees; failure to qualify; vacancies

Sec. 8. If a person appointed as a trustee:

(1) fails to qualify within ten (10) days after notice of his appointment is mailed to him; or

(2) qualifies but then dies, resigns, vacates his office because he is no longer a resident of the county, or is removed from office under section 18 of this chapter;

a new trustee shall be appointed by the same appointing authority for the remainder of the vacated term.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-9

Trustees; meetings to elect officers and appoint board of directors

Sec. 9. (a) The first trustees of the building authority shall, within thirty (30) days after their appointment, meet at a time and place designated by the circuit court for the county for the purpose of electing officers. The trustees shall elect from among themselves a president, a vice president, and a secretary. Each of these officers shall serve from the day of his election until the first Monday in January after his election, and holds over until his successor is elected and qualified.

(b) At the meeting under this section, the trustees shall also appoint the first board of directors of the building authority, in the manner prescribed by section 11 of this chapter.

(c) After appointing the first board of directors of the building authority, the trustees shall meet on the first Monday in January of each year for the purpose of:

(1) electing officers;

(2) appointing the directors of the building authority; and

(3) performing any other duties under this chapter.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-10

Trustees; adoption of rules; records; additional meetings

Sec. 10. (a) The trustees may adopt rules and bylaws governing

their procedure.

(b) The proceedings of the trustees shall be recorded in a book provided for that purpose.

(c) In addition to their meetings under section 9 of this chapter, the trustees may hold regular and special meetings as often as is necessary to perform their duties under this chapter.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-11

Board of directors; appointment; terms of office; qualifications; oaths

Sec. 11. (a) A county building authority is under the control of a board of directors. This board consists of five (5) directors, who shall be appointed by a majority vote of the building authority trustees. Each of the original directors shall serve from the date of his appointment until the first day of February in the second year after his appointment, and until his successor is appointed and has qualified.

(b) A person may be appointed as a director only if he:

- (1) is at least thirty (30) years of age;
- (2) has been a resident of the county five (5) years immediately preceding his appointment; and
- (3) is not an officer or employee of an eligible entity.

(c) Before entering upon his duties, each director shall take and subscribe an oath of office (in the usual form), which shall be endorsed upon his certificate of appointment. The certificate shall be promptly filed with the county clerk.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-12

Directors; appointment of successors

Sec. 12. As the term of a director expires, his successor shall be appointed by a majority vote of the trustees. The new director shall serve for one (1) year from the first day of February after his appointment, and until his successor is appointed and qualified.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-13

Directors; vacancies

Sec. 13. If a vacancy occurs on the board of directors, the trustees shall, by a majority vote, appoint a new director to serve the remainder of the term.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-14

Directors; meetings to elect officers

Sec. 14. (a) The first directors of a building authority shall, within thirty (30) days after their appointment, meet for the purpose of electing officers. They shall elect from among themselves a president, a vice president, a secretary, and a treasurer. Each of these officers

shall perform the duties usually pertaining to his office, and shall serve from the date of his election until his successor is elected and qualified.

(b) After the meeting under subsection (a), the directors shall meet on the first Monday in February of each year for the purpose of electing officers.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-15

Directors; additional meetings

Sec. 15. In addition to their meetings under section 14 of this chapter, the directors may hold the regular and special meetings they consider necessary. The directors may fix the times of these meetings and the notices required for meetings by resolution or under their rules and bylaws.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-16

Directors; adoption of rules; quorum; approval of actions

Sec. 16. (a) The directors may adopt the rules and bylaws they consider necessary for the proper conduct of their proceedings, the performance of their duties, and the safeguarding of the funds and property of the building authority.

