

## **IC 21-29-3**

### **Chapter 3. Swap Agreements**

#### **IC 21-29-3-1**

##### **Liberal construction**

Sec. 1. This chapter applies notwithstanding any other law. This chapter shall be liberally construed.

*As added by P.L.2-2007, SEC.270.*

#### **IC 21-29-3-2**

##### **Investment powers**

Sec. 2. This chapter shall not be construed as limiting or restricting the investment powers otherwise provided state educational institutions, including the power to adopt and implement investment policies under IC 21-29-2-1 and IC 21-29-2-2.

*As added by P.L.2-2007, SEC.270. Amended by P.L.79-2010, SEC.1.*

#### **IC 21-29-3-3**

##### **Powers and duties of state educational institutions**

Sec. 3. (a) Subject to subsections (b) through (d), any state educational institution may enter into and modify, amend, or terminate one (1) or more swap agreements that the state educational institution determines to be necessary or desirable in connection with or incidental to the issuance, carrying, or securing of obligations. Swap agreements entered into by a state educational institution must:

- (1) contain the provisions (including payment, term, security, default, and remedy provisions); and
- (2) be with the parties;

that the state educational institution determines are necessary or desirable after due consideration is given to the creditworthiness of the parties.

(b) A state educational institution may not:

- (1) enter into, modify, amend, or terminate any swap agreement without the specific approval of the public finance director appointed under IC 4-4-11-9;
- (2) enter into any swap agreement under this section other than for the purpose of managing an interest rate or similar risk that arises in connection with or incidental to the issuance, carrying, or securing of obligations by the state educational institution; or
- (3) carry on a business of acting as a dealer in swap agreements.

(c) A swap agreement is considered as being entered into in connection with or incidental to the issuance, carrying, or securing of obligations if:

- (1) the swap agreement is entered into not more than one hundred eighty (180) days after the issuance of the obligations and specifically indicates the agreement's relationship to the obligations;
- (2) the board of trustees of the state educational institution

specifically designates the swap agreement as having a relationship to the particular obligations;

(3) the swap agreement amends, modifies, or reverses a swap agreement described in subdivision (1) or (2); or

(4) the terms of the swap agreement bear a reasonable relationship to the terms of the obligations.

(d) Payments to be made by a state educational institution to any other party under a swap agreement are payable only from the same source or sources of funds from which the related obligations are payable.

*As added by P.L.2-2007, SEC.270. Amended by P.L.182-2009(ss), SEC.365.*

#### **IC 21-29-3-4**

##### **Credit enhancement and liquidity agreements**

Sec. 4. With regard to entering into any swap agreement, the state educational institution may enter into credit enhancement or liquidity agreements with payment, security, default, remedy, and other terms and conditions as determined by the state educational institution.

*As added by P.L.2-2007, SEC.270.*

#### **IC 21-29-3-5**

##### **Enforcement of swap agreements.**

Sec. 5. (a) This section does not apply in cases of bad faith or actual knowledge to the contrary by a party.

(b) A party that enters into any swap agreement with a state educational institution may rely on a representation by that state educational institution that the state educational institution is authorized or empowered to enter into the swap agreement, and notwithstanding the failure by the state educational institution to comply with the provisions of this chapter, that party may enforce the swap agreement against the state educational institution, subject to the terms of the swap agreement and subject to prior claims on sources from which the swap agreement may be payable.

*As added by P.L.2-2007, SEC.270.*