SENATE BILL No. 524

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4; IC 4-13.5-4-4; IC 5-1-16; IC 5-28; IC 6-3.1-13-27; IC 8-1-29.5-7; IC 8-9.5-9-2; IC 8-14.5-6-6; IC 8-15-2-9; IC 8-16-1-14; IC 14-14-1; IC 15-7; IC 16-18-2-338.5; IC 16-22-5-15; IC 20-12-63; IC 28-5-1-6; IC 34-30-2.

Synopsis: IFA and IEDC programs. Provides that the definitions in the law establishing the Indiana finance authority (IFA) apply throughout all the other laws administered by the IFA. Abolishes the Indiana health and educational facility financing authority and transfers its powers and duties to the IFA. Replaces references to the "secretary" or "secretary-treasurer" of the IFA with "public finance director". Transfers the following programs from the Indiana finance authority to the Indiana economic development corporation (IEDC): (1) shovel ready site development center; (2) capital access program; (3) industrial development loan guaranty program; (4) agricultural loan and rural development project fund; and (5) business development loan fund. Makes conforming changes. Repeals: (1) provisions in the law governing the health and educational facility financing authority that are also included in the law governing the IFA; and (2) provisions that are relocated from the statutes governing the IFA to the statutes governing the IEDC. Makes other conforming and transitional changes.

Effective: July 1, 2007.

Hershman

January 23, 2007, read first time and referred to Committee on Appropriations.

C o p y

Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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SENATE BILL No. 524

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-4-10.9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **Subject to IC 4-4-11-2.7,** the definitions in this chapter apply throughout this chapter, IC 4-4-11, and ~~IC 4-4-31.~~ **the affected statutes.**

SECTION 2. IC 4-4-10.9-1.2, AS AMENDED BY P.L.47-2006, SECTION 1, AND AS AMENDED BY P.L.1-2006, SECTION 26, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-11.4, IC 4-4-21, **IC 4-4-31,** IC 4-13.5, ~~IC 8-1-33,~~ **IC 5-1-16,** IC 8-9.5, IC 8-14.5, IC 8-15, *IC 8-15.5,* IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, IC 14-14, and ~~IC 15-7-5,~~ **IC 20-12-63.**

SECTION 3. IC 4-4-10.9-11, AS AMENDED BY P.L.235-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. ~~(a) Except as provided in subsection (b),~~ "Industrial development project" includes:

(1) the acquisition of land, site improvements, infrastructure improvements, buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any project (whether manufacturing, commercial, agricultural, environmental, or otherwise) the development or expansion of which serves the public purposes set forth in IC 4-4-11-2;

(2) educational facility projects;

(3) child care facility projects; and

(4) broadband development projects.

~~(b) For purposes of the industrial development guaranty fund program, "industrial development project" includes the acquisition of land, interests in land, site improvements, infrastructure improvements (including information and high technology infrastructure (as defined in IC 5-28-9-4)), buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any of the following:~~

~~(1) A pollution control facility.~~

~~(2) A manufacturing enterprise.~~

~~(3) A business service enterprise involved in:~~

~~(A) computer and data processing services; or~~

~~(B) commercial testing services.~~

~~(4) A business enterprise the primary purpose of which is the operation of an education and permanent marketing center for manufacturers and distributors of robotic and flexible automation equipment.~~

~~(5) Any other business enterprise, if the use of the guaranty program creates a reasonable probability that the effect on Indiana employment will be creation or retention of at least fifty (50) jobs.~~

~~(6) An agricultural enterprise in which:~~

~~(A) the enterprise operates pursuant to a producer or growout agreement; and~~

~~(B) the output of the enterprise is processed predominantly in Indiana.~~

~~(7) A business enterprise that is required by a state, federal, or local regulatory agency to make capital expenditures to remedy a violation of a state or federal law or a local ordinance.~~

~~(8) A recycling market development project.~~

~~(9) A high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5).~~

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~~(10) A broadband development project.~~

SECTION 4. IC 4-4-10.9-24.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 24.5. "Public finance director" means the public finance director appointed under IC 4-4-11-9.**

SECTION 5. IC 4-4-11-2.7, AS ADDED BY P.L.235-2005, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2.7. (a) This article **and the affected statutes** shall be liberally construed to effect the purposes of this article **and the affected statutes.**

(b) To the extent that the definitions in an affected statute are inconsistent with the definitions in this chapter or IC 4-4-10.9, the definitions in the affected statute prevail.

~~(b)~~ **(c) Except as otherwise provided by subsection (b),** to the extent that the provisions of this article are inconsistent with the provisions of any other general, special, or local law, the provisions of this article are controlling and supersede all other laws.

SECTION 6. IC 4-4-11-15, AS AMENDED BY P.L.181-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under the affected statutes, including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, guidelines, and policies not inconsistent with the affected statutes, and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business under the affected statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the state as it may designate.

(6) Make, execute, and enforce contracts and all other instruments necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a purchase, acquisition, or sale of securities or other

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investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the affected statutes.

(7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by the affected statutes. Notwithstanding any other law, the:

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority, ~~or for reinsurance on amounts paid from the industrial development project guaranty fund,~~ including the power to pay premiums on any insurance or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the affected statutes, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any

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purpose consistent with the affected statutes.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including participants (as defined in IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13 or IC 13-18-21, borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in ~~IC 15-7-4.9-2),~~ **IC 5-28-31-1),** rural development project (as defined in ~~IC 15-7-4.9-19.5),~~ **IC 5-28-31-20),** industrial development project, purpose permitted under IC 13-18-13 and IC 13-18-21, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to the affected statutes.

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being financed.

(17) Notwithstanding IC 5-13, but subject to the requirements of

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any trust agreement entered into by the authority, invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) Fix and revise periodically, and charge and collect, fees and charges as the authority determines to be reasonable in connection with:

(A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; and

(B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of the affected statutes.

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease or rent such industrial development project for any use.

(23) Expend money ~~as the authority considers appropriate,~~ **provided to the authority by the Indiana economic development corporation** from the industrial development project guaranty fund created by ~~section 16 of this chapter.~~ **IC 5-28-30, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.**

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects, including land, machinery, equipment, or any combination

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thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.

(31) Adopt rules and guidelines governing its activities authorized under the affected statutes.

(32) Use the proceeds of bonds to make guaranteed participating loans.

(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.

(34) Sell and guarantee securities.

(35) Make guaranteed participating loans under IC 4-4-21-26.

(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.

(37) Provide performance bond guarantees to support eligible export loan transactions, subject to the terms of the affected

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statutes.

(38) Provide financial counseling services to Indiana exporters.

(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.

(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.

(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.

(42) ~~Make guarantees and administer~~ **Cooperate with the Indiana economic development corporation in taking any actions necessary for the administration of** the agricultural loan and rural development project guarantee fund established by ~~IC 15-7-5.~~ **IC 5-28-31.**

(43) **In cooperation with the Indiana economic development corporation,** take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the ~~authority~~ **Indiana economic development corporation** the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money ~~as the authority considers appropriate,~~ **provided to the authority by the Indiana economic development corporation** from the agricultural loan and rural development project guarantee fund created by ~~IC 15-7-5-19.5.~~ **IC 5-28-31, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.**

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.

(47) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without

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relation to cost and in a manner the authority considers advisable.

(48) Fix and establish terms and provisions with respect to:

(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(49) To the extent permitted under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(50) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the affected statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

(51) Do any act necessary or convenient to the exercise of the powers granted by the affected statutes, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist ~~the Indiana health and educational facility financing authority established by IC 5-1-16-2,~~ the Indiana housing and community development authority established by IC 5-20-1-3, the Indiana port commission established under IC 8-10-1, and the state fair commission established by IC 15-1.5-2-1 in the

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issuance of bonds, notes, or other indebtedness. The ~~Indiana health and educational facility financing authority, the~~ Indiana housing and community development authority, the Indiana port commission, and the state fair commission shall work with and cooperate with the authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 7. IC 4-4-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) The authority may enter into negotiations with one (1) or more persons concerning the terms and conditions of financing agreements for industrial development projects. The authority shall consider whether a proposed industrial development project may have an adverse competitive effect on similar industrial development projects already constructed or operating in the local governmental unit where the industrial development project will be located. Preliminary expenses in connection with negotiations under this section may be paid from:

(1) money furnished by the proposed user or developer;

(2) money made available by the state or federal government, or by any of their departments or agencies; or

(3) money of the authority. ~~exclusive of the industrial development project guaranty fund.~~

(b) The authority shall prepare a report that:

(1) briefly describes the proposed industrial development project;

(2) estimates the number and expense of public works or services that would be made necessary or desirable by the proposed industrial development project, including public ways, schools, water, sewers, street lights, and fire protection;

(3) estimates the total costs of the proposed industrial development project;

(4) for an industrial development project that is not exclusively either a pollution control facility or an educational facility project, estimates the number of jobs and the payroll to be created or saved by the project;

(5) for pollution control facilities, describes the facilities and how they will abate, reduce, or prevent pollution;

(6) for educational facility projects, describes how the project promotes the educational enrichment (including cultural, intellectual, scientific, or artistic opportunities) of the people of the state; and

(7) for child care facility projects, describes the facilities and how the facilities promote accessibility to and increased options for child care for the people of the state.

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The report shall be submitted to the executive director or chairman of the plan commission, if any, having jurisdiction over the industrial development project and, if the number of new jobs estimated exceeds one hundred (100), to the superintendent of the school corporation where the industrial development project will be located. The executive director or chairman of the plan commission and the school superintendent may formulate their written comments concerning the report and transmit their comments, if any, to the authority within five (5) days from the receipt of the report.

(c) The authority shall hold a public hearing, which may be conducted by the authority, or any officer, member, or agent designated thereby, on the proposed financing agreement for the industrial development project, after giving notice by publication in one (1) newspaper of general circulation in the city, town, or county where the industrial development project is to be located at least ten (10) days in advance of this public hearing.

(d) If the authority finds that the industrial development project will be of benefit to the health, safety, morals, and general welfare of the area where the industrial development project is to be located, and complies with the purposes and provisions of this chapter, it may by resolution approve the proposed financing agreement. This resolution may also authorize the issuance of bonds payable solely from revenues and receipts derived from the financing agreement or from payments made under an agreement to guarantee obligations of the developer, a user, a related person, or the authority by a developer, a user, a related person thereto, or the authority **and the Indiana economic development corporation** pursuant to the industrial development project guaranty fund **under IC 5-28-30.** The bonds are not in any respect a general obligation of the state, nor are they payable in any manner from revenues raised by taxation.

(e) A financing agreement approved under this section must provide for payments in an amount sufficient to pay the principal of, premium, if any, and interest on the bonds authorized for the financing of the industrial development project. However, interest payments for the anticipated construction period, plus a period of not more than one (1) year, may be funded in the bond issue. The term of a financing agreement may not exceed fifty (50) years from the date of any bonds issued under the financing agreement. However, a financing agreement does not terminate after fifty (50) years if a default under that financing agreement remains uncured, unless the termination is authorized by the terms of the financing agreement. If the authority retains an interest in the industrial development project, the financing agreement must

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require the user or the developer to pay all costs of maintenance, repair, taxes, assessments, insurance premiums, trustee's fees, and any other expenses relating to the industrial development projects, so that the authority will not incur any expenses on account of the industrial development projects other than those that are covered by the payments provided for in the financing agreement.

SECTION 8. IC 4-4-11-17.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17.5. (a) In addition to all other authority granted to the authority under this chapter, including the authority to borrow money and to issue bonds to finance directly or indirectly the acquisition or development of industrial development projects undertaken or initiated by the authority, the authority may initiate programs for financing industrial development projects for developers and users in Indiana through the issuance of bonds under this chapter. In furtherance of this objective, the authority may do any of the following:

(1) Establish eligibility standards for developers and users, without complying with IC 4-22-2. However, these standards have the force of law if the standards are adopted after a public hearing for which notice has been given by publication under IC 5-3-1.

(2) Contract with any entity securing the payment of bonds issued under this chapter and authorizing the entity to approve the developers and users that can finance or refinance industrial development projects with proceeds from the bond issue secured by that entity.

(3) Lease to a developer or user industrial development projects upon terms and conditions that the authority considers proper and, with respect to the lease:

(A) charge and collect rents;

(B) terminate the lease upon the failure of the lessee to comply with any of its obligations under the lease or otherwise as the lease provides; and

(C) include in the lease provisions that the lessee has the option to renew the term of the lease for such periods and at such rents as may be determined by the authority or to purchase any or all of the industrial development projects to which the lease applies.

(4) Lend money, upon such terms and conditions as the authority considers proper, to a developer or user under an installment purchase contract or loan agreement to:

(A) finance, reimburse, or refinance the cost of an industrial development project; and

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(B) take back a secured or unsecured promissory note evidencing such a loan or a security interest in the industrial development project financed or refinanced with the loan.

(5) Sell or otherwise dispose of any unneeded or obsolete industrial development project under terms and conditions determined by the authority.

(6) Maintain, repair, replace, and otherwise improve or cause to be maintained, repaired, replaced, and otherwise improved any industrial development project owned by the authority.

(7) Require any type of security that the authority considers reasonable and necessary.

(8) Obtain or aid in obtaining property insurance on all industrial development projects owned or financed, or accept payment if any industrial development project property is damaged or destroyed.