(b) A majority of the directors constitutes a quorum, and the concurrence of a majority of the directors is necessary to authorize any action by the directors.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-17

Trustees and directors; actions resulting in vacation of office

Sec. 17. A trustee or director who:

- (1) ceases to be a resident of the county; or
- (2) becomes an officer or employee of an eligible entity;

vacates his office.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-18

Removal of trustees

Sec. 18. (a) A person seeking the removal of a trustee for:

- (1) neglect of duty;
- (2) incompetence;
- (3) inability to perform his duties; or
- (4) any other good cause;

may file a complaint in the circuit or superior court for the county in which the building authority is located. The complaint must set forth the charges preferred. The action shall be placed on the court's advanced calendar, and the court shall try the action in the same manner as other civil cases, without a jury. If the charges are sustained, the court shall declare the trustee's office vacant.

(b) The trustees may summarily remove a director from office at

any time.
As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-19
Compensation of trustees and directors

Sec. 19. A trustee or director is not entitled to a salary but is entitled to reimbursement for expenses necessarily incurred in the performance of his duties.
As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-20
Trustees and directors; conflicts of interest

Sec. 20. A trustee or director may not have any pecuniary interest in any contract, employment, purchase, or sale made under this chapter. Any such transaction in which a trustee or director has a pecuniary interest is void.
As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-21
Preliminary expenses

Sec. 21. All necessary preliminary expenses that must be paid by the board of directors of a building authority before the issuance and delivery of bonds or the negotiation of a loan under this chapter, including expenses incurred in:

- (1) making surveys;
- (2) estimating costs and receipts;
- (3) employing engineers, architects, or consultants;
- (4) giving notices; and
- (5) taking options;

may be paid out of money provided by the county and county seat, or either of them, from money on hand or derived from taxes levied for that purpose. The fund or funds from which the payments are made shall be fully reimbursed by the board out of the first proceeds of the sale of bonds or the loan negotiated by the authority before any other disbursements are made from those proceeds. The amount advanced to pay preliminary expenses under this section is a first charge against the proceeds resulting from the sale of the bonds or the negotiation of the loan until that amount has been repaid.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.31.

IC 36-9-13-22
Powers and duties of board of directors

Sec. 22. (a) Except as provided in subsection (b), the board of directors of a building authority, acting in the name of the authority, may:

- (1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, equip, operate, maintain, and manage land, government buildings, or systems for the joint or separate use of one (1) or more eligible entities;

- (2) lease all or part of land, government buildings, or systems to eligible entities;
- (3) govern, manage, regulate, operate, improve, reconstruct, renovate, repair, and maintain any land, government building, or system acquired or financed under this chapter;
- (4) sue, be sued, plead, and be impleaded, but all actions against the authority must be brought in the circuit court for the county in which the authority is located;
- (5) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with government buildings or systems regardless of whether that property is then held for a governmental or public use;
- (6) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;
- (7) enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a government building;
- (8) design, order, contract for, and construct, reconstruct, renovate, and maintain land, government buildings, or systems and perform any work that is necessary or desirable to improve the grounds, premises, and systems under its control;
- (9) determine, allocate, and adjust space in government buildings to be used by any eligible entity;
- (10) construct, reconstruct, renovate, maintain, and operate auditoriums, public meeting places, and parking facilities in conjunction with or as a part of government buildings;
- (11) collect all money that is due on account of the operation, maintenance, or management of, or otherwise related to, land, government buildings, or systems, and expend that money for proper purposes;
- (12) let concessions for the operation of restaurants, cafeterias, public telephones, news and cigar stands, and vending machines;
- (13) employ the managers, superintendents, architects, engineers, consultants, attorneys, auditors, clerks, foremen, custodians, and other employees or independent contractors necessary for the proper operation of land, government buildings, or systems and fix the compensation of those employees or independent contractors, but a contract of employment may not be made for a period of more than four (4) years although it may be extended or renewed from time to time;
- (14) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter;
- (15) provide coverage for its employees under IC 22-3 and IC 22-4; and
- (16) accept grants and contributions for any purpose specified

in this subsection.

(b) The building authority in a county having a consolidated city may not purchase, construct, acquire, finance, or lease any land, government building, or system for use by an eligible entity other than the consolidated city or county, unless that action is first approved by:

- (1) the city-county legislative body; and
- (2) the governing body of the eligible entity involved.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.188, SEC.6; P.L.37-1988, SEC.32.

