

IC 36-9-32

Chapter 32. Financing of Public Improvements in Municipalities

IC 36-9-32-1

Application of chapter

Sec. 1. This chapter applies to all municipalities.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-2

Legislative findings and declaration

Sec. 2. It is found and declared that municipalities in Indiana have a need to finance public improvements to provide for industrial and commercial growth and for general public use. Therefore, the general assembly finds it necessary and proper to provide an alternative method for municipalities to finance public improvements, to provide for industrial and commercial growth, to provide employment opportunities, diversification of industry and commerce, and to provide general public access to those public improvements. It is declared that the financing of public improvements for use by the general public, including industrial and commercial enterprises, is a public purpose.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-3

Definitions

Sec. 3. As used in this chapter:

"Public improvements" means:

- (1) any improvement, as defined in this article;
- (2) any improvement, including the construction, equipping, remodeling, extension, repair, and betterment of any municipally owned utility, as defined in IC 8-1-2-1; or
- (3) any acquisition or improvement of real estate upon which such an improvement is to be located or that will itself constitute a public improvement.

"System" means any sewage works or municipally owned utility, as defined in IC 8-1-2-1.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-4

Loan agreements; loan of grant proceeds; pledge of revenues to secure bonds

Sec. 4. A municipality may enter into a loan agreement with any person and loan the proceeds of any grant received by the municipality to that person with the repayment of the loan to be secured by the pledge of a note or other secured or unsecured debt obligation of that person. The municipality may pledge the revenues from the note or other secured or unsecured debt obligation of that

person or of any entity organized for economic development purposes to the payment of bonds issued under this chapter. In no event may a municipality pledge revenues other than from the sources authorized in this chapter as security for the bonds issued under this chapter. A municipality may not issue bonds under this chapter if principal and interest payments on those bonds would exceed revenues to be derived by the municipality from the notes or other secured or unsecured debt obligations of any person that has entered into a loan agreement with the municipality under this chapter, or from other sources of principal and interest payments under this chapter. Any municipality may issue bonds under this chapter whether the revenues pledged to secure the bonds are to be derived from a loan agreement entered into before or after March 1, 1984. The validity of any bonds issued under this chapter is not dependent on or affected by the validity of the loan agreement at the time it was executed and delivered. All loan agreements between municipalities and persons borrowing grant proceeds entered into before March 1, 1984, are fully legalized and declared valid.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-5

Public improvements connected to an existing system; payment of bonds; letting of contracts; ownership or operation of improvements

Sec. 5. (a) If a public improvement financed under this chapter is connected to a system, the public improvement becomes a part of the existing system. Any person entering into a loan agreement with a municipality under this chapter shall pay rates and charges or fees for the use of that system in the same manner any other member of the general public is required to pay such rates and charges or fees. The municipality may not establish rates and charges or fees for the use of that system that include a revenue requirement for payment of principal and interest on bonds issued under this chapter. Bonds issued under this chapter are payable solely from revenues derived from notes or other secured or unsecured obligations of any person entering into a loan agreement with a municipality under this chapter, or from other sources of principal and interest payments under this chapter, and not from revenues of the system.

(b) Contracts for public improvements under this chapter shall be let in accordance with statutes relating to public works and public purchases.

(c) Public improvements may be financed under this chapter even if the municipality building or acquiring those improvements will not own or operate those improvements, so long as the public improvements will be owned or operated by a political subdivision.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-6

Ordinances approving issuance of bonds

Sec. 6. If the legislative body finds that the issuance of bonds under this chapter will be of benefit to the health or welfare of the municipality and serves the public purpose set forth in section 2 of this chapter, it may adopt an ordinance approving the issuance of bonds under this chapter. The municipality may publish a notice of a hearing regarding the public purpose of the issuance of the bonds and any other matter and, if the notice is published, it shall be published in accordance with IC 5-3-1.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-7

Bonds; issuance and sale; payment; ordinances; amount; validity; taxation; refunding bonds; security registration

Sec. 7. (a) The municipality may issue and sell bonds to provide money for any public improvement under this chapter.