(9) Enter into any agreement, contract, or other instrument with respect to any insurance, guarantee, letter of credit, or other form of credit enhancement, accepting payment in such manner and form as provided in the instrument if a developer or user defaults, and assign any such insurance, guarantee, letter of credit, or other form of credit enhancement as security for bonds issued by the authority.

(10) Finance for eligible developers and users in connection with their industrial development projects:

(A) the cost of their industrial development projects; and

(B) in the case of a program funded from the proceeds of taxable bonds, working capital associated with the operation of such industrial development projects;

in amounts determined to be appropriate by the authority.

(11) Issue bonds to fund a program for financing multiple, identified or unidentified industrial development projects if the authority finds that issuance of the bonds will be of benefit to the health, safety, morals, or general welfare of the state and complies with the purposes and provisions of this chapter by promoting a substantial likelihood for:

(A) creating opportunities for gainful employment;

(B) creating business opportunities;

(C) educational enrichment (including cultural, intellectual, scientific, or artistic opportunities);

(D) the abatement, reduction, or prevention of pollution;

(E) the removal or treatment of any substances in materials being processed that would otherwise cause pollution when

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used; or

(F) promoting affordable and accessible child care.

The authority may by resolution approve the proposed taxable bond issue. The authority may use appropriations to create a debt service reserve fund for the purpose of allowing the authority to issue pooled bonds, either tax-exempt or taxable, for the construction or renovation of licensed child care facilities (or child care facilities that are in the process of being licensed) under the authority's industrial development project section.

(b) As each unidentified industrial development project is identified for possible funding from a program under subsection (a)(11), the requirements of sections 17(a), 17(b), 17(c), and 17(e) of this chapter shall be complied with as a condition precedent to entering into a financing agreement for the funding of the industrial development project.

(c) Bonds issued to fund a program under this section are not in any respect a general obligation of the state, nor are they payable in any manner from revenues raised by taxation.

(d) Any resolution adopted to authorize the issuance of taxable bonds to fund a program under subsection (a)(11) may provide that the bonds are payable solely from:

(1) revenues and receipts derived from the various financing agreements; or

(2) the payments made under any other agreements to secure the obligations of the developers, users, related persons, or the authority.

~~(e) The obligations described in subsection (d)(2) may be secured under the agreement by the authority under the industrial development project guaranty fund or by the developers, users, or related persons.~~

SECTION 9. IC 4-4-11-19, AS AMENDED BY P.L.235-2005, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) The authority shall have the power to borrow money and to issue its bonds from time to time in such principal amounts as the authority determines shall be necessary to provide sufficient funds to carry out its purposes, including:

(1) carrying out the powers stated in this chapter; ~~except the powers pertaining to the guaranty program;~~

(2) the payment of interest on bonds of the authority;

(3) the establishment of reserves to secure the bonds; and

(4) all other expenditures of the authority incident to, necessary, and convenient to carry out its purposes and powers.

(b) The authority may also issue bonds in the manner and for the

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purposes provided by the affected statutes.

SECTION 10. IC 4-4-11-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 31. ~~In addition to the industrial development project guaranty fund,~~ The authority may create and establish ~~such other~~ **any** funds and accounts ~~as may be~~ necessary or desirable for its purposes.

SECTION 11. IC 4-4-11-36.1, AS AMENDED BY P.L.235-2005, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 36.1. (a) Except as provided in subsections (b) through (c), all property, both tangible and intangible, acquired or held by the authority under the affected statutes is declared to be public property used for public and governmental purposes, and all such property and income therefrom shall at all times be exempt from all taxes imposed by this state, any county, any city, or any other political subdivision of this state, except for the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

(b) Property owned by the authority and leased to a person for an industrial development project is not public property. The property and the industrial development project are subject to all taxes of the state or any county, city, or other political subdivision of the state in the same manner and subject to the same exemptions as are applicable to all persons.

(c) Any industrial development project financed by a loan under the authority of this chapter shall not be considered public property and shall not be exempt from any taxes of this state, or any county, city, or other political subdivision thereof, except for pollution control equipment.

(d) An agricultural enterprise or rural development project financed by a loan under the authority of this chapter or ~~IC 15-7-5~~ **IC 5-28-31** shall not be considered public property and shall not be exempt from Indiana taxes or any county, city, or other political subdivision of the state.

~~(e) This section does not provide a tax exemption for a financial institution that receives a guaranteed participating loan or an exporter that receives an eligible export loan or performance bond guarantee under this chapter or IC 4-4-21.~~

SECTION 12. IC 4-4-11-39, AS AMENDED BY P.L.235-2005, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 39. The issuance of bonds and the promulgation of rules under the affected statutes need not comply with the requirements of any other state laws applicable thereto. No

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proceedings, notice, or approval shall be required for the issuance of any bonds or any instrument or the security therefor, except as provided in the affected statutes. All agricultural enterprises, rural development projects, and industrial development projects for which funds are advanced, loaned, or otherwise provided by the authority under this chapter or ~~IC 15-7-5~~ **IC 5-28-31** must be in compliance with any land use, zoning, subdivision, and other laws of this state applicable to the land upon which the agricultural enterprise, rural development project, or industrial development project is located or is to be constructed, but a failure to comply with these laws does not invalidate any bonds issued to finance an agricultural enterprise, rural development project, or industrial development project.

SECTION 13. IC 4-4-11-41 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 41. Any bonds issued by the authority pursuant to this chapter ~~any guarantees by the authority pursuant to the guaranty program,~~ and any other securities issued in connection with a financing under this chapter shall be exempt from the registration and other requirements of IC 23-2-1 and any other securities registration laws.

SECTION 14. IC 4-13.5-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) For the purpose of providing funds to carry out the provisions of this article with respect to:

(1) the construction and equipment of facilities;

(2) acquiring or providing a site or sites; or

(3) the refunding of any bonds or payment of any loan contract of the commission;

the commission may, by resolution, issue and sell interest-bearing revenue bonds of the commission.

(b) The bonds must indicate, on the face of each bond:

(1) the maturity date or dates, not exceeding forty (40) years from the date of issue;

(2) the interest rate or rates (whether fixed, variable, or a combination of fixed or variable);

(3) the registration privileges, and where payable at a certain place; and

(4) the conditions and terms under which the bonds may be redeemed before maturity.

(c) The bonds issued under subsection (a):

(1) shall be executed by the manual or facsimile signature of the chairman of the commission;

(2) shall be attested by the manual or facsimile signature of the

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~~secretary of the commission,~~ **public finance director;**

(3) shall be imprinted or impressed with the seal of the commission;

(4) may be authenticated by a trustee, registrar, or paying agent; and

(5) constitute valid and binding obligations of the commission, even if the chairman or the ~~secretary,~~ **public finance director,** or both, whose manual or facsimile signature appears on the bond, no longer holds those offices.

(d) The bonds, when issued, have all the qualities of negotiable instruments under IC 26 and are incontestable in the hands of a bona fide purchaser or holder of the bonds for value.

(e) The bonds may be sold by the commission at a public or private sale at a time or times determined by the commission. The commission may negotiate the sale, but any discount may not exceed three percent (3%). In determining the amount of bonds to be issued and sold, there may be included the costs of:

(1) construction;

(2) all land and clearing of the site;

(3) improvements to the site, such as walks, drives, and other appurtenances;

(4) material and labor;

(5) equipment;

(6) financing charges, discounts, and interest accruing on the bonds before and during the construction period and for a reasonable period of time after construction;

(7) expenses such as legal fees, engineers' fees, and architects' fees;

(8) all other expenses necessary or incident to the construction and equipment of the facility and the acquisition of a site or sites for the facility; and

(9) reimbursement of the state general fund and the postwar construction fund for payments made from those funds for any of the purposes described in subdivisions (1) through (8).

(f) The proceeds of the bonds are appropriated for the purpose for which the bonds may be issued under this article and the proceeds shall be deposited and disbursed in accordance with any provisions and restrictions that the commission may provide in the resolution or trust indenture authorizing the issuance of the bonds in the first instance and the issuance of any refunding bonds, or in a trust indenture authorized and approved by resolution of the commission. The maturities of the bonds, the rights of the holders, and the rights, duties, and obligations

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of the commission are governed in all respects by this article.

(g) The bonds issued under this article constitute the corporate obligations only of the commission and are payable solely from and secured exclusively by pledge of the income and revenues of the facility that remain after payment or provisions for payment of the expenses of operation, maintenance, and repair of the facility, to the extent that expenses of operation, maintenance, and repair are not otherwise provided. The commission shall plainly state on the face of each bond that the bond does not constitute an indebtedness of the state within the meaning or application of any constitutional provision or limitation but that it is payable solely as to both principal and interest from the net revenues of the facility. The provisions of this article and the covenants and undertakings of the commission as expressed in any proceedings preliminary to or in connection with the issuance of the bonds may be enforced by a bond holder by action for injunction or mandamus against the commission or any officer, agent, or employee of the commission, but no action for monetary judgment may be brought against the state for any violations of this article.

SECTION 15. IC 5-1-16-1, AS AMENDED BY P.L.141-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. As used in this chapter:

"Authority" refers to the Indiana ~~health and educational facility financing~~ **finance** authority.

"Bonds" includes bonds, refunding bonds, notes, interim certificates, bond anticipation notes, and other evidences of indebtedness of the authority, issued under this chapter.

"Building" or "buildings" or similar words mean any building or part of a building or addition to a building for health care purposes. The term includes the site for the building (if a site is to be acquired), equipment, heating facilities, sewage disposal facilities, landscaping, walks, drives, parking facilities, and other structures, facilities, appurtenances, materials, and supplies that may be considered necessary to render a building suitable for use and occupancy for health care purposes.

"Cost" includes the following:

(1) The cost and the incidental and related costs of the acquisition, repair, restoration, reconditioning, refinancing, or installation of health facility property.

(2) The cost of any property interest in health facility property, including an option to purchase a leasehold interest.

(3) The cost of constructing health facility property, or an addition to health facility property, acquiring health facility property, or

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remodeling health facility property.

(4) The cost of architectural, engineering, legal, trustee, underwriting, and related services; the cost of the preparation of plans, specifications, studies, surveys, and estimates of cost and of revenue; and all other expenses necessary or incident to planning, providing, or determining the need for or the feasibility and practicability of health facility property.

(5) The cost of financing charges, including premiums or prepayment penalties and interest accrued during the construction of health facility property or before the acquisition and installation or refinancing of such health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing and startup costs related to health facility property for up to two (2) years after such construction, acquisition, and installation or refinancing.

(6) The costs paid or incurred in connection with the financing of health facility property, including out-of-pocket expenses, the cost of any policy of insurance; the cost of printing, engraving, and reproduction services; and the cost of the initial or acceptance fee of any trustee or paying agent.

(7) The costs of the authority, incurred in connection with providing health facility property, including reasonable sums to reimburse the authority for time spent by its agents or employees in providing and financing health facility property.

(8) The cost paid or incurred for the administration of any program for the purchase or lease of or the making of loans for health facility property, by the authority and any program for the sale or lease of or making of loans for health facility property to any participating provider.

"County" means any county in the state that owns and operates a county hospital.

"Health facility property" means any tangible or intangible property or asset owned or used by a participating provider and which:

(1) is determined by the authority to be necessary or helpful, directly or indirectly, to provide:

(A) health care;

(B) medical research;

(C) training or teaching of health care personnel;

(D) habilitation, rehabilitation, or therapeutic services; or

(E) any related supporting services;

regardless of whether such property is in existence at the time of, or is to be provided after the making of, such finding;

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(2) is a residential facility for:
(A) the physically, mentally, or emotionally disabled;
(B) the physically or mentally ill; or
(C) the elderly; or
(3) is a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located.

"Health facility" means any facility or building that is:
(1) owned or used by a participating provider;
(2) located:
(A) in Indiana; or
(B) outside Indiana, if the participating provider that operates the facility or building, or an affiliate of the participating provider, also operates a substantial health facility or facilities, as determined by the authority, in Indiana; and
(3) utilized, directly or indirectly:
(A) in:
(i) health care;
(ii) habilitation, rehabilitation, or therapeutic services;
(iii) medical research;
(iv) the training or teaching of health care personnel; or
(v) any related supporting services;
(B) to provide a residential facility for:
(i) the physically, mentally, or emotionally disabled;
(ii) the physically or mentally ill; or
(iii) the elderly; or
(C) as a child caring institution and provides residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the facility or building is located.

"Net revenues" means the revenues of a hospital remaining after provision for proper and reasonable expenses of operation, repair, replacement, and maintenance of the hospital.