IC 36-9-13-22.5

Management contract; terms; annual budget; tax levy

Sec. 22.5. The authority may operate, maintain, and manage all or any part of a government building or system for the benefit of an eligible entity under a management contract entered into for a period of not more than forty (40) years. The management contract may contain any terms agreed to by the authority and the eligible entity, including a covenant of the eligible entity to pay the authority a monthly fee for costs of operation and maintenance of the government building or system pursuant to the annual budget submitted to the governing body by the authority in accordance with the management contract. The annual budget may contain funds for a working balance and funds for a reserve account for nonrecurring general maintenance, improvement, or replacement costs as provided in the management contract. The eligible entity may enter into the contract through adoption of an ordinance, an order, or a resolution of the entity's governing body or, in the case of a city, a resolution of the board that is responsible for the government building or system. No other approvals of the management contract are required. To the extent provision for payment from other available revenues has not been made and subject to the provisions of the management contract for cancellation or termination, the governing body of the eligible entity that executes a management contract shall annually levy a tax sufficient to produce each year the necessary money with which to pay the management fee required by the budget submitted by the authority. These levies may be reviewed by other bodies vested by law with that power to determine that the annual levies are sufficient to raise the amount required to meet the management fee under the contract.

As added by P.L.35-1990, SEC.64.

IC 36-9-13-23

Lease of land, government buildings, or systems to eligible entity by authority; authorization

Sec. 23. (a) An eligible entity may lease land or any part of a government building or system from a building authority, and the authority may lease land or any part of a government building or system to an eligible entity. An eligible entity that enters into such a lease may sublease part of the leased premises to other eligible

entities. Such a lease or sublease may not be entered into for a period of more than forty (40) years.

(b) An eligible entity may, in anticipation of:

- (1) the construction or purchase of government buildings, including the necessary equipment and appurtenances; or
- (2) the purchase of land;

enter into a lease with a building authority before the construction or purchase. Such a lease must require the payment of lease rental by the lessee or lessees to begin when the building or land has been acquired or completed and is ready for occupancy, but not before that time.

(c) Whenever property is to be acquired and reconstructed or renovated under this chapter, an eligible entity may, in anticipation of the acquisition, enter into a lease with a building authority, upon such terms and conditions as may be agreed upon, including:

- (1) provisions for the lessee to continue to operate the property until completion of the reconstruction or renovation; and
- (2) provisions for the payment of a lease rental by the lessee for the use of the property while it is being reconstructed or renovated.

(d) An eligible entity may, in anticipation of the acquisition of a system, enter into a lease with the building authority before the completion of the acquisition. Such a lease must require the payment of lease rental by the lessee or lessees to begin when acquisition of the system, or a discrete, functional part of the system, has been completed and is ready for use, but not before that time. An opinion or report of an independent expert that the system, or a discrete, functional part of the system, is complete and ready for use is conclusive and binding on all parties and on all taxpayers of an eligible entity.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.188, SEC.7; P.L.37-1988, SEC.33.

IC 36-9-13-24

Leases; options to renew

Sec. 24. A lease under section 23 of this chapter may provide the eligible entity that is the lessee with an option to renew the lease for the same term or a shorter term, on the conditions provided in the lease.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-25

Leases; options to purchase; authorization of bond issue to pay purchase price

Sec. 25. (a) A lease under section 23 of this chapter may give one (1) or more of the lessees acting jointly or severally an option to purchase before the expiration of the term of the lease:

- (1) on the date or dates in each year that are fixed by the lease; and
- (2) at a price to be computed by a method set forth in the lease.

However, such a lease may not provide, or be construed to provide,

that an eligible entity is under an obligation to purchase the leased government building or system or is under an obligation respecting any creditors or bondholders of the authority.