(b) The bonds and interest on them are payable only out of a special fund, to be established as provided in this chapter. The bonds do not constitute an indebtedness of the municipality within the meaning of any constitutional limitation. Each bond must state plainly on its face that it is payable only from a special fund and that it does not constitute an indebtedness of the municipality within the meaning of any constitutional debt limitation. Neither the faith and credit nor the taxing power of the municipality is or may be pledged for the payment of the principal of, premium (if any) on, or interest on bonds issued under this chapter. An owner of bonds issued under this chapter is not entitled to compel the exercise of the taxing power by the municipality or the forfeiture of any of its property in connection with any default on bonds issued under this chapter.

(c) Bonds issued under this chapter may be sold at public or private sale for the price, in the manner, and at the time determined by the legislative body.

(d) The ordinance of the legislative body authorizing the bonds must provide, either in the body of the ordinance or by incorporating another document by reference:

- (1) the manner of their execution;
- (2) their term or terms, which may not exceed forty (40) years;
- (3) their interest rate;
- (4) their denominations;
- (5) their form;
- (6) the medium of their payments;
- (7) the place and manner of their payment;
- (8) the terms of their redemption, if any; and
- (9) any other provisions not inconsistent with this chapter.

(e) The bonds may be issued in an amount sufficient to pay all or any part of the cost of any public improvement authorized by this chapter including the funding of interest in an amount to be determined by the legislative body, the establishment of reserves to

secure payment of such bonds, and the payment of all other costs or expenses incident to and necessary or convenient to carry out the purposes and powers authorized by this chapter.

(f) The bonds and their authorization, issuance, sale, and delivery are not subject to any general statute concerning bonds.

(g) An action to contest the validity of bonds issued under this chapter may not be commenced more than fifteen (15) days after publication of notice of the adoption of the ordinance approving them. The bonds are conclusively presumed to be valid after that period has passed.

(h) Any bonds issued under this chapter are exempt from taxation as provided in IC 6-8-5.

(i) If the legislative body finds that a refunding of outstanding bonds issued under this chapter would be of benefit to the municipality, it may authorize the issuance of refunding bonds payable solely from revenues derived from notes or other secured or unsecured obligations of any person that has entered into a loan agreement with a municipality under this chapter, or from escrowed bond proceeds or other sources of principal and interest payments under this chapter. Refunding bonds shall be issued in the same manner as bonds issued under this chapter and are payable only from sources set forth in this chapter.

(j) Any bond issued under this chapter is exempt from any security registration requirements provided for in Indiana statutes.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-8

Trust indentures to secure bonds

Sec. 8. The legislative body may secure bonds issued under this chapter by a trust indenture between the municipality and a corporate trustee. The corporate trustee may be any trust company, national bank, or state bank that is in Indiana and has trust powers. A trust indenture entered into under this section may contain any provisions agreed upon by the municipality and the trustee that are not inconsistent with this chapter.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-9

Enforcement by owner of bonds or trustee

Sec. 9. Any owner of bonds issued under this chapter, and the trustee under any trust agreement entered into under this chapter, except to the extent that the trustee's rights are restricted by the trust agreement, may:

- (1) either at law or in equity, by suit, action, or other proceeding, protect and enforce any and all rights of such owner of bonds or trustee under state law, or, to the extent permitted by law, under the trust agreement, or under any loan agreement entered into under this chapter; and

(2) enforce and compel the performance of all duties required by this chapter or by any trust agreement or loan agreement entered into under this chapter to be performed by any municipality or by any officer of any municipality.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-10

Impairment of rights and remedies of owners of bonds

Sec. 10. The state covenants and agrees with the owners of any bonds issued under this chapter that so long as any bonds of a municipality issued under this chapter are outstanding or unpaid, the state will not in any way impair the rights and remedies of the owners of the bonds, until the bonds, together with interest on them, interest on any unpaid installment of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the owners, are fully paid, met, and discharged.

As added by P.L.23-1984, SEC.18.

IC 36-9-32-11

Liability for property and special taxing district taxes

Sec. 11. Any person entering into a loan agreement with a municipality under this chapter is liable for property taxes, and special taxing district taxes for any public improvements, if special benefits are provided to that person together with other persons residing in the special taxing district. This section does not deny any tax exemption that such a person may have under other statutes because of the nature of that person's property or that person.

As added by P.L.23-1984, SEC.18.