

CHAPTER 21-02 CERTIFICATES OF INDEBTEDNESS

21-02-01. Definitions.

In this chapter unless the context or subject matter otherwise requires:

1. "Political subdivision" means a local governmental unit created by statute or by the Constitution of North Dakota for local governmental or other public purposes.
2. "Revenues" means any of the following:
 - a. Uncollected taxes.
 - b. Amounts to be received from a distribution of federal moneys, including currently existing bureau of Indian affairs contracts.
 - c. Amounts to be received from a distribution of moneys pursuant to a state appropriation or a state statutory or constitutional provision.
 - d. Amounts to be received from a grant or loan of state or federal funds.
 - e. Amounts to be received from the issuance and sale of obligations by a political subdivision.
3. "Uncollected taxes" means taxes for the year during which a certificate of indebtedness is issued and the preceding four years that have been levied but from which moneys have not come into the public treasury by payment or by satisfaction of tax lien, exclusive of tax levies dedicated to the payment of principal of and interest on outstanding evidences of indebtedness.

21-02-02. Certificates of indebtedness - By whom issued - Term - Interest - General obligation.

Political subdivisions may borrow against revenues through the issuance of certificates of indebtedness. A certificate of indebtedness consists of an agreement on the part of a political subdivision to pay a stated sum on or before a specified date, together with interest thereon at a rate or rates resulting in an average annual net interest cost not exceeding twelve percent if the certificate is sold privately. There is no interest rate ceiling on a certificate sold at public sale or to the state of North Dakota or any of its agencies or instrumentalities. The certificate must be signed on behalf of the political subdivision by its president or chairman, or equivalent officer, and also by its auditor, business manager or secretary, or equivalent officer, and must be payable from revenues. A certificate of indebtedness issued wholly or in part against revenues that consist of levied and uncollected taxes is a general obligation of the issuing political subdivision to the extent of the levied and uncollected taxes.

21-02-03. Certificate of county auditor.

A tax is deemed to have been levied when it has been voted by the tax levying board and certified to the county auditor. Each certificate of indebtedness issued wholly or in part against revenues that consist of levied and uncollected taxes must bear the certificate of the county auditor to the effect that it, together with all other outstanding certificates issued wholly or in part against revenues that consist of levied and uncollected taxes, is within the amount of uncollected taxes that have been levied lawfully in the then present year, plus uncollected taxes of the four preceding years. A county auditor who willfully signs a false certificate upon a certificate of indebtedness is guilty of a class A misdemeanor.

21-02-04. Signing false certificates - Penalty.

Repealed by S.L. 1997, ch. 221, § 10.

21-02-05. Record of certificates of indebtedness issued against levied and uncollected taxes.

The county auditor shall keep a record in which must be entered, as to each certificate of indebtedness issued by a political subdivision and certified to by the county auditor as provided in section 21-02-03, the same information as required for the recording of bonds in section 21-03-23. Upon presentment and payment in full by a political subdivision of a certificate of

indebtedness which has been recorded by the county auditor pursuant to this section, the political subdivision must provide the county auditor with a certificate of redemption for the certificate, which must be recorded by the county auditor.

21-02-06. Certifying amount of uncollected taxes.

The county auditor, upon request of the officers of a political subdivision, shall certify to them the amount of uncollected taxes remaining upon the tax lists to the credit of the political subdivision on the last day of the preceding month, and annually shall certify such information to the clerk of each township on February fifteenth, to the auditor of each city on September tenth, and to the business manager of each school district on June tenth. The county auditor also shall certify to the clerk, auditor, business manager, or secretary, or equivalent officer, of each political subdivision, at the time of making the monthly apportionment of funds, the amount of cash collections apportioned for that month to the political subdivision and the amount derived from levies of each tax year.

21-02-07. Authorizing resolution - Sinking fund.

When a political subdivision issues a certificate of indebtedness under this chapter, the political subdivision, by resolution authorizing the issuance of the certificate of indebtedness, shall establish a sinking fund for the retirement of the certificate of indebtedness, including interest, on its due date. The resolution must also provide for the regular accumulation of money in the sinking fund from the revenues pledged to the payment of the certificate of indebtedness. Upon the accumulation of sufficient money in the sinking fund to pay the principal and interest which will be due and owing on the maturity date of the certificate of indebtedness, no additional revenues may be credited to the sinking fund.

21-02-08. Percentage of current taxes used to pay delinquent certificates of indebtedness.

If sufficient funds are not collected to retire outstanding certificates of indebtedness issued wholly or in part against revenues that consist of uncollected taxes within two months after their due date, there must be set aside monthly from current tax collections, exclusive of tax levies dedicated to the payment of principal of and interest on outstanding evidences of indebtedness, not less than ten percent of the amount of the collections until the past due certificates have been paid.

21-02-09. Certificates - Payable in order or before maturity.

Repealed by S.L. 1997, ch. 221, § 10.

21-02-10. Taxing districts exempt from certain provisions.

Repealed by S.L. 1997, ch. 221, § 10.

21-02-11. Advertising for bids - When required - Procedure similar to bond sales.

If the governing board of a political subdivision determines to borrow upon certificates of indebtedness, it shall follow the procedure and is subject to the penalties prescribed in the provisions relating to the sale of bonds in chapter 21-03. Certificates of indebtedness need not be advertised for bids:

1. If they are sold to the state board of university and school lands, the Bank of North Dakota, the public finance authority, or in case other trust funds administered by public officials are invested in them; or
2. If they do not exceed the total sum of one hundred thousand dollars.

21-02-12. Unlawful for officer to accept compensation from bidder.

Repealed by S.L. 1997, ch. 221, § 10.

21-02-13. Certificates of indebtedness in anticipation of revenue to be received from the state.

Repealed by S.L. 1997, ch. 221, § 10.

21-02-14. Presumption of validity.

After issuance by a political subdivision, a certificate of indebtedness that recites that it is issued under this chapter is conclusively presumed to be fully authorized and issued under the laws of the state, and any person or governmental unit is estopped from questioning its authorization, sale, execution, issuance, or delivery by the political subdivision.

21-02-15. Certificate of indebtedness exempt from state taxation - Review for exemption from federal taxation.

Payments of the principal of and interest on a certificate of indebtedness issued under this chapter are exempt from all taxes, except inheritance, estate, and transfer taxes, imposed by this state, any county or city, or any other political subdivision. However, a political subdivision shall review, or cause to be reviewed, federal tax laws and regulations to determine the federal tax-exempt status of interest payments on a certificate of indebtedness prior to the issuance and sale of the certificate on a purported federally tax-exempt basis.