

## **IC 21-34-6**

### **Chapter 6. Issuance of Bonds**

#### **IC 21-34-6-1**

##### **Issuance and sale of bonds**

Sec. 1. The board of trustees of a state educational institution may borrow money and evidence the loans by the issuance and sale of bonds of the board of trustees of the state educational institution to provide funds with which to:

- (1) pay part or all of the cost of any building facility, work, act, or undertaking authorized by IC 21-34-2, IC 21-34-3-1, or IC 21-34-3-3;
- (2) pay part or all of the cost of acquiring (by purchase, lease, sublease, condemnation, trade, or otherwise) or improving real or personal property under IC 21-34-3-4; or
- (3) perform the obligations of any joint-use agreements under IC 21-34-4.

*As added by P.L.2-2007, SEC.275.*

#### **IC 21-34-6-2**

##### **Security of bonds**

Sec. 2. Bonds and the interest on bonds may be secured by the following:

- (1) A pledge or mortgage of:
  - (A) any property, real or personal, used, acquired, or to be acquired and used for the purposes of this article; and
  - (B) the improvements made or to be made on the property.

However, no real estate, the title to which is on or after March 10, 1965, in the name of the state for the use and benefit of the board of trustees of a state educational institution or the state educational institution under its control, may not be pledged or mortgaged until the title to the real estate has been conveyed to the board of trustees of the state educational institution under this article.

- (2) A pledge of the building facilities fees to be collected and deposited in the building facilities fund.
- (3) Subject to outstanding liens and encumbrances, and any covenants, agreements, or encumbrances on the funds existing at the time of a pledge, a pledge of general student tuition fees or any other available funds from whatever source derived that under IC 21-34-5-5 may be used for any of the purposes of this article.
- (4) A pledge of any other money deposited in a building facilities fund.
- (5) A pledge of the proceeds of bonds issued under this article.
- (6) Any one (1) or more of the ways described in this section that the board of trustees of the issuing state educational institution determines.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-3**

#### **Liens**

Sec. 3. The lien of the pledges or mortgages, to the extent of the lien, unless otherwise determined by the board of trustees of the state educational institution, is a first and primary lien for the payment of the bonds secured and the interest on the bonds.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-4**

#### **Issuance of bonds; limitations on amount**

Sec. 4. In authorizing the issuance of bonds for any building facility or facilities, the board of the issuing state educational institution may:

- (1) limit the amount of bonds that may be issued as a first lien and charge against the property, fees, income, and funds; and
- (2) provide, after the original issuance of bonds, for the issuance of additional bonds secured by the same lien to provide funds to:

(A) pay the cost of acquiring, erecting, constructing, reconstructing, improving, rehabilitating, remodeling, repairing, completing, extending, enlarging, equipping, or furnishing the building facility or facilities for which the original bonds were issued;

(B) provide funds to pay the cost of additional building facilities under this article; or

(C) perform actions under both clauses (A) and (B).

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-5**

#### **Additional bonds; terms and conditions of issuance**

Sec. 5. Additional bonds:

(1) shall be issued on the terms and conditions that the board of trustees of the issuing state educational institution determines; and

(2) may be:

(A) secured equally and ratably, without preference, priority, or distinction, with the original issue of bonds; or

(B) made junior to the original issue of bonds.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-6**

#### **Issuance of bonds; refunding and advance refunding bonds; purpose**

Sec. 6. (a) The board of trustees of a state educational institution may issue bonds for the purpose of:

- (1) reimbursing the state educational institution for funds

expended or advanced for interim financing of the cost of any building facility or facilities before the issuance of bonds for the facility or facilities; or

(2) subject to subsection (b) and to existing covenants and agreements with the holders of the outstanding obligations:

(A) funding outstanding obligations incurred or refunding outstanding bonds issued either under:

(i) this article; or

(ii) other applicable law;

for building facilities approved by the governor and the budget agency or its predecessor; or

(B) in part for funding or refunding purposes and in part for any other purpose authorized by this article; and

may secure the payment of the bonds as provided in this article.

(b) Bonds for refunding or advance refunding of any outstanding bonds approved under this article for which the general assembly has made a fee replacement appropriation may not be issued by a state educational institution under this chapter without the specific approval of the budget agency and before the board of trustees of the issuing state educational institution finds that the refunding or advance refunding will benefit the state educational institution because:

(1) a net savings to the state educational institution will be effected; or

(2) the net present value of principal and interest payments on the bonds is less than the net present value of the principal and interest payments on the outstanding bonds to be refunded.

The length of the term may not be extended for refunding or advance refunding bonds that are approved under this subsection compared to the term of the outstanding bonds being refunded.

*As added by P.L.2-2007, SEC.275. Amended by P.L.143-2014, SEC.10.*

#### **IC 21-34-6-7**

##### **Refunding bonds**

Sec. 7. Refunding bonds may be exchanged for the bonds being funded or refunded or may be sold and the proceeds applied to the funding or refunding.