(b) An eligible entity that exercises an option to purchase may issue general obligation bonds for the purpose of obtaining enough money to pay the purchase price or its proportionate share of the purchase price. The bonds shall be authorized, issued, and sold in the manner prescribed by law for the authorization, issuance, and sale of bonds of the eligible entity for other purposes.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.34.

IC 36-9-13-26

Construction or purchase of building or acquisition of system to be leased; submission of plans and specifications

Sec. 26. (a) A building authority proposing to build or purchase and remodel a government building for lease to an eligible entity must submit the plans, specifications, and estimates for the building or remodeling to the lessee or lessees before the execution of the lease. The plans and specifications must also be submitted to the state department of health, state fire marshal, and any other state agencies designated by law to pass on plans and specifications for public buildings.

(b) A building authority proposing to acquire a system may enter into a lease without submitting plans, designs, or specifications to any eligible entity, government body, or agency. However, before the execution of the lease, the building authority must submit to the lessee or lessees an estimate of the cost and a detailed description of the system.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.35; P.L.2-1992, SEC.893.

IC 36-9-13-27

Leases; notice and hearing; execution

Sec. 27. (a) When a building authority and an eligible entity have agreed upon the terms and conditions of a proposed lease under section 23 of this chapter, a notice of a public hearing to be held in the county by the governing body of the eligible entity shall be given by publication to all interested persons. The notice of the hearing shall be published in accordance with IC 5-3-1. The notice must name the day, place, and hour of the hearing, and set forth a brief summary of the principal terms of the lease agreed upon, including the character of the property to be leased, the location of the property to be leased if the property is a government building, the estimated lease rental to be paid, and the number of years the lease is to be in effect.

(b) The proposed lease, a detailed description of the government building or system, and any drawings, plans, specifications, and estimates that are available for the government building or system shall be kept open for inspection by the public after the notice is

published and at the hearing.

(c) At the hearing, all interested persons are entitled to be heard upon the necessity for the execution of the lease and whether the basis for the determination of the lease rental is fair and reasonable. The hearing may be adjourned to a later date or dates, with the place and date of the continued hearing to be fixed before adjournment.

(d) Following the hearing, the governing body may approve the proposed lease in substantially final form and authorize the execution of the lease within parameters established by the authority at the time the proposed lease is approved, as originally agreed upon or with any modifications that the authority agrees to. The governing body may rely on the testimony of independent experts as to the fairness and reasonableness of the lease. Such an authorization must be by resolution or ordinance entered in the official records of the governing body. The lease must be executed on behalf of the eligible entity by the officer or officers authorized by law to execute contracts on behalf of that entity, and on behalf of the authority by the president or vice president and the secretary of its board of directors. *As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.47; P.L.37-1988, SEC.36; P.L.35-1990, SEC.65.*

IC 36-9-13-28

Leases; notice of approval; objections by taxpayers; petitions; notice and hearing; limitations on actions and appeals

Sec. 28. (a) If the terms and conditions of a proposed lease are approved under section 27 of this chapter, notice of the approval of the lease shall be given on behalf of the eligible entity by publication in accordance with IC 5-3-1. Ten (10) or more taxpayers in the eligible entity:

- (1) whose tax rate will be affected by the proposed lease; and
- (2) who are of the opinion that there is no necessity for the lease, or that the method of determining the lease rental is not fair and reasonable;

may file a petition in the office of the county auditor within thirty (30) days after publication of notice of the approval of the lease. The petition must set forth their objections to the lease and facts showing that the lease is unnecessary or unwise, or that the method of determining the lease rental is not fair and reasonable.

(b) Upon the filing of a petition under subsection (a), the county auditor shall immediately certify a copy of it, together with any other data necessary to present the questions involved, to the department of local government finance. Not less than five (5) nor more than fifteen (15) days after receipt of the certified petition and data, the department of local government finance shall fix a time and place in the county for the hearing of the matter. The department of local government finance shall give notice of the hearing to the eligible entity and to the first ten (10) petitioners on the petition by registered mail, at least five (5) days before the date of the hearing.