"Participating provider" means a person, corporation, municipal corporation, political subdivision, or other entity, public or private, which:
(1) is located in Indiana or outside Indiana;
(2) contracts with the authority for the financing or refinancing of, or the lease or other acquisition of, health facility property that is located:
(A) in Indiana; or
(B) outside Indiana, if the financing, refinancing, lease, or other acquisition also includes a substantial component, as

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determined by the authority, for the benefit of a health facility or facilities located in Indiana;

(3) is:

(A) licensed under IC 12-25, IC 16-21, IC 16-28, or corresponding laws of the state in which the property is located;

(B) a regional blood center;

(C) a community mental health center or community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-38 and IC 12-7-2-39 or corresponding provisions of laws of the state in which the property is located);

(D) an entity that:

(i) contracts with the division of disability and rehabilitative services or the division of mental health and addiction to provide the program described in IC 12-11-1.1-1(e) or IC 12-22-2; or

(ii) provides a similar program under the laws of the state in which the entity is located;

(E) a vocational rehabilitation center established under IC 12-12-1-4.1(a)(1) or corresponding provisions of the laws of the state in which the property is located;

(F) the owner or operator of a facility that is utilized, directly or indirectly, to provide health care, habilitation, rehabilitation, therapeutic services, medical research, the training or teaching of health care personnel, or any related supporting services, or of a residential facility for the physically, mentally, or emotionally disabled, physically or mentally ill, or the elderly;

(G) a licensed child caring institution providing residential care described in IC 12-7-2-29(1) or corresponding provisions of the laws of the state in which the property is located;

(H) an integrated health care system between or among providers, a health care purchasing alliance, a health insurer or third party administrator that is a participant in an integrated health care system, a health maintenance or preferred provider organization, or a foundation that supports a health care provider; or

(I) an individual, a business entity, or a governmental entity that owns an equity or membership interest in any of the organizations described in clauses (A) through (H); and

(4) in the case of a person, corporation, municipal corporation, political subdivision, or other entity located outside Indiana, is

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owned or controlled by, under common control with, affiliated with, or part of an obligated group that includes an entity that provides one (1) or more of the following services or facilities in Indiana:

(A) A facility that provides:

(i) health care;

(ii) habilitation, rehabilitation, or therapeutic services;

(iii) medical research;

(iv) training or teaching of health care personnel; or

(v) any related supporting services.

(B) A residential facility for:

(i) the physically, mentally, or emotionally disabled;

(ii) the physically or mentally ill; or

(iii) the elderly.

(C) A child caring institution providing residential care described in IC 12-7-2-29(1).

"Regional blood center" means a nonprofit corporation or corporation created under 36 U.S.C. 1 that:

(1) is:

(A) accredited by the American Association of Blood Banks; or

(B) registered or licensed by the Food and Drug Administration of the Department of Health and Human Services; and

(2) owns and operates a health facility that is primarily engaged in:

(A) drawing, testing, processing, and storing human blood and providing blood units or components to hospitals; or

(B) harvesting, testing, typing, processing, and storing human body tissue and providing this tissue to hospitals.

SECTION 16. IC 5-1-16-1.1, AS ADDED BY P.L.235-2005, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.1. ~~Sections 19 through 35 of~~ This chapter:

(1) ~~apply~~ **applies** to the **Indiana finance** authority only when acting **as the authority** for the purposes set forth in this chapter; and

(2) ~~do~~ **does** not apply to the **Indiana finance** authority when acting under any other statute for any other purpose.

SECTION 17. IC 5-1-16-13, AS AMENDED BY P.L.235-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 13. (a) The authority has all powers necessary to carry out and effectuate its public and corporate purposes, including

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but not limited to the following:

~~(1) To have perpetual succession as a public body politic and corporate and an independent public instrumentality exercising essential public functions.~~

~~(2) To adopt, amend, and repeal bylaws and rules consistent with this chapter, to regulate its affairs, to carry into effect the powers and purposes of the authority and conduct its business, which rules and bylaws may be adopted by the authority without complying with IC 4-22-2.~~

~~(3) To sue and be sued in its own name.~~

~~(4) To have an official seal.~~

~~(5) To maintain an office in Indiana.~~

~~(6)~~ **(1)** To make and execute contracts and all other instruments necessary or convenient for the performance of its duties and the exercise of its powers and functions under this chapter.

~~(7)~~ **(2)** To employ architects, engineers, independent legal counsel, inspectors, accountants, and health care and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment without the approval of or consent by any other state official, and to fix their compensation.

~~(8)~~ **(3)** To procure insurance against any loss in connection with its property and other assets, in such amounts and from such insurers as it considers advisable, including the power to pay premiums on any such insurance.

~~(9)~~ **(4)** To procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States of America, to secure payment:

(A) on a loan, lease, or purchase payment owed by a participating provider to the authority; and

(B) of any bonds issued by the authority, including the power to pay premiums on any such insurance or guarantee.

~~(10)~~ **(5)** To procure letters of credit or other credit facilities or agreements from any national or state banking association or other entity authorized to issue a letter of credit or other credit facilities or agreements to secure the payment of any bonds issued by the authority or to secure the payment of any loan, lease, or purchase payment owed by a participating provider to the authority, including the power to pay the cost of obtaining such letter of credit or other credit facilities or agreements.

~~(11)~~ **(6)** To receive and accept from any source any money, property, or thing of value to be held, used, and applied to carry

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out the purposes of this chapter subject to the conditions upon which the grants or contributions are made, including gifts or grants from any department, agency, or instrumentality of the United States of America for any purpose consistent with this chapter.

~~(12)~~ **(7)** To provide, or cause to be provided by a participating provider, by acquisition, lease, construction, fabrication, repair, restoration, reconditioning, refinancing, or installation, health facility property to be located within a health facility.

~~(13)~~ **(8)** To lease as lessor any item of health facility property for such rentals and upon such terms and conditions as the authority considers advisable and are not in conflict with this chapter.

~~(14)~~ **(9)** To sell by installment or otherwise to sell by option or contract for sale, and to convey all or any part of any item of health facility property for such price and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

~~(15)~~ **(10)** To make contracts and incur liabilities, borrow money at such rates of interest as the authority determines, issue its bonds in accordance with this chapter, and secure any of its bonds or obligations by a mortgage or pledge of all or any of its property, franchises, and income or as otherwise provided in this chapter.

~~(16)~~ **(11)** To make secured or unsecured loans for the purpose of providing temporary or permanent financing or refinancing for the cost of any item of health facility property, including the retiring of any outstanding obligations issued by a participating provider, and the reimbursement to a participating provider of advances, for the cost of any health facility property purchased in anticipation of procuring such financing or refinancing from the authority or other sources, and to charge and collect interest on such loans for such loan payments and upon such terms and conditions as the authority considers advisable and as are not in conflict with this chapter.

~~(17)~~ **(12)** To invest and reinvest its funds and to take and hold property as security for the investment of such funds as provided in this chapter.

~~(18)~~ **(13)** To purchase, receive, lease (as lessee or lessor), or otherwise acquire, own, hold, improve, use, or otherwise deal in and with, health facility property, or any interest therein, wherever situated.

~~(19)~~ **(14)** To sell, convey, mortgage, pledge, assign, lease,

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exchange, transfer, and otherwise dispose of all or any part of its property and assets.

~~(20)~~ **(15)** To the extent permitted under its contract with the holders of bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

~~(21)~~ **(16)** To charge to and apportion among participating providers its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this chapter.

~~(22)~~ **(17)** Except as otherwise provided in a trust agreement or bond resolution securing bonds of the authority, and notwithstanding IC 5-13, to invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

~~(23)~~ **(18)** To collect fees and charges, as the authority determines to be reasonable, in connection with its loans, leases, sales, advances, insurance, commitments, and servicing.

~~(24)~~ **(19)** To cooperate with and exchange services, personnel, and information with any federal, state, or local governmental agency.

~~(25)~~ **(20)** To sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

~~(26)~~ **(21)** To assist, coordinate, and participate with other issuers of tax exempt bonds and public officials in other states in connection with financings or refinancings on behalf of multiple state health facilities. Assistance, coordination, and participation provided under this subdivision may include conducting any hearings required by state or federal law in order for bonds to be issued by public officials in other states if part of the proceeds of the bonds will be used by participating providers in Indiana. Neither the state of Indiana nor the authority, nor any officers, agents, or employees of the state or the authority, are subject to any liability resulting from assistance to or coordination or participation with other issuers of tax exempt bonds under this subsection. Any assistance, coordination, or participation provided under this subsection is given with the understanding

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that the issuers of tax exempt bonds or borrowers will agree to indemnify and hold harmless the state of Indiana and the authority and their officers, agents, and employees from all claims and liability arising from any action against the state of Indiana or the authority relating to the bonds.

~~(27)~~ **(22)** Subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) No part of the revenues or assets of the authority may inure to the benefit of or be distributable to its members or officers or other private persons. Any net earnings of the authority beyond that necessary for retirement of authority indebtedness or to implement the public purposes of this chapter inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority pass to and are vested in the state, subject to the rights of lienholders and other creditors.

~~(c) The authority shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds or notes.~~

SECTION 18. IC 5-1-16-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. The authority may initiate a program of providing health facility property to be operated by participating providers in health facilities. In furtherance of this objective, the authority may also:

(1) establish eligibility standards for participating providers, without complying with IC 4-22-2; however, these standards have the force of law if the standards are adopted after a public hearing for which notice has been published in a newspaper published in the city of Indianapolis, at least ten (10) days in advance of the hearing;

(2) contract with any entity securing the payment of bonds under section ~~13(a)(9)~~ **13(a)(4)** and ~~13(a)(10)~~ **13(a)(5)** of this chapter, authorizing the entity to approve the participating providers that can finance or refinance health facility property with proceeds from the bond issue secured by that entity;

(3) lease to a participating provider specific items of health

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facility property upon terms and conditions that the authority considers proper, to charge and collect rents therefor, to terminate any such lease upon the failure of the lessee to comply with any of its obligations under the lease or otherwise as the lease provides, to include in any such lease provisions that the lessee has the options to renew the term of the lease for such periods and at such rents as may be determined by the authority or to purchase any or all of the health facility property to which the lease applies;

(4) loan to a participating provider under an installment purchase contract or loan agreement money to finance, reimburse, or refinance the cost of specific items of health facility property and to take back a secured or unsecured promissory note evidencing such a loan and a security interest in the health facility property financed or refinanced with such loan, upon such terms and conditions as the authority considers proper;

(5) sell or otherwise dispose of any unneeded or obsolete health facility property under terms and conditions as determined by the authority;

(6) maintain, repair, replace, and otherwise improve or cause to be maintained, repaired, replaced, and otherwise improved any health facility property owned by the authority;

(7) obtain or aid in obtaining property insurance on all health facility property owned or financed, or to accept payment if any health facility property is damaged or destroyed; and

(8) enter into any agreement, contract, or other instrument with respect to any insurance, guarantee, or letter of credit, accepting payment in such manner and form as provided therein if a participating provider defaults, and to assign any such insurance, guarantee, or letter of credit as security for bonds issued by the authority.

SECTION 19. IC 5-13-12-8, AS AMENDED BY P.L.235-2005, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) The board for depositories, in making the industrial development obligation or credit enhancement obligation guarantees authorized under section 7(d)(6) of this chapter, shall comply with the following limitations:

(1) A guarantee shall be made only of industrial development obligations or credit enhancement obligations for the purpose of retaining, retaining and expanding, or bringing significant employment into Indiana, as determined by the board under subdivision (3)(A).

(2) Each industrial development obligation or credit enhancement

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obligation must be guaranteed not only by the board but also by the Indiana ~~finance authority~~ **economic development corporation** created by ~~IC 4-4-11.~~ **IC 5-28-3-1.** Each guarantee must provide that in the event of a valid claim of loss by the lender, the lessor, or the issuer of the credit enhancement arising under the industrial development obligation or credit enhancement documents, the amount of the loss, up to two million dollars ($2,000,000), shall first be paid by the industrial development project guaranty fund created by ~~IC 4-4-11-16,~~ **IC 5-28-30-9,** and only the remainder of the loss, if any, shall to the extent guaranteed be paid by the public deposit insurance fund. Neither fund is responsible for the amount due from the other under its guarantee.

(3) The guarantee of the industrial development obligation or credit enhancement obligation by the board for depositories must be recommended by the Indiana ~~finance authority.~~ **economic development corporation.** Subject to that recommendation, the board for depositories may make the guarantee if it determines:

(A) that the guarantee creates a reasonable probability that loss in Indiana employment that would occur will be significantly reduced or that Indiana's employment will be significantly expanded;

(B) that the consequent reduction in employment loss or the expansion in employment will enhance the economic stability of the community or communities in the state where the borrower or lessee conducts its business;

(C) that there is reasonable probability that the industrial development obligation will be repaid or satisfied or that the credit enhancement will be satisfied; and

(D) that the industrial development obligation or credit enhancement obligation and guarantee are protected against loss and the borrower or lessee has agreed to pay the insurance fund a guarantee premium annually as provided in subdivision (6).

(4) Protection against loss on the industrial development obligation or credit enhancement obligation guaranteed will be provided:

(A) in loan transactions by:

(i) a valid security agreement;

(ii) mortgage;

(iii) combination of (i) and (ii); or

(iv) other document; and

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(B) in lease transactions by the guaranteed party's rights as owner of the leased property.

(5) The term of the guarantee must not exceed twenty (20) years. The amount of the guarantee provided by the board, together with the corresponding guarantee to be provided by the industrial development project guaranty fund under subdivision (2), must not exceed:

(A) the lesser of:

(i) ninety percent (90%) of the unpaid balance of the obligation; or

(ii) ninety percent (90%) of the appraised fair market value of the real estate;

if the obligation is backed by real estate;

(B) the lesser of:

(i) seventy-five percent (75%) of the unpaid balance of the obligation; or

(ii) seventy-five percent (75%) of the appraised fair market value of the equipment;

if the obligation is backed by equipment; or

(C) a weighted average of the figures derived under clauses (A)(ii) and (B)(ii) if the obligation is backed by real estate and equipment.