*As added by P.L.2-2007, SEC.275.*

#### **IC 21-34-6-8**

##### **Maximum amount of bonds**

Sec. 8. Subject to any approval required under IC 21-34-10, bonds may be issued in an amount or amounts that do not exceed the maximum amount determined by the board of trustees of the issuing state educational institution.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-9**

#### **Form; terms; conditions of bonds**

Sec. 9. Bonds may be issued in the form and upon the terms and conditions, at the rate or rates of interest, and in the denominations that may be made convertible into different denominations as the governing board of the board of trustees of the state educational institution determines by:

- (1) the adoption of a resolution;
- (2) approval of a form of trust indenture between the board of trustees of the state educational institution and a designated corporate trustee; or
- (3) both subdivisions (1) and (2).

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-10**

#### **Resolutions and indenture for bonds**

Sec. 10. A resolution or indenture for bonds may include provisions for:

- (1) protecting and enforcing the rights and remedies of the holders of the bonds being issued;
- (2) covenants setting forth the duties of the state educational institution and its officers in relation to:
  - (A) the acquisition, construction, operation, maintenance, use, and abandonment of the building facility; and
  - (B) insurance of the building facility;
- (3) the custody, safeguarding, application, and investment of all money;
- (4) the rights and remedies of the trustee and the holders of the bonds being issued;
- (5) the issuance of additional bonds as provided in the resolution or indenture; and
- (6) other terms, conditions, and covenants as the board of trustees of the state educational institution determine are proper, including provision for the establishment of a debt service reserve by:
  - (A) the use of bond proceeds or other sources;
  - (B) the furnishing of an insurance policy, surety bond, or letter of credit; or
  - (C) any combination of clause (A) or (B).

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-11**

#### **Public sale of bonds**

Sec. 11. Bonds must be sold at public or negotiated sale as provided by IC 21-32-3.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-12**

### **Bonds and interest coupons**

Sec. 12. All bonds and the interest coupons appertaining to bonds issued under this article must be negotiable instruments within the meaning and for all purposes under Indiana laws, subject only to the provisions of the bonds for registration as to principal or as to principal and interest. Any bonds registered as to principal and interest may be made convertible to bearer bonds with coupons.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-13**

#### **Actions to contest the validity of bonds**

Sec. 13. (a) An action to contest the validity of any bonds issued under this article may not be brought after the fifteenth day following:

- (1) the first publication of notice of the sale or intent to sell the bonds under IC 21-32-3 if the bonds are sold at public sale; or
- (2) the publication one (1) time in newspapers described in IC 21-32-3-3 of notice of execution and delivery of the contract of sale for the bonds if the bonds are sold at negotiated sale.

(b) The board of trustees of a state educational institution shall publish notice under subsection (a)(2) if it sells bonds at negotiated sale within thirty (30) days of execution of the contract of sale for the bonds.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-14**

#### **Rates of interest of bonds**

Sec. 14. The rate or rates of interest of bonds may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution or indenture authorizing the issuance of the bonds. Bonds bearing a variable rate of interest may be converted to bonds bearing a fixed rate or rates of interest to the extent and in the manner set forth in the resolution or indenture under which the bonds are issued.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-15**

#### **Payment of interest**

Sec. 15. Interest may be:

- (1) payable semiannually, annually, or at any other interval or intervals as may be provided in the resolution or indenture; or
- (2) compounded and paid at maturity or at any other times as specified in the resolution or indenture.

*As added by P.L.2-2007, SEC.275.*

### **IC 21-34-6-16**

#### **Mandatory redemption**

Sec. 16. Bonds may be made subject, at the option of the holders,

to mandatory redemption by the board of trustees of the state educational institution at the times and under the circumstances set forth in the authorizing resolution or indenture.

*As added by P.L.2-2007, SEC.275.*

#### **IC 21-34-6-17**

##### **Resolutions and indentures**

Sec. 17. A resolution or indenture may contain provisions regarding:

- (1) the investment of money, sale, exchange, or disposal of property; and
- (2) the manner of authorizing and making payments, notwithstanding IC 5-13 or any general statute relating to these matters.

*As added by P.L.2-2007, SEC.275.*

#### **IC 21-34-6-18**

##### **Execution of bonds and coupons**

Sec. 18. (a) Bonds and coupons appertaining to bonds shall be executed in the name of the issuing state educational institution by the manual or facsimile signatures of the officer or officers of the state educational institution that the board of trustees of the state educational institution designates.

(b) One (1) signature on the obligation must be manual and may be either the signature of one (1) of the officers or of any trustee, fiscal agent, or other fiduciary charged with authenticating the bonds.

(c) The seal or a facsimile of the seal of the state educational institution shall be affixed, imprinted, engraved, or otherwise reproduced on each bond.

(d) If any officer whose manual or facsimile signature appears on any bond or coupon ceases to be an officer before the delivery of the bonds, the officer's signature is valid and sufficient for all purposes as if the officer had remained in office until delivery.

(e) The resolution or indenture under which the bonds are issued may provide for the authentication of the bonds by the trustee, fiscal agent, or other fiduciary designated in the resolution or indenture.

*As added by P.L.2-2007, SEC.275.*