(c) The decision of the department of local government finance on a petition under this section is final.

(d) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be instituted within thirty (30) days after publication of notice of the approval of the lease, or if an appeal has been taken to the department of local government finance, within thirty (30) days after the decision of the department.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.48; P.L.35-1990, SEC.66; P.L.90-2002, SEC.510.

IC 36-9-13-29

Sale or lease of land or government building by eligible entity to authority; authorization; procedure

Sec. 29. (a) An eligible entity that wants to have all or part of a government building constructed, reconstructed, or renovated on land owned or to be acquired by it may:

- (1) sell that land or building to a building authority; or
- (2) lease the land or building to the authority for the same period of years that the eligible entity proposes to lease all or part of the building, and may grant an option to the authority to purchase the land or building within six (6) months after the expiration of the lease on the building if the eligible entity does not exercise an option to purchase the land or building within the terms of the lease.

If the option price of the land or building is not fixed in the lease, then the price to be paid for the land or building under the option shall be determined by an appraisal by one (1) disinterested freeholder residing in the county and two (2) disinterested appraisers licensed under IC 25-34.1, who must be residents of Indiana, and who shall be appointed by the circuit court for the county. One (1) of the appraisers appointed under this subsection must reside not more than fifty (50) miles from the land.

(b) A sale or lease of land or a building under this section must be authorized by resolution or ordinance of the governing body of the eligible entity, which shall be entered in the official records of the governing body. This authorization must be given concurrently with the authorization by the eligible entity of a lease of the building, or part of it, to be constructed, reconstructed, or renovated wholly or in part on the land.

(c) The deed, in the case of a sale of the land, or the lease, must be executed on behalf of the eligible entity by the officer or officers authorized by law to execute contracts on behalf of the entity, and on behalf of the authority by the president or vice president and secretary of its board of directors.

(d) Before the sale of any land or building under this section, a petition must be filed with the circuit court of the county requesting the appointment of:

- (1) one (1) appraiser who must be a resident of the eligible entity selling the land or building and a disinterested freeholder; and
- (2) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land or building. The appraisers shall fix the fair market value of the land or building and report their decision within three (3) weeks after their appointment. The eligible entity may then sell the land or building to the authority for an amount not less than the fair market value fixed by the appraisers, which amount may be paid from proceeds of bonds of the authority.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.188, SEC.8; P.L.113-2006, SEC.21.

IC 36-9-13-30

Revenue bonds

Sec. 30. (a) For the purpose of obtaining money to pay the cost of:

- (1) acquiring or constructing government buildings;
- (2) acquiring land;
- (3) acquiring systems;
- (4) improving, reconstructing, or renovating government buildings, systems, or land;
- (5) repaying any advances for preliminary expenses made to the building authority by an eligible entity;
- (6) purchasing plans, designs, programs, and devices for governmental buildings or systems; or
- (7) refinancing any loan made under section 31 of this chapter;

the board of directors of a building authority may issue revenue bonds of the authority.

(b) The bonds are payable solely from the income and revenues of the particular government buildings, systems, or land for which the bonds were issued.

(c) The bonds must be authorized by resolution of the board. The bonds:

- (1) bear interest payable semiannually; and
- (2) mature serially, either annually or semiannually, at times determined by the resolution authorizing the bonds.

However, the maturities of the bonds may not extend over a period longer than the period of the lease of the government buildings, systems, or land for which the bonds are issued.

(d) The bonds may, and all bonds maturing after five (5) years from date of issuance shall, be made redeemable before maturity at the option of the board of directors of the building authority. Such a redemption must be at the par value of the bonds, together with the premiums, and under the terms and conditions fixed by the resolution authorizing the issuance of the bonds.

(e) The principal and interest of the bonds may be made payable in any lawful medium.