(6) The guarantee premium to be received by the public deposit insurance fund for the guarantee must be at an annual percentage rate on the outstanding principal amount of the industrial development obligation or the credit enhancement obligation of not less, in the discretion of the board, than the market rate for guarantees, mortgage insurance rates, or letters of credit used for similar purposes at the time the guarantee is made. However, the annual percentage rate must not exceed two percent (2%) of the outstanding principal obligation.

(b) The following conditions apply to the making of bond bank obligation guarantees under section 7(d)(7) of this chapter:

(1) Each bond bank obligation guaranteed must be secured by a pledge of securities of a qualified entity (as defined in IC 5-1.5-1-8) under an indenture of trust requiring an adequate debt reserve fund.

(2) The board for depositories shall fix the one (1) time or annual charge to be paid by the bond bank for each guarantee in an amount considered by the board to be appropriate and consistent with the market rate for that guarantee, taking into consideration the terms of the indenture applicable to the bond bank obligation.

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(3) The board for depositories may agree to other terms for each guarantee that the secretary-investment manager certifies as being commercially reasonable and that the board, in its judgment, determines to be proper.

(c) Any claim, loss, or debt arising out of any guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter is the obligation of the board for depositories payable out of the public deposit insurance fund only and does not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. The document evidencing any guarantee must have on its face the words, "The obligations created by this guarantee (or other document as appropriate) do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state but are obligations of the board for public depositories and are payable solely out of the public deposit insurance fund, and neither the faith and credit nor the taxing power of the state is pledged to the payment of any obligation hereunder.".

(d) Any claim of loss by a lender or lessor under a guarantee authorized by section 7(d)(6) or 7(d)(7) of this chapter, at the time it is made in writing to the board, has priority against the fund on all claims made after that time.

SECTION 20. IC 5-28-5-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 14. The corporation may fix and revise periodically, and charge and collect, fees and charges that the corporation determines to be reasonable in connection with:**

(1) the corporation's loans, guarantees, advances, insurance, commitments, and servicing; and

(2) the use of the corporation's services or facilities.

SECTION 21. IC 5-28-5-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15. The corporation may take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to an industrial development project when a guaranteed loan on the industrial development project is clearly in default and when in the opinion of the corporation such an acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease or rent such industrial development project for any use.**

SECTION 22. IC 5-28-28 IS ADDED TO THE INDIANA CODE

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AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 28. Shovel Ready Site Development Center

Sec. 1. (a) As used in this section, "permit" means any state agency permit, license, certificate, approval, registration, or similar form of approval required by a statute or administrative rule.

(b) The shovel ready site development center is established within the corporation. The center has the following duties:

(1) Providing comprehensive information on permits required for business activities in Indiana, and making this information available to any person.

(2) Working with other state government offices, departments, and administrative entities in assisting applicants in obtaining timely and efficient permit review and the resolution of issues arising from permit review.

(3) Encouraging the participation of federal and local government agencies in permit coordination.

Sec. 2. (a) As used in this section, "permit" means any local, state, or federal agency permit, license, certificate, approval, registration, or similar form of approval required by statute, administrative rule, regulation, ordinance, or resolution.

(b) In addition to the duties set forth in section 1 of this chapter, the shovel ready site development center shall, in cooperation with political subdivisions, create programs to enable political subdivisions to obtain all or part of any permits to create sites that are ready for economic development.

SECTION 23. IC 5-28-29 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 29. Capital Access Program

Sec. 1. As used in this chapter, "agreement" means an agreement between a lender and the corporation under which a lender may participate in the program.

Sec. 2. As used in this chapter in connection with a loan, "amount" and "proceeds" refer only to the amount covered under an agreement, unless the context clearly requires otherwise.

Sec. 3. As used in this chapter, "borrower" means the recipient of a loan that is, has been, or will be filed by the lender for enrollment under the program and meets the following requirements:

(1) The borrower is a corporation, limited liability company,

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partnership, joint venture, sole proprietorship, cooperative, or other entity, whether profit or nonprofit, that is authorized to conduct business in Indiana.

(2) The borrower is not an executive officer, a director, or a principal shareholder of the lender, a member of the immediate family of an executive officer, a director, or a principal shareholder of the lender, or an entity controlled by an executive officer, a director, a principal shareholder, or a member of the immediate family.

Sec. 4. As used in this chapter, "capital access account" means an account created by the corporation for the purposes of the capital access program.

Sec. 5. As used in this chapter, "claim" means a claim filed by the lender under section 29 of this chapter.

Sec. 6. As used in this chapter, "early loan" means an enrolled loan when at the time of its enrollment the total amount of previously enrolled loans made by the lender under the program was less than five million dollars ($5,000,000).

Sec. 7. As used in this chapter, "eligible loan" means a loan made by the lender to a borrower that meets the requirements of sections 17 and 18 of this chapter.

Sec. 8. As used in this chapter, "enrolled loan" means a loan enrolled by the corporation under the terms of section 19 of this chapter.

Sec. 9. As used in this chapter, "lender" means a financial institution (as defined in IC 5-13-4-10) that has entered into an agreement with the corporation to participate in the program.

Sec. 10. As used in this chapter, "passive real estate ownership" means ownership of real estate for the purpose of deriving income from speculation, trade, or rentals, except that the term does not include the following:

(1) Ownership of that part of real estate being used or intended to be used for the operation of the business of the owner of the real estate.

(2) Ownership of real estate for the purpose of construction or renovation until the completion of the construction or renovation phase.

Sec. 11. As used in this chapter, "program" refers to the capital access program created by this chapter.

Sec. 12. As used in this chapter, "reserve fund" means an account established by the corporation with funds accumulated under this chapter and to cover claims made by the lender under

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this chapter.

Sec. 13. The capital access program is established. The purpose of the program is to provide capital to businesses, particularly small and medium-sized businesses, to foster economic development in Indiana. Loans made under the program must be slightly riskier than conventional loans, but still offer a high degree of soundness in connection with the program.

Sec. 14. The corporation shall do the following:

(1) Administer the program.

(2) Market the program to businesses and other persons in Indiana in cooperation with financial institutions and statewide associations representing financial institutions.

(3) If the reserve funds are not maintained in an account with the lender, upon execution of an agreement between the lender and the corporation, the corporation shall establish a reserve fund account at the corporation for the lender for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the corporation under this chapter. If the reserve funds are maintained in an account with the lender, upon execution of an agreement between the lender and the corporation, the corporation shall establish a reserve fund account with the lender in the name of the corporation for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the corporation under this chapter.

(4) Develop the program, in cooperation with financial institutions and statewide associations representing financial institutions, so that the degree of flexibility for the corporation and the participating lenders is maximized, the state oversight of individual loans is minimized, and the fiscal integrity of the program is maintained.

(5) Enter into any contracts necessary to carry out the program.

(6) Take any action reasonably necessary to ensure compliance with the program.

Sec. 15. A lender is eligible to participate in the program upon entering into an agreement with the corporation governing the duties of the corporation and the lender under the program. The lender shall provide the corporation with information regarding the lender's participation in the program that the corporation reasonably requires. Upon notice to the lender, the corporation

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may inspect the files of the lender relating to any loans enrolled under the program during normal business hours of the lender.

Sec. 16. Except upon the exercise of the corporation's right of subrogation under section 32 of this chapter, the corporation has no legal or equitable interest in any collateral, security, or other right of recovery in connection with any loan enrolled in the program, and the corporation's consent is not necessary for any amendment to the lender's loan documents.

Sec. 17. (a) The following types of loans are eligible loans under the program:

(1) Loans for industrial or commercial purposes.

(2) Loans to refinance loans made for the purposes in subdivision (1).

(3) Loans for line of credit agreements established between the lender and borrower that are used for the purposes in subdivision (1).

(b) Eligible loans must meet the following criteria:

(1) The lender has not made the loan to enroll in the program prior debt that is not covered under the program and that is or was owed by the borrower to the lender.

(2) The proceeds of the loan will not be used for that part of a project or development devoted to housing.

(3) The proceeds of the loan will not be used to finance passive real estate ownership.

(4) The proceeds of the loan will be used to finance a project or enterprise that is located in Indiana and that will foster economic development in Indiana.

(c) An eligible loan may provide for an interest rate, fees, and other terms and conditions agreed to by the lender and borrower. If the loan amount to be borrowed is determined by a commitment agreement that establishes a line of credit, the amount of the loan is the maximum amount available to the borrower under the agreement.

Sec. 18. (a) To enroll a loan under the program, the lender must file a completed loan enrollment form with the corporation. The lender must also certify the following to the corporation as part of the filing:

(1) The lender has no substantial reason to believe that the loan is being made to a borrower who does not meet the requirements of section 3 of this chapter.

(2) The lender has received from the borrower a written representation, warranty, pledge, and waiver stating that the

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borrower has no legal, beneficial, or equitable interest in the nonrefundable premium charges or any other funds credited to the reserve fund established to cover losses sustained by the lender on enrolled loans.

(3) The loan being filed for enrollment is an eligible loan under section 17 of this chapter.

(4) Premium charges required of the borrower and lender under this chapter have been deposited in the reserve fund.

(b) The lender shall file the loan enrollment form within ten (10) business days after the lender makes the loan. The date on which the lender makes a loan is the earlier of the date on which the lender first disburses proceeds of the loan to the borrower or the date on which the loan documents have been executed and the lender has obligated itself to disburse proceeds of the loan. The filing date of a loan enrollment form is the date on which the lender does any of the following:

(1) Delivers the required documentation to the corporation.

(2) Delivers the document to a professional courier service for delivery to the corporation.

(3) Mails the document to the corporation by certified mail.

Sec. 19. When the corporation receives a loan enrollment form, the corporation shall enroll the loan if the information provided under section 18 of this chapter indicates that the loan is an eligible loan. Within five (5) business days after receipt of a loan enrollment form for an eligible loan, the corporation shall deliver to the lender an acknowledgment of enrollment signed by the corporation or the corporation's designee, including documentation of the amount being transferred by the corporation into the reserve fund under this chapter.

Sec. 20. When filing a loan enrollment form, the lender may specify an amount to be covered under the program. The amount may be less than the total amount of the loan.

Sec. 21. (a) In the case of a loan to refinance a loan previously made to the borrower by the lender that was not enrolled under the program, the lender may obtain coverage under the program for an amount not exceeding the amount of additional financing.

(b) If an enrolled loan is refinanced and the total amount to be covered under the program does not exceed the covered amount of the loan as previously enrolled, the refinanced loan may continue as an enrolled loan without payment of additional premium charges or transfers by the corporation to the reserve fund.

(c) If an enrolled loan is refinanced in an amount exceeding the

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amount of the loan as previously enrolled, the lender may obtain coverage of the amount of the refinanced loan that exceeds the amount covered when the loan was previously enrolled by refiling the loan for enrollment under section 18 of this chapter.

(d) Fluctuations in the outstanding balance of a line of credit, without increasing the enrolled amount under the program, are not a refinancing of the loan.

Sec. 22. (a) If the outstanding balance of an enrolled loan that is not a line of credit is reduced to zero (0), the loan is no longer an enrolled loan. If an enrolled loan that is a line of credit has an outstanding balance of zero (0) for a twelve (12) month period, the line of credit is no longer an enrolled loan, unless, before the expiration of the twelve (12) month period, the lender reaffirms in writing to the borrower that the line of credit will remain open and the borrower acknowledges the reaffirmation in writing.

(b) Notwithstanding subsection (a), any amount recovered from a lender by a trustee in bankruptcy (or a similar representative of creditors) as a preference under 11 U.S.C. 547 remains an enrolled loan for the purpose of filing a claim against the reserve fund.

Sec. 23. Upon execution of an agreement between the lender and the corporation, the corporation shall establish a reserve fund account with the lender in the name of the corporation for the purpose of receiving all required premium charges to be paid by the lender and the borrower and transfers made by the corporation under this chapter.

Sec. 24. The corporation may not accept loans for enrollment in the program if the corporation does not have sufficient funds to make the necessary transfer from the corporation to the reserve fund under section 25 of this chapter.

Sec. 25. The lender shall determine the premium charges payable to the reserve fund by the lender and the borrower in connection with a loan filed for enrollment. The premium paid by the borrower may not be less than one and one-half percent (1.5%) or greater than three and one-half percent (3.5%) of the amount of the loan. The premium paid by the lender must be equal to the amount of the premium paid by the borrower. The lender may recover the cost of the lender's premium payment from the borrower in any manner on which the lender and borrower agree. When enrolling a loan, the corporation must transfer into the reserve fund from the account premium amounts determined as follows:

(1) If the amount of a loan, plus the amount of loans

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previously enrolled by the lender, is less than two million dollars ($2,000,000), the premium amount transferred must be equal to one hundred fifty percent (150%) of the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(2) If, before the enrollment of the loan, the amount of loans previously enrolled by the lender is equal to or greater than two million dollars ($2,000,000), the premium amount transferred must be equal to the combined premiums paid into the reserve fund by the borrower and the lender for each enrolled loan.

(3) If the total amount of all loans previously enrolled by the lender is less than two million dollars ($2,000,000), but the enrollment of a loan will cause the total amount of all enrolled loans made by the lender to exceed two million dollars ($2,000,000), the corporation shall transfer into the reserve fund an amount equal to a percentage of the combined premiums paid into the reserve fund by the lender and the borrower. The percentage is determined as follows:

STEP ONE: Multiply by one hundred fifty (150) that part of the loan that when added to the total amount of all loans previously enrolled by the lender totals two million dollars ($2,000,000).

STEP TWO: Multiply the remaining balance of the loan by one hundred (100).

STEP THREE: Add the STEP ONE product to the STEP TWO product.

STEP FOUR: Divide the STEP THREE sum by the total amount of the loan.

The corporation may transfer two (2) times the amount determined under this section to the reserve fund if the borrower is a disadvantaged business enterprise (as defined in IC 5-16-6.5-1). The corporation may transfer three (3) times the amount determined under this section to the reserve fund if the borrower is a high growth company with high skilled jobs (as defined in IC 5-28-30-4). The corporation may transfer to the reserve fund three (3) times the amount determined under this section if the borrower is a child care facility. Unless money is paid out of the reserve fund according to the specific terms of this chapter, all money paid into the reserve account by the lender must remain in that account.

Sec. 26. (a) All money credited to the reserve fund is under the

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exclusive control of the corporation. The corporation may not withdraw money from the reserve fund, except as specifically provided in this chapter.

(b) If money in the reserve fund is not deposited by the corporation in an account with the lender, the money must be invested or reinvested by the corporation in one (1) of the following:

(1) Direct obligations of the United States, the principal and interest of which are unconditionally guaranteed by the United States.

(2) A deposit account at a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or National Credit Union Administration.

(c) All interest earned in a reserve fund account shall be credited to that account. Fifty percent (50%) of the interest earned may be withdrawn by the corporation from that account and used for any purpose.

Sec. 27. The corporation shall pledge the following to the lender:

(1) The money in the reserve fund will be available to pay claims under section 29 of this chapter.

(2) The lender will have a first security interest in the money in the reserve fund to pay the claims.

(3) The corporation will not encumber or pledge the money to any other party.

Sec. 28. (a) If the reserve fund is not maintained with the lender, the corporation shall provide to the lender quarterly transaction reports indicating the following:

(1) The balance in the reserve fund.

(2) Payments and transfers into the reserve fund.

(3) Withdrawals from the reserve fund.

(4) Interest or income earned on money credited to the reserve fund.

(b) The records of the corporation with respect to all:

(1) payments and transfers into the reserve fund;

(2) withdrawals from the reserve fund; and

(3) interest or income earned on the money credited to the reserve fund;

are available to the lender at the offices of the corporation during normal business hours.

Sec. 29. (a) If the lender charges off all or part of an enrolled loan, the lender may file a claim with the corporation. The claim must be filed contemporaneously with the charge-off.

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(b) The lender's claim may include, in addition to the amount of principal charged off plus accrued interest, one-half (1/2) of the reasonable documented out-of-pocket expenses incurred in pursuing collection efforts, including preservation of collateral. The amount of principal included in the claim may not exceed the principal amount covered under the program. The amount of accrued interest included in the claim may not exceed the accrued interest attributable to the covered principal amount.

(c) The lender shall determine when and how much to charge off on an enrolled loan in a manner consistent with the lender's normal method for making these determinations on similar loans that are not enrolled loans.

(d) If the lender files two (2) or more claims contemporaneously and there are insufficient funds in the reserve fund at that time to cover the entire amount of the claims, the lender may designate the order of priority in which the corporation shall pay the claims.

Sec. 30. (a) Upon receipt by the corporation of a claim filed by the lender, the corporation shall, within ten (10) business days, pay or authorize the lender to withdraw from the reserve fund the amount of the claim as submitted, unless the corporation reasonably determines that:

(1) the information provided by the lender to the corporation under this chapter was known by the lender to be false; or

(2) the lender is not otherwise in substantial compliance with this chapter or the agreement with the corporation.

(b) If there is insufficient money in the reserve fund to cover the entire amount of the lender's claim, the corporation shall pay to the lender or authorize the lender to withdraw an amount equal to the current balance in the reserve fund, and the following apply:

(1) If the enrolled loan for which the claim has been filed is not an early loan, the payment fully satisfies the claim, and the lender has no right to receive any further amount from the reserve fund with respect to that claim.

(2) If the enrolled loan for which the claim has been filed is an early loan, the corporation, upon request of the lender, shall, out of any future funds that are transferred into the reserve fund on subsequently enrolled loans, pay the remaining balance of the claim upon finding that:

(A) the partial payment has not satisfied the lender's claim; and

(B) the remaining balance of the claim is not greater than seventy-five percent (75%) of the balance in the reserve

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fund at the time the request for payment by the lender is received by the corporation.

Sec. 31. If, after payment of a claim by the corporation, the lender recovers from a borrower any amount for which payment of the claim was made, the following apply:

(1) If the recovered amount, when added to the claim previously paid by the corporation in connection with an enrolled loan, exceeds the lender's loss on that enrolled loan, the lender shall promptly pay to the corporation for deposit in the reserve fund the amount of the excess.

(2) For purposes of this section and section 32 of this chapter, the lender's loss on an enrolled loan shall be the amount of principal charged off by the lender plus accrued interest plus one-half (1/2) of the reasonable and documented out-of-pocket expenses incurred by the lender in pursuing collection efforts.

Sec. 32. (a) If the payment of a claim has fully covered the lender's loss on an enrolled loan or if the payment of a claim when combined with any recovery from the borrower has fully covered the lender's loss, the corporation, upon request, is subrogated to the rights of the lender with respect to any collateral, security, or other right of recovery in connection with the loan that has not been realized by the lender. The lender thereafter shall assign to the corporation any right, title, or interest to any collateral, security, or other right of recovery in connection with the loan.

(b) If an assignment has been made under subsection (a), the corporation is not required to undertake the obligations of the lender under the lender's loan documents, except for obligations directly related to the corporation's assigned rights of recovery in connection with the loan. The lender shall fulfill any other obligations the lender has under the loan documents in the same manner and to the same degree as would be required if the assignment had not been made. The lender shall provide the corporation with all reasonable assistance the corporation requests in proceeding with respect to any collateral, security, or other right of recovery, except that the lender does not need to incur any out-of-pocket expenses.

(c) If the corporation desires to exercise the right of subrogation in connection with an enrolled loan, and would be entitled to exercise that right except that the lender's loss has not been fully covered, the corporation, at the corporation's option, may pay from funds in the reserve fund an amount sufficient to result in the lender's loss being fully covered. A payment under this subsection

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may cover a principal amount not covered under the program or not included in the lender's claim. Upon making a payment under this subsection, the corporation is subrogated to the rights of the lender in accordance with subsection (a).

(d) Notwithstanding any other provision of this section, the corporation may not exercise the right of subrogation unless the corporation determines, in the corporation's discretion, that the lender has not exercised reasonable care and diligence in collection activities with respect to the loan, or that there is a reasonable basis for believing that the lender will not exercise reasonable care and diligence in the future with respect to those collection activities.

Sec. 33. (a) Before July 16, October 16, January 16, and April 16 of each year, the lender shall file a quarterly report with the corporation indicating the number and total outstanding balances of all enrolled loans for the period of the three (3) preceding calendar months. A quarterly report is not required for a quarter that ends with a balance in the reserve fund of zero (0), except that a year-end report must be filed before July 16 for the preceding twelve (12) calendar months ending June 30. In computing the total outstanding balance of all enrolled loans, the balance of a loan may not be greater than the covered amount of the loan as enrolled.

(b) If a year-end report filed under this section indicates that, for the immediately preceding twelve (12) calendar month period ending June 30, the balance in the reserve fund continuously exceeded fifty percent (50%) of the total outstanding balance of all enrolled loans, including unfunded parts of enrolled loans that are lines of credit, the corporation may make a withdrawal from the reserve fund. The amount of the withdrawal may not be greater than the minimum amount of any excess as continuously maintained over the immediately preceding twelve (12) calendar month period ending June 30. Withdrawals of excess reserve funds by the corporation under this section may be used for any purpose.

(c) If a year-end report is not filed within thirty (30) days after the original due date of the report, the corporation may make a withdrawal from the reserve fund based on the corporation's determination from an inspection of the lender's files that, for the immediately preceding twelve (12) calendar month period ending June 30, the balance in the reserve fund continuously exceeded fifty percent (50%) of the aggregate outstanding balance of all enrolled loans, including unfunded parts of enrolled loans that are lines of credit. The amount of the withdrawal may not be greater than the

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minimum amount of any excess as continuously maintained over the immediately preceding twelve (12) calendar month period ending June 30. Withdrawals of excess reserve funds by the corporation under this section may be used for any purpose.

(d) The right of the corporation to make a withdrawal from the reserve fund under subsection (b) or (c) is subject to the following provisions:

(1) If a year-end report is filed by July 16 or not more than thirty (30) days after July 16, the corporation has the right of withdrawal for a period of ninety (90) days from the date of the filing of the report with the corporation.

(2) If a year-end report is not filed by July 16 or not more than thirty (30) days after July 16, the corporation has the right of withdrawal for a period of ninety (90) days from the date the corporation determines from an inspection of the lender's files that the corporation is entitled to make a withdrawal from the reserve fund under this section.

Sec. 34. The corporation may terminate the obligation to a lender to enroll loans under the program if the corporation determines that the lender is not in substantial compliance with the requirements of the program or the requirements of section 23 of this chapter. The termination takes effect on the date specified in the notice of termination, except that the termination does not apply to a loan made on or before the date on which the notice of termination is received by the lender. If the corporation is terminating the enrollment of loans for all participating lenders under the program, the corporation shall provide at least ninety (90) days notice to the lender. A termination under this section is prospective only and does not apply to a loan previously refinanced. After termination, the amount covered under the program may not be increased beyond the covered amount as previously enrolled.

Sec. 35. (a) The corporation shall establish a capital access account. The corporation shall use the capital access account to carry out the provisions of the capital access program. The capital access account consists of all money that is:

(1) appropriated by the general assembly;

(2) transferred by the corporation from the industrial development guaranty fund; or

(3) transferred by the corporation from the general funds of the corporation.

(b) The expenses of the corporation attributable and allocated

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by the corporation to the capital access program shall be paid from the capital access account.

SECTION 24. IC 5-28-30 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 30. Industrial Development Loan Guaranty Program

Sec. 1. As used in this chapter, "broadband development project" means a project authorized by the broadband development program under IC 8-1-33.

Sec. 1.5. As used in this chapter, "developer" means a person who proposes to enter, or has entered, into a financing agreement with the corporation for an industrial development project and who has entered into a separate agreement with some other persons for the substantial use of the facilities financed.

Sec. 2. As used in this chapter, "guaranty fund" refers to the industrial development project guaranty fund created by section 9 of this chapter.

Sec. 3. As used in this chapter, "guaranty program" means the program described in section 10 of this chapter under which the corporation guarantees parts of particular mortgages, security agreements, leases, or loans for working capital with funds available from the guaranty fund.

Sec. 4. As used in this chapter, "high growth company with high skilled jobs" means a company that satisfies all the following conditions:

(1) The company:

(A) had at least a fifteen percent (15%) average annual growth in company earnings during the past three (3) years;

(B) is entering a new product or process area; or

(C) is classified in an industry that had at least a fifteen percent (15%) average annual growth in earnings during the past three (3) years.

(2) The company has a substantial number of employees in jobs:

(A) requiring postsecondary education or its equivalent; or

(B) that are in occupational codes classified as high skill by the Bureau of Labor Statistics, United States Department of Labor.

(3) The company has a substantial number of employees that earn at least one hundred fifty percent (150%) of Indiana per capita personal income.

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Sec. 5. As used in this chapter, "industrial development project" includes the acquisition of land, interests in land, site improvements, infrastructure improvements (including information and high technology infrastructure (as defined in IC 5-28-9-4)), buildings, or structures, rehabilitation, renovation, and enlargement of buildings and structures, machinery, equipment, furnishings, or facilities (or any combination of these), comprising or being functionally related and subordinate to any of the following:

(1) A pollution control facility (as defined in IC 4-4-10.9-24).

(2) A manufacturing enterprise.

(3) A business service enterprise involved in:

(A) computer and data processing services; or

(B) commercial testing services.

(4) A business enterprise the primary purpose of which is the operation of an education and permanent marketing center for manufacturers and distributors of robotic and flexible automation equipment.

(5) Any other business enterprise, if the use of the guaranty program creates a reasonable probability that the effect on Indiana employment will be creation or retention of at least fifty (50) jobs.

(6) An agricultural enterprise in which:

(A) the enterprise operates under a producer or growout agreement; and

(B) the output of the enterprise is processed predominantly in Indiana.

(7) A business enterprise that is required by a state, federal, or local regulatory agency to make capital expenditures to remedy a violation of a state or federal law or a local ordinance.

(8) A recycling market development project.

(9) A high growth company with high skilled jobs.

(10) A broadband development project.

Sec. 6. As used in this chapter, "maturity date" means the date on which the mortgage or security agreement indebtedness, or lease obligations, would be extinguished if paid in accordance with periodic payments provided for in the mortgage, security agreement, or lease.

Sec. 7. As used in this chapter, "mortgage" means a mortgage on an industrial development project, mining operation, or agricultural operation that involves the processing of agricultural

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products, or the unpaid purchase price of real estate under the laws of this state, together with the credit instruments, if any, secured thereby, including but not limited to a financing agreement as defined in IC 4-4-10.9-8 or a financing agreement within the meaning of IC 36-7-12 in connection with real property.

Sec. 8. As used in this chapter, "security agreement" means an agreement which creates or provides for a security interest in equipment, including, but not limited to, an equipment lease under the guaranty program or within the meaning of IC 36-7-12, and any successor provisions related to equipment.

Sec. 8.5. As used in this chapter, "user" means a person who has entered into a financing agreement with the corporation or lender or a contract for use with the developer or lender in contemplation of its use of an industrial development project.

Sec. 9. There is created an industrial development project guaranty fund which shall be used by the corporation as a nonlapsing, revolving fund for carrying out the provisions of the guaranty program. The corporation may expend money from the guaranty fund as the authority considers appropriate to carry out the purposes of this chapter and IC 4-4-11. The guaranty fund consists of the money, if any, appropriated by the general assembly. To this sum shall be charged those expenses of the corporation attributable and allocated by the corporation to the guaranty program, including interest, principal, and lease payments required by loan or lease defaults under the guaranty program, and to the sum shall be credited that income of the corporation attributable and allocated by the corporation to the guaranty program, including guarantee premiums.

Sec. 10. Subject to the conditions set forth in section 11 of this chapter and the other provisions of this chapter, if the corporation makes a written finding that:

(1) the guarantee of a particular loan secured by, or lease of, real property or tangible or intangible personal property to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products would tend to accomplish the purposes of this chapter, including the creation or retention of employment in Indiana through the guarantee of the loan or lease; and

(2) the proposed borrower or lessee cannot obtain the loan or lease upon reasonable terms;

the corporation may, under the guaranty program, guarantee the

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loan or lease upon the terms and conditions prescribed by the corporation.

Sec. 11. The conditions referred to in section 10 of this chapter are as follows:

(1) A new or additional guarantee of a loan or lease under section 10, 12, or 17 of this chapter may not be entered into if the guarantee would cause the outstanding total guarantee obligations with respect to all loans and leases guaranteed under sections 10, 12, and17 of this chapter to exceed eight (8) times the amount of money in the guaranty fund.

(2) The amount of all guarantees by the corporation of loans or leases to or for the benefit of any single industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products may not exceed two million dollars ($2,000,000), less the outstanding total principal balance under any loans made and owed to the corporation under section 17 of this chapter to or for the benefit of the project or operation.

(3) A guarantee of either a loan secured by real estate or a real estate lease may not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, or ninety percent (90%) of the appraised fair market value of the real estate, whichever is less.

(4) A guarantee of a loan secured by personal property or of a personal property lease may not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, or seventy-five percent (75%) of the fair market value of the personal property, whichever is less.

(5) A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property.

(6) To be eligible for a guarantee under section 10 of this chapter, a loan or lease must:

(A) be one that is to be made to and held by a lender or lessor approved by the corporation as responsible and able to service the loan or lease properly;

(B) involve a principal obligation or lease payments, as applicable, which may include initial service charges and

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appraisal, inspection, and other fees approved by the corporation;

(C) have a maturity or term satisfactory to the corporation but in no case later than twenty (20) years from the date of the guarantee;

(D) contain payment terms satisfactory to the corporation requiring periodic payments by the developer or user, including principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and any guarantee premiums required by the corporation; and

(E) contain any terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters that the corporation may prescribe.

Sec. 12. The corporation may guarantee an unsecured loan for:

(1) working capital purposes, if the corporation determines, under criteria that it establishes, that the loan for working capital:

(A) is for an industrial development project, a mining operation, or an agricultural operation that involves the processing of agricultural products; and

(B) will lead directly to increased production or job creation or retention through sales of products or provision of services to federal, state, or local government, private businesses, or individuals, or through exports to foreign markets; or

(2) capital expenditures, if the corporation determines, under criteria that the corporation establishes, that the loan is for an industrial development project described in IC 5-28-30-5(7).

The loan guarantee may not exceed five hundred thousand dollars ($500,000) for any single project or operation, and may be in addition to any other guarantees of the corporation under this chapter. The guarantee terms must include a time limit for working capital loan guarantees that may not exceed eighteen (18) months. However, the guarantees are renewable. A loan guarantee may not exceed eighty percent (80%) of the unpaid principal balance from time to time outstanding of the loan being guaranteed. The corporation may impose any additional terms it considers appropriate for any particular project or operation.

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Sec. 13. The corporation may establish:

(1) guarantee premiums for a guarantee under section 10 of this chapter of any loan or lease outstanding at the beginning of each year or at the time the guarantee is entered into; and

(2) loan application, placement, origination, commitment, administrative, processing, or other fees or charges in connection with the corporation's powers under section 17 of this chapter.

These premiums, fees, or charges are payable in amounts or based upon formulas established by the corporation and may be payable, at the election of the corporation, in whole or in part, in the form of cash, shares of stock, warrants for the purchase of shares of stock, or other securities, property, or rights acceptable to the corporation. These premiums, fees, or charges shall be payable by the developer or user to the corporation in a manner prescribed by the corporation.

Sec. 14. Any guarantee made by the corporation under this chapter may be effected or enhanced, in whole or in part, through the provision by the corporation of a letter of credit or an equivalent form of credit enhancement instrument. However, the maximum principal payment obligations of the corporation under the credit instrument, as the same may be effective from time to time, is the amount of the guarantee or portion of the guarantee made under this chapter, and for purposes of the limitations on the amount of guarantees under this chapter, and the term of any letter of credit may not exceed the respective terms established for guarantees or loans under this chapter.

Sec. 15. Notwithstanding any other law, loans or leases guaranteed or made by the corporation are legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, and pension or retirement funds, as well as the board for depositories.

Sec. 16. To further the purposes of this chapter, and subject to this chapter, the corporation may also use any part of the guaranty fund to guarantee any bonds issued by the Indiana finance authority under IC 4-4-11 or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are guaranteed by the corporation, the corporation may permit a subordination of any:

(1) security agreement;

(2) mortgage;

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(3) combination of security agreements and mortgages; or

(4) other appropriate documents securing the direct obligations;

if the corporation in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the industrial development project undertaken by the authority.

Sec. 17. To further the purposes of this chapter, and in addition to the corporation's other powers under this chapter, the corporation may, upon a written finding as described in section 10 of this chapter, make direct loans from money in the guaranty fund to or for the benefit of any industrial development project, mining operation, or agricultural operation that involves the processing of agricultural products, upon the terms and conditions that the corporation prescribes. Loans made under this section are subject to the following conditions:

(1) A new or additional loan may not be made if the loan would cause the then outstanding total guarantee obligations with respect to all loans and leases guaranteed under this section and the other provisions of this chapter to exceed eight (8) times the amount of money then in the guaranty fund, or would cause the then outstanding total principal balance of all loans made under this section and then owing to the corporation to exceed twenty percent (20%) of the amount of money then in the guaranty fund.

(2) The principal amount of such a loan to or for the benefit of a project or operation may not exceed one million dollars ($1,000,000), less the then outstanding total guarantee obligations with respect to any loans or leases guaranteed under this chapter to or for the benefit of that project or operation.

(3) With respect to any loan made under this section, a loan agreement with the corporation must contain the following terms:

(A) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the corporation under this chapter.

(B) The term of the loan, which may not be later than twenty (20) years from the date of the loan.

(C) The repayment schedule.

(D) The interest rate or rates of the loan, which may include variations in the rate, but which may not be less than the amount necessary to cover all expenses of the

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corporation in making the loan.

(E) Any other terms and provisions that the corporation requires.

(4) A loan agreement under this section may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor, and a requirement of any other type or types of security or collateral that the corporation considers reasonable or necessary.

(5) A loan made under this section may be sold by the corporation, and the corporation may permit other lenders to participate in a loan made under this section, at the time or times and upon the terms and conditions that the corporation considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the corporation, upon terms and conditions established by the corporation.

Sec. 18. All proceeds received by the corporation or the Indiana finance authority from the disposal by sale or in some other manner of property acquired in connection with the guaranty program or otherwise under this chapter shall be credited to the guaranty fund.

Sec. 19. Upon the issuance of a loan or a guarantee of a loan or lease, any expenses incurred by the corporation in connection with the loan or guarantee or the projects or operations for which the loan or guarantee is being made shall be reimbursed to the corporation by the borrower, in the case of a loan (to the extent not provided for under section 13 of this chapter), or by the borrower, lender, lessee, or lessor, in the case of a guarantee of a loan or lease, from the proceeds of the loan or the payments under the lease or otherwise.

Sec. 20.To further the purposes of this chapter and IC 4-4-11, and in addition to the corporation's other powers under this chapter, the corporation may transfer funds from the guaranty fund to the capital access account established under IC 5-28-29-35.

Sec. 21. Any guarantees by the corporation under the guaranty program are exempt from the registration and other requirements of IC 23-2-1 and any other securities registration laws.

Sec. 22. The corporation may procure insurance or guarantees from any public or private entities, including any department, agency, or instrumentality of the United States, for insurance or reinsurance on amounts paid from the guaranty fund.

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Sec. 23. The corporation may take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan on the project is clearly in default and when in the opinion of the authority such an acquisition is necessary to safeguard the guaranty fund, and sell, or on a temporary basis, lease or rent the project for any use.

SECTION 25. IC 5-28-31 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 31. Agricultural Loan and Rural Development Project Guarantee Fund

Sec. 1. As used in this chapter, "agriculture" or "agricultural enterprise" includes:

(1) the real and personal property constituting farms;

(2) acquiring, enlarging, or improving farms, including farm buildings, land and water development, use, and conservation;

(3) recreational uses and facilities when incidental to farming;

(4) enterprises incidental to farming needed to supplement farm income;

(5) purchasing livestock, poultry, and farm equipment;

(6) purchasing feed, seed, fertilizer, insecticides, and farm supplies and other essential farm operating expenses including cash rent; and

(7) other farm and home needs, including farm subsistence.

Sec. 2. As used in this chapter, "authority" refers to the Indiana finance authority created by IC 4-4-11.

Sec. 3. As used in this chapter, "bonds" has the meaning set forth in IC 4-4-10.9-2.

Sec. 4. As used in this chapter, "borrower" means a person who receives a loan under this chapter.

Sec. 5. As used in this chapter, "contracting party" means a party to a lease, sales contract, or loan agreement except the authority.

Sec. 6. As used in this chapter, "equipment" means a capital item.

Sec. 7. As used in this chapter, "guarantee fund" refers to the agricultural loan and rural development project guarantee fund established by section 32 of this chapter.

Sec. 8. As used in this chapter, "guarantee program" means the program of the corporation described in this chapter under which

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the corporation guarantees certain portions of particular mortgages, security agreements, or leases with funds available from its agricultural loan and rural development project guarantee fund.

Sec. 9. As used in this chapter, "lease" means a lease containing:

(1) an option to purchase the agricultural enterprise for a nominal sum upon payment in full or provision for payment in full of all bonds issued in connection with the agricultural enterprise or rural development project, all interest on the bonds, and all other expenses in connection with the agricultural enterprise or rural development project; and

(2) a lease containing an option to purchase the agricultural enterprise or rural development project at any time, as provided in the lease, upon payment of the purchase price sufficient to pay all bonds issued in connection with the agricultural enterprise or rural development project, all interest on the bonds, and all other expenses incurred in connection with the agricultural enterprise or rural development project but under which payment may be made in the form of one (1) or more notes, debentures, or other secured or unsecured debt obligations of the lessee providing for timely payments, including interest on the notes, debentures, or debt obligations sufficient for these purposes and delivered to the authority or to the trustee under the indenture under which the bonds were issued.

Sec. 10. As used in this chapter, "lender" means:

(1) a federal or state chartered bank;

(2) the Federal Land Bank;

(3) a production credit association;

(4) bank for cooperatives;

(5) a savings association;

(6) a small business investment company; or

(7) an institution qualified within Indiana to originate and service loans, including an insurance company, credit union, or mortgage loan company.

Sec. 11. As used in this chapter, "loan" means a lease, loan agreement, or sale contract.

Sec. 12. As used in this chapter, "loan agreement" means an agreement providing for:

(1) the corporation, or a lender with which the corporation has contracted, to loan the proceeds derived from the issuance of bonds by the authority to one (1) or more contracting

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parties to be used for agriculture or agricultural enterprises or rural development projects; and

(2) the repayment of the loan by the contracting party or parties.

Sec. 13. As used in this chapter, "loan insurer" means:

(1) an agency, a department, an administration, or an instrumentality, corporate or otherwise, of or in the United States Department of Housing and Urban Development;

(2) the Farmers Home Administration of the United States Department of Agriculture;

(3) the United States Department of Veterans Affairs;

(4) a private mortgage insurance company; or

(5) a public or private agency that insures or guarantees loans.

Sec. 14. As used in this chapter, "maturity date" means the date on which the mortgage or security agreement indebtedness, or lease obligations, would be extinguished if paid in accordance with periodic payments provided for in the mortgage, security agreement, or lease.