(f) The resolution authorizing the issuance of the bonds must:

- (1) determine the form of the bonds, including the interest coupons (if any) to be attached to them;
- (2) fix the denomination or denominations of the bonds; and
- (3) fix the place or places of payment of the principal and

interest of the bonds, which must be at a state or national bank or trust company within Indiana and may also be at one (1) or more state or national banks or trust companies outside Indiana.

(g) The bonds are negotiable instruments under IC 26-1.

(h) The resolution authorizing the issuance of the bonds may provide for the registration of any of the bonds in the name of the owner as to principal alone.

(i) The bonds shall be executed by the president of the board of directors, the corporate seal of the authority shall be affixed to the bonds and attested by the secretary of the board, and the interest coupons (if any) attached to the bonds shall be executed by placing the facsimile signature of the treasurer of the board on them.

(j) The bonds may be sold at a private sale, a negotiated sale, or a public sale.

(k) If the bonds are sold at a public sale, notice of the sale of the bonds shall be published in accordance with IC 5-3-1.

(l) The board of directors shall sell the bonds at public sale, for not less than their par value. The board shall award the bonds to the highest bidder, as determined by computing the total interest on the bonds from the date of sale to the dates of maturity and deducting from that amount the premium bid, if any. Any premium received from the sale of the bonds shall be used solely for the payment of principal and interest on the bonds. If the bonds are not sold on the date fixed for the sale, then the sale may be continued from day to day until a satisfactory bid has been received.

(m) The board of directors may issue temporary bonds, with or without coupons. These bonds, which must be issued in the manner prescribed by this section, may be exchanged for the bonds that are subsequently issued.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.49; Acts 1981, P.L.188, SEC.9; P.L.37-1988, SEC.37; P.L.173-2003, SEC.39.

IC 36-9-13-31

Loans

Sec. 31. (a) In lieu of authorizing and selling bonds under section 30 of this chapter, the board of directors of a building authority may adopt a resolution authorizing the negotiation of a loan or loans for the purpose of obtaining the required money.

(b) The resolution authorizing the loan must set out:

- (1) the total amount of the loan desired;
- (2) the approximate dates on which money will be required, and the amounts of the money that will be required on those dates; and
- (3) any terms, conditions, and restrictions concerning the proposed loan or the submission of proposals that the board considers advisable.

(c) Before the consideration of proposals for such a loan, a notice shall be published in accordance with IC 5-3-1. The notice must set out:

- (1) the amount and purpose of the proposed loan;
- (2) a brief summary of other provisions of the resolution; and
- (3) the time and place where proposals will be considered.

(d) The board of directors may accept the proposal it considers most advantageous to the authority.

As added by Acts 1981, P.L.309, SEC.86. Amended by Acts 1981, P.L.45, SEC.50.

IC 36-9-13-32

Trust indentures securing bonds or loans

Sec. 32. (a) The board of directors of a building authority may secure bonds issued under section 30 of this chapter or loans made under section 31 of this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1) mortgage or grant a security interest in all or part of the land, systems, or government buildings for which the bonds are issued or loan is made;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders or lenders, including covenants setting forth the duties of the authority and board concerning:
 - (A) the construction, operation, extension, remodeling, repair, maintenance, and insurance of the government buildings or systems; and
 - (B) the custody, safeguarding, and application of all money received or to be received by the authority on account of the government buildings or systems financed by the bonds or loan;
- (3) set forth the rights and remedies of the bondholders or lenders and trustee; and
- (4) restrict the individual right of action of bondholders or lenders.

(c) Except as otherwise provided by this chapter, the board of directors may, by resolution or in the trust indenture, specify:

- (1) the officer, board, or depository to which the proceeds of the bonds or loan shall be paid; and
- (2) the method of disbursing those proceeds.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.38.

IC 36-9-13-33

Proceeds; application; liens

Sec. 33. (a) The proceeds of any bonds issued under section 30 of this chapter or of any loans made under section 31 of this chapter shall first be applied to the reimbursement of all amounts advanced for preliminary expenses under section 21 of this chapter. The proceeds shall then be applied solely to the payment of the costs for which the bonds are issued or the loan is negotiated, including

incidental expenses and interest during construction or acquisition.

(b) The bondholders under section 30 of this chapter, lenders under section 31 of this chapter, or trustees under section 32 of this chapter have a lien upon the proceeds of the bonds or the loan until those proceeds are applied in the manner prescribed by this section. *As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.39.*

IC 36-9-13-34

Tax levy to pay lease rentals

Sec. 34. (a) Except as provided by subsection (d), an eligible entity that executes a lease under this chapter shall annually levy a tax sufficient to produce each year the necessary money with which to pay the lease rental required by the lease. These levies may be reviewed by other bodies vested by law with that authority, in order to determine that the levies are sufficient to raise the amount required to meet the rental under the lease.

(b) The first tax levy shall be made at the first annual tax levy period following the date of the execution of the lease. However, if the lease was entered into in anticipation of the purchase of land, construction or purchase of a government building, or acquisition of a system, the first tax levy shall be made at the first annual tax levy period immediately before the date fixed in the lease for the beginning of the lease rental. The first annual levy shall be made in an amount sufficient to pay the estimated amount of the first annual lease rental to be made under the lease.

(c) The annual lease rental shall be paid to the authority semiannually, following settlements for tax collections.

(d) If a consolidated city executes a lease agreement for all or part of any land, government building, or system, and its use and benefit is for a certain special service district within the consolidated city, the authority may determine that the annual tax required under subsection (a) shall be levied by the special service district benefited by the lease agreement.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.40.

IC 36-9-13-35

Review of annual budget

Sec. 35. The annual operating budget of a building authority is subject to review by the county board of tax adjustment and then by the department of local government finance as in the case of other political subdivisions.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.90-2002, SEC.511; P.L.224-2007, SEC.134; P.L.146-2008, SEC.790.

IC 36-9-13-36

Property and revenues; tax exemption

Sec. 36. All the property and revenues of a building authority are exempt from taxation for all purposes.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-37

Bonds and other securities; tax exemption

Sec. 37. All the bonds and other securities issued by a building authority, including the interest on them, are exempt from taxation for all purposes.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-38

Handling of funds; employees' bonds

Sec. 38. (a) Except as otherwise provided in this chapter, all money coming into possession of the building authority shall be deposited, held, and secured in accordance with the general statutes concerning the handling of public funds. The handling and expenditure of money coming into possession of the authority is subject to audit and supervision by the state board of accounts.

(b) Any employee of the building authority authorized to receive, disburse, or in any other way handle money or negotiable securities of the authority shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana. The bond must be in an amount determined by the board of directors of the authority and must be conditioned upon the faithful performance of the employee's duties and the accounting for all money and property that may come into his hands or under his control. The cost of the bond shall be paid by the authority.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-39

Procedure for awarding contracts

Sec. 39. (a) All contracts let by a building authority for the construction and equipment of a government building must be let in accordance with the general statutes concerning public contracts.

(b) All contracts let by a building authority for the acquisition of a system may be entered into in accordance with the general statutes concerning similar contracts.

As added by Acts 1981, P.L.309, SEC.86. Amended by P.L.37-1988, SEC.41.

IC 36-9-13-40

Public records

Sec. 40. The records of a building authority are public records.

As added by Acts 1981, P.L.309, SEC.86.

IC 36-9-13-41

Dissolution of authority

Sec. 41. (a) This section does not apply to a county having a consolidated city.

(b) The county fiscal body and the municipal fiscal body of the county seat may by concurrent resolution dissolve a building

authority. They may consider dissolving the building authority at any time, but they shall consider dissolving the building authority when they are presented with a petition signed by twenty percent (20%) of the registered voters residing in the county or thirty-five percent (35%) of the registered voters residing in the county seat.

(c) The concurrent resolution must provide a plan for paying any obligations, including bonds, of the building authority and for the disposition of the funds and property of the building authority.

As added by Acts 1981, P.L.309, SEC.86.