Sec. 15. As used in this chapter, "mortgage" refers to a mortgage on an agricultural enterprise or rural development project, or the unpaid purchase price of real estate under the laws of this state, together with the credit instruments, if any, that have been secured, including a financing agreement or a financing agreement within the meaning of IC 36-7-12 in connection with real property.

Sec. 16. As used in this chapter, "mortgagee" means the original lender under a mortgage and the original lender's successors and assigns approved by the corporation, including insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees, and other fiduciaries, such as pensions and retirement funds.

Sec. 17. As used in this chapter, "mortgage payments" means periodic payments called for by the mortgage that cover interest, installments of principal, taxes and assessments, mortgage insurance premiums, and hazard insurance premiums.

Sec. 18. As used in this chapter, "mortgagor" means the original borrower under a mortgage and the original borrower's successors and assigns.

Sec. 19. As used in this chapter, "person" means an individual, a partnership, a firm, an association, a joint venture, a limited liability company, or a corporation.

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Sec. 20. As used in this chapter, "rural development project" includes:

(1) the acquisition of land;

(2) interests in land;

(3) site improvements;

(4) infrastructure improvements;

(5) buildings;

(6) structures;

(7) rehabilitation, renovation, and enlargement of buildings and structures;

(8) machinery;

(9) equipment;

(10) furnishings; or

(11) facilities;

or any combination of these, comprising or being functionally related and subordinate to any project (whether manufacturing, commercial, agricultural, agribusiness, or otherwise) for which the development is determined by the corporation to promote, further, enhance, or assist in the growth or maintenance of rural areas in Indiana and to serve the public purposes of the corporation and the authority set forth in this chapter and IC 4-4-11.

Sec. 21. As used in this chapter, "sale contract" means a contract providing for the sale of one (1) or more agricultural enterprises consisting of real or personal property to one (1) or more contracting parties and includes a contract providing for payment of the purchase price in one (1) or more installments.

Sec. 22. As used in this chapter, "security agreement" means an agreement which creates or provides for security interest in equipment, including an equipment lease under that program or within the meaning of IC 36-7-12, and a successor provision related to equipment.

Sec. 23. As used in this chapter, "taxable bonds" means bonds the interest on which will not be excluded from the gross income of the owners of the bonds under Section 103 of the Internal Revenue Code.

Sec. 24. As used in this chapter, "tax exempt bonds" means bonds the interest on which will be excluded from the gross income of the owners of the bonds under Section 103 of the Internal Revenue Code.

Sec. 25. It is found and declared that:

(1) There exists in Indiana an inadequate supply of affordable farm credit and agricultural loan financing at interest rates

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which are consistent with the needs of borrowers for farming and agricultural enterprises, which if not supplemented will make it difficult for farmers and other agricultural enterprises to maintain or increase present employment levels and to maintain or increase crops, livestock, and business productivity, all of which will have an adverse effect upon the welfare of the citizens of Indiana and the economy of Indiana.

(2) There exists in particular in Indiana a need for affordable farm credit and agricultural loan financing for new and young farmers, for small farmers, for family farm operations, and for farmers for whom loans in the conventional farm credit markets are either not available or not affordable at interest rates found in conventional farm credit markets. Alleviation of the problems described in this subdivision and subdivision (1) as they apply to the agricultural enterprises described in this paragraph is the primary purpose of this chapter.

(3) Such problems cannot be remedied through the operation of private enterprise alone, but can be alleviated through the creation of a governmental body to encourage the investment of private capital in the agricultural sector through the use of public financing as provided by this chapter for the purpose of making loans available at interest rates lower than those available in the conventional farm credit markets, and by coordinating and cooperating with farmers, other agricultural enterprises, and local communities, which is essential to alleviating these conditions and is in the public interest.

(4) Alleviating the conditions and problems by the encouragement of private investment through a governmental body is a public purpose and a use for which revenue bonds may be issued.

(5) The necessity for this chapter to protect the health, safety, morals, and general welfare of all the people of Indiana is declared as a matter of legislative determination.

Sec. 26. The corporation may make and undertake commitments to make loans to lenders under terms and conditions requiring the proceeds thereof to be used by such lenders to make loans for agricultural enterprises. Loan commitments or actual loans shall originate through and be serviced by any eligible lender.

Sec. 27. A loan agreement under this chapter may provide for the loans to be secured by or evidenced by one (1) or more notes, debentures, or other secured or unsecured debt obligations of the

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contracting party or parties delivered to the corporation, the authority, or the trustee under the indenture under which the bonds were issued.

Sec. 28. If a sale contract permits title to the project to pass to the contracting party or parties before payment in full of the entire purchase price, it must also provide for the contracting party or parties to deliver to the corporation, the authority, or the trustee under the indenture under which the bonds were issued one (1) or more notes, debentures, or other secured or unsecured debt obligations of the contracting party or parties providing for timely payments, including interest on the notes, debentures, or debt obligations for the balance of the purchase price at or before the passage of title.

Sec. 29. (a) The corporation may invest in, purchase or make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made for agriculture or agricultural enterprises or for refinancing loans made for agriculture or agricultural enterprises. Before investment, purchase, assignment, or commitment, the lender shall certify that the proceeds therefrom or its equivalent will be reinvested in loans or used to make loans to provide agricultural enterprises or, pending reinvestment in such loans or the making of such loans, invested in short term obligations complying with the requirements of this chapter. The corporation shall purchase loans at a purchase price equal to the outstanding principal balance, but the corporation may require a discount from the principal balance or make a payment of a premium to effect a fair rate of return for the lender, as determined by the rate of return on comparable investments under market conditions existing at the time of purchase. In addition to the payment of outstanding principal balance, the corporation shall pay the accrued interest due thereon on the date the loan is delivered against payment therefor or on another date as may be established by agreement between the corporation and the selling lender.

(b) The corporation may not invest in, purchase, or make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made for the construction, rehabilitation, or purchase of real property unless the borrower, in a written contract separate from the mortgage, promises that for a period of ten (10) years from the date of the loan the borrower will not convey the real property without a written release from the corporation. The corporation shall record

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the contract in the same manner as a mortgage on real property, and when recorded the contract constitutes an absolute bar on the alienation of the property until ten (10) years after the date of the mortgage or until released in writing by the corporation. The corporation may not release a contract under this subsection unless the release is compatible with section 25 of this chapter.

Sec. 30. Before exercising any of the powers authorized in sections 26 and 29 of this chapter, the corporation shall require the lender to certify and agree that:

(1) the loan is or, if the loan has not been made, will at the time of making be in all respects a prudent investment; and

(2) the lender will use the proceeds of the loan, investment sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if the lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the corporation to purchase the loans, the lender will make the loans and sell the loans to the corporation within a reasonable time.

Sec. 31. Before exercising any of the powers conferred by sections 26 and 29 of this chapter, the corporation may:

(1) require that the loan involved be:

(A) insured by a loan insurer; or

(B) guaranteed by a loan guarantor or the corporation under sections 32 through 43 of this chapter;

(2) require any type of security that the corporation considers reasonable and necessary; or

(3) authorize the reservation of funds by lenders in the amount and subject to conditions that the corporation considers reasonable and necessary under this chapter.

Sec. 32. The agricultural loan and rural development project guarantee fund is established. The corporation shall use the guarantee fund as a nonlapsing, revolving fund for carrying out the provisions of the guarantee program. The corporation may expend money from the guarantee fund as the authority considers appropriate to carry out the purposes of this chapter and IC 4-4-11. The guarantee fund consists of the money appropriated to the guarantee fund by the general assembly, and money, property, and other things of value contributed to the guarantee fund by any other source. To this sum shall be charged those expenses of the corporation attributable and allocated by the corporation to the corporation's guarantee program, including

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interest, principal, and lease payments required by loan or lease defaults. To this sum shall be credited that income of the corporation attributable and allocated by the corporation to the corporation's guarantee program, including guarantee premiums.

Sec. 33. Subject to the conditions set forth in section 34 of this chapter and the other provisions of this chapter, if the corporation makes a written finding that:

(1) the guarantee of a particular loan secured by, or lease of, real property or tangible or intangible personal property to or for the benefit of any agricultural enterprise or rural development project would tend to accomplish the purposes of this chapter, including the creation or retention of employment in Indiana through the guarantee of the lease;

(2) the proposed borrower or lessee cannot obtain the loan or lease upon reasonable terms; and

(3) the proposed borrower, lessee, lender, or lessor has filed an application on a form prescribed by the corporation;

the corporation may, under its guarantee program, guarantee the loan or lease upon the terms and conditions that the corporation prescribes.

Sec. 34. The conditions referred to in section 33 of this chapter are as follows:

(1) No new or additional guarantee of a loan or lease under section 33, 35, or 40 of this chapter may be entered into if the guarantee would cause the outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under sections 33, 35, and 40 of this chapter to exceed eight (8) times the amount of money in the guarantee fund.

(2) The amount of all guarantees by the corporation of loans or leases to or for the benefit of any single agricultural enterprise or rural development project may not exceed three hundred thousand dollars ($300,000), less the outstanding aggregate principal balance under any loans made and owed to the corporation under section 40 of this chapter to or for the benefit of the enterprise or rural development project.

(3) A guarantee of a loan secured by either real estate or a real estate lease may not exceed ninety percent (90%) of the unpaid principal balance of the loan from time to time outstanding or ninety percent (90%) of the amount of any lease payment, as applicable, and the original principal amount of the loan or the total amount of the lease payments, as applicable, may not exceed ninety percent (90%) of the

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appraised fair market value of the real estate.

(4) A guarantee of a loan secured by personal property or of a personal property lease may not exceed seventy-five percent (75%) of the unpaid principal balance of the loan from time to time outstanding or seventy-five percent (75%) of the amount of any lease payment, as applicable, and the original principal amount of the loan or the total amount of the lease payments, as applicable, may not exceed seventy-five percent (75%) of the appraised fair market value of the personal property.

(5) A guarantee involving both real estate and personal property may not exceed the percentage proportionate to each type of property.

(6) To be eligible for a guarantee under this section, a loan or lease must:

(A) be one that is to be made to and held by a lender or lessor approved by the corporation as responsible and able to service the loan or lease properly;

(B) involve a principal obligation or lease payments, as applicable, which may include initial service charges and appraisal, inspection, and other fees approved by the corporation;

(C) have a maturity or term satisfactory to the corporation but in no case later than twenty (20) years after the date of the guarantee;

(D) contain payment terms satisfactory to the corporation requiring periodic payments by the developer or user, including principal and interest payments, cost of local property taxes and assessments, land lease rentals, if any, insurance on the property, as applicable, and the guarantee premiums that are fixed by the corporation; and

(E) contain terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, anticipation of maturity, additional and secondary liens, and other matters that the corporation prescribes.

Sec. 35. The corporation may guarantee an unsecured loan for working capital purposes if the corporation determines, under criteria that the corporation establishes, that:

(1) the loan for working capital is for an agricultural enterprise or a rural development project; and

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(2) the loan for working capital will lead directly to increased production or job creation or retention through sales of products or provision of services to federal, state, or local government or private business or individuals or through exports to foreign markets.

The working capital loan guarantee may not exceed two hundred thousand dollars ($200,000) for any single agricultural enterprise or rural development project and may be in addition to any other guarantees of the corporation under this section. The guaranteed terms must include a time limit for working capital loan guarantees that may not exceed eighteen (18) months. However, the guarantees are renewable. A working capital loan guarantee may not exceed eighty percent (80%) of the unpaid principal balance from time to time outstanding of the loan being guaranteed. The corporation may impose additional terms that the corporation considers appropriate for any particular agricultural enterprise or rural development project.

Sec. 36. The corporation may fix guarantee premiums for the guarantee under this chapter of any loan or lease outstanding at the beginning of each year or at the time the guarantee is entered into, and the corporation may fix loan application, placement, origination, commitment, administrative, processing, or other fees or charges in connection with the powers of the corporation under section 40 of this chapter. These premiums, fees, or charges may be payable in amounts or based upon formulas established by the corporation and may be payable, at the election of the corporation, in whole or in part, in the form of cash, shares of stock, warrants for the purchase of shares of stock, or other securities, property, or rights acceptable to the corporation. These premiums, fees, or charges are payable by the borrower or user to the corporation in a manner prescribed by the corporation.

Sec. 37. Any guarantee made by the corporation under section 33, 35, or 40 of this chapter may be effected or enhanced, in whole or in part, through the provision by the corporation of a letter of credit or an equivalent form of credit enhancement instrument. However, the maximum principal payment obligation of the corporation under the credit instrument, as the credit instrument may be effective from time to time, is the amount of the guarantee or part of the guarantee made under section 33, 35, or 40 of this chapter and for purposes of the limitations on the amount of guarantees under section 33, 35, or 40 of this chapter. The term of any letter of credit may not exceed the respective terms established

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for guarantees or loans under sections 34, 35, and 40 of this chapter.

Sec. 38. Notwithstanding any other law, loans or leases guaranteed or made by the corporation or the authority under this chapter are legal investments for all insurance companies, trust companies, banks, investment companies, savings banks, executors, trustees and other fiduciaries, and pension or retirement funds, as well as the board for depositories.

Sec. 39. To further the purposes of this chapter and subject to this chapter, the corporation may also use any part of the guarantee fund to guarantee any bonds issued by the authority under section 46 of this chapter or by any authorized issuer under IC 36-7-12. With regard to direct obligations of the authority that are guaranteed by the corporation, the corporation may permit a subordination of any valid security agreement, mortgage, combinations thereof, or other appropriate documents securing the direct obligations if the corporation in its discretion determines that the subordination is reasonably necessary to accomplish the objectives of the authority.

Sec. 40. To further the purposes of this chapter, and in addition to the corporation's other powers under this chapter, the corporation may, upon a written finding as described in section 33 of this chapter, also make direct loans from money in the guarantee fund to or for the benefit of any agricultural enterprise or rural development project upon the terms and conditions that the corporation prescribes. Loans made under this section are subject to the following conditions:

(1) No new or additional loan may be made if the loan would cause the then outstanding aggregate guarantee obligations with respect to all loans and leases guaranteed under this section and sections 33 and 35 of this chapter to exceed eight (8) times the amount of money then in the guarantee fund or would cause the then outstanding aggregate principal balance of all loans made under this section and then owing to the corporation to exceed twenty percent (20%) of the amount of money then in the guarantee fund.

(2) The principal amount of a loan under this section to or for the benefit of an enterprise or rural development project may not exceed two hundred thousand dollars ($200,000), less the then outstanding total guarantee obligations with respect to any loans or leases guaranteed under this section and sections 33 and 35 of this chapter to or for the benefit of that

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enterprise or rural development project.

(3) With respect to any loan made under this section, a loan agreement with the corporation must contain the following terms:

(A) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the corporation under this chapter.

(B) The term of the loan, which must be not later than twenty (20) years after the date of the loan.

(C) The repayment schedule.

(D) The interest rate or rates of the loan, which may include variations in the rate, but which may not be less than the amount necessary to cover all expenses of the corporation in making the loan.

(E) Any other terms and provisions that the corporation requires.

(4) Any loan agreement under this section may also contain a requirement that the loan be insured directly or indirectly by a loan insurer or be guaranteed by a loan guarantor and a requirement of any other type or types of security or collateral that the corporation considers to be reasonable or necessary.

(5) A loan made under this section may be sold by the corporation, and the corporation may permit other lenders to participate in any loan made under this section, at the time or times and upon the terms and conditions that the corporation considers reasonable or necessary. A loan sold or in which other lenders participate may be guaranteed by the corporation upon terms and conditions established by the corporation.

Sec. 41. All proceeds received by the corporation or the Indiana finance authority from the disposal by sale or in some other manner of property acquired under this chapter and in connection with the guarantee program or otherwise under this chapter shall be credited to the guarantee fund.

Sec. 42. The money in the guarantee fund does not revert to the state general fund at the end of a fiscal year. However, if the guarantee fund ceases to exist, the money in the guarantee fund attributable to transfers from the state general fund reverts to the state general fund.

Sec. 43. Upon the issuance of a loan or a guarantee of a loan or lease under this chapter, any expenses incurred by the corporation

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in connection with the loan or guarantee or the enterprise or rural development project for which the loan or guarantee is being made shall be reimbursed to the corporation by the borrower, in the case of a loan (to the extent not provided for under section 36 of this chapter), or by the borrower, lender, lessee, or lessor in the case of a guarantee of a loan or lease, from the proceeds of the loan or the payments under the lease or otherwise.

Sec. 44. The corporation may take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the corporation the acquisition is necessary to safeguard the guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

Sec. 45. (a) Before carrying out any of the powers granted under section 26, section 29, or sections 32 through 43 of this chapter, the corporation may adopt rules under IC 4-22-2 governing its activities authorized under this chapter, including rules relating to the following:

(1) Procedures for the submission of requests or invitations and proposals for making loans to lenders and the investment in and purchase, assignment, and sale of loans.

(2) The reinvestment by lenders of the proceeds or an equivalent amount, from any loan to lenders or the investment in or purchase by the corporation or the authority or the assignment or sale of loans to the corporation or the authority, in loans to provide agricultural enterprises or rural development projects.

(3) The number of agricultural projects and rural development projects, location of the projects, and other characteristics of agricultural enterprises and rural development projects, including to the extent reasonably possible assurance that the agricultural enterprises or rural development projects to be financed by an issue of bonds or series of issues will improve employment conditions and enhance the welfare of persons in the agricultural sector, as determined by the corporation, to be financed directly or indirectly by the corporation and the authority under section 26, section 29, or sections 32 through 43 of this chapter.

(4) Rates, fees, charges, and other terms and conditions of

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originating or servicing loans in order to protect against realization of an excessive financial return or benefit by the originator or servicer.

(5) The type and amount of collateral or security to be provided to assure repayment of loans made or guaranteed by the corporation and the fees to be charged under sections 32 through 43 of this chapter.

(6) The type of collateral, payment bonds, performance bonds, or other security to be provided for any loans made by a lender for construction loans.

(7) The nature and amount of fees to be charged by the corporation or the authority to provide for expenses and reserves of the corporation or the authority.

(8) Standards and requirements for the allocation of available money among lenders and the determination of the maturities, terms, conditions, and interest rates for loans made, purchased, sold, assigned, or committed under section 26, section 29, or sections 32 through 43 of this chapter.

(9) Commitment requirements for agricultural financing by lenders involving money provided directly or indirectly by the corporation or the authority.

(10) Any other matters related to the duties or exercise of the corporation's or the authority's powers or duties under this chapter.

(b) In adopting rules governing its activities, the corporation shall consider the following factors relative to eligibility of borrowers for loans made or guaranteed under this chapter:

(1) The length of time any borrower has been engaged in the business of agriculture or development.

(2) The net income of any borrower in the preceding year or years.

(3) The net worth of any borrower.

(4) The availability or feasibility of alternative financing methods for any borrower.

(c) The following entities may not be borrowers:

(1) A corporation that has more than ten (10) shareholders.

(2) A corporation that has any shareholder that is a corporation, a subsidiary of a corporation, or a subsidiary of a subsidiary of a corporation with more than ten (10) shareholders.

(3) A partnership, joint venture, firm, limited liability company, or association that has any member who is a

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corporation, a subsidiary of a corporation, or a subsidiary of a subsidiary of a corporation with more than ten (10) shareholders.

Sec. 46. For purposes of this chapter, the authority may issue and secure bonds in accordance with IC 4-4-11. Whether the bonds are in the form and character of negotiable instruments, the bonds are hereby made negotiable instruments, subject only to provisions of the bonds relating to registration.

Sec. 47. This chapter shall not be construed as a restriction or limitation upon any powers which the corporation or the authority might otherwise have under any other law of this state, and this chapter is cumulative to those powers. This chapter shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized and shall be regarded as supplemental and additional to powers conferred by any other laws.

SECTION 26. IC 5-28-32 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

Chapter 32. Business Development Loan Fund

Sec. 1. As used in this chapter, "fund" refers to the business development loan fund.

Sec. 2. The business development loan fund is established. The fund shall be used by the corporation as a nonlapsing, revolving fund.

Sec. 3. The fund consists of the following:

(1) Money appropriated by the general assembly.

(2) The repayment proceeds of loans made to businesses from the fund.

(3) Money received from any other source.

Sec. 4. Subject to section 5 of this chapter, the corporation may make a loan from the fund to a business located in Indiana if the corporation makes a written finding that the loan would accomplish the purposes of this chapter by enabling the business to carry out a project or projects that will do any of the following:

(1) Improve the technological capacity or productivity of the business.

(2) Enhance the protection of Indiana's environment.

(3) Permit the business to expand facilities, establish new facilities, or make site improvements or infrastructure improvements.

Sec. 5. With respect to any loan made under section 4 of this

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chapter, a loan agreement with the corporation must contain the following terms:

(1) A requirement that the loan proceeds be used for specified purposes consistent with and in furtherance of the purposes of the corporation under this article.

(2) The term of the loan, which must not be later than fifteen (15) years after the date of the loan.

(3) The repayment schedule.

(4) The interest rate or rates of the loan, which may include variations in the rate, but that may not be less than the amount necessary to cover all expenses of the corporation in making the loan.

(5) Any other terms and provisions that the corporation requires.

SECTION 27. IC 6-3.1-13-27, AS AMENDED BY P.L.4-2005, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) Subject to all other requirements of this chapter, the corporation may award a tax credit under this chapter to a nonprofit organization that is a high growth company with high skilled jobs (as defined in ~~IC 4-4-10.9-9.5)~~ **IC 5-28-30-4)** if:

(1) the nonprofit organization:

(A) is a taxpayer (as defined in section 10 of this chapter); and

(B) meets all requirements of this chapter; and

(2) all of the following conditions are satisfied:

(A) The wages of at least seventy-five percent (75%) of the organization's total workforce in Indiana must be equal to at least two hundred percent (200%) of the average county wage, as determined by the corporation, in the county where the project for which the credit is granted will be located.

(B) The organization must make an investment of at least fifty million dollars ($50,000,000) in capital assets.

(C) The affected political subdivision must provide substantial financial assistance to the project.

(D) The incremental payroll attributable to the project must be at least ten million dollars ($10,000,000) annually.

(E) The organization agrees to pay the ad valorem property taxes on the organization's real and personal property that would otherwise be exempt under IC 6-1.1-10.

(F) The organization does not receive any deductions from the assessed value of the organization's real and personal property under IC 6-1.1-12 or IC 6-1.1-12.1.

(G) The organization pays all of the organization's ad valorem

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property taxes to the taxing units in the taxing district in which the project is located.

(H) The project for which the credit is granted must be located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) Notwithstanding section 6(a) of this chapter, the corporation may award credits to an organization under subsection (a) if:

(1) the organization met all other conditions of this chapter at the time of the applicant's location or expansion decision;

(2) the applicant is in receipt of a letter from the department of commerce stating an intent to pursue a credit agreement; and

(3) the letter described in subdivision (2) is issued by the department of commerce not later than January 1, 2000.

SECTION 28. IC 8-1-29.5-7, AS ADDED BY P.L.27-2006, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) In imposing a civil penalty under section 6(b)(4) of this chapter, the commission may consider the following factors:

(1) The duration and gravity of the offense, including the number of customers affected.

(2) Economic benefits accrued by the provider or certificate holder as a result of the offense.

(3) The amount of a civil penalty that will deter future offenses by the provider or certificate holder.

(4) The market share of the provider or certificate holder in the affected service areas.

(5) Good faith of the provider or certificate holder in attempting to remedy the offense after receiving notification of the offense.

(b) If the commission waives a civil penalty for any offense described in section 6(b)(4) of this chapter, the commission must make a written finding as to why it is waiving the civil penalty. The commission may waive a civil penalty under section 6(b)(4) of this chapter if the commission finds that the offense is the result of any of the following:

(1) Technological infeasibility.

(2) An act of God.

(3) A defect in, or prohibited use of, customer provided equipment.

(4) A negligent act of a customer.

(5) An emergency situation.

(6) Unavoidable casualty.

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(c) The secretary of the commission shall direct a civil penalty imposed and collected under section 6(b)(4) of this chapter as follows:

(1) A civil penalty imposed for an offense that directly affects retail customers must be refunded directly to the customers of the provider or certificate holder in the form of credits on customer bills.

(2) A civil penalty imposed for an offense not described in subdivision (1) must be deposited into an account designated by the Indiana ~~finance authority~~ **economic development corporation** for use by the ~~authority~~ **corporation** in making loans or grants to broadband developers and operators under the Indiana broadband development program established by ~~IC 8-1-33-15.~~ **IC 5-28-33-14.**

SECTION 29. IC 8-9.5-9-2, AS AMENDED BY P.L.181-2006, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this chapter, "authority" means:

(1) an authority or agency established under IC 8-1-2.2 or IC 8-9.5 through IC 8-23;

(2) when acting under an affected statute (as defined in IC 4-4-10.9-1.2), the Indiana finance authority established by IC 4-4-11;

(3) only in connection with a program established under IC 13-18-13 or IC 13-18-21, the bank established under IC 5-1.5;

(4) a fund or program established under IC 13-18-13 or IC 13-18-21;

~~(5) the Indiana health and educational facility financing authority established by IC 5-1-16;~~

~~(6)~~ **(5)** the Indiana housing and community development authority established by IC 5-20-1;

~~(7)~~ **(6)** the authority established under IC 4-4-11; or

~~(8)~~ **(7)** the authority established under IC 5-1-17.

SECTION 30. IC 8-14.5-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. The bonds or notes:

(1) shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority;

(2) shall be attested by the manual or facsimile signature of the ~~secretary-treasurer or assistant secretary-treasurer of the authority;~~ **public finance director;**

(3) shall be imprinted or impressed with the seal of the authority by any means;

(4) may be authenticated by a trustee, registrar, or paying agent; and

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(5) constitute valid and binding obligations of the authority, even if the chairman, vice chairman, ~~secretary-treasurer,~~ or ~~assistant secretary-treasurer~~ **public finance director** whose manual or facsimile signature appears on the bonds or notes no longer holds that office.

SECTION 31. IC 8-15-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) Subject to IC 8-9.5-8-10, the authority is authorized to provide by a resolution at one (1) time or from time to time for the issuance of toll road revenue bonds of the state for the purpose of paying all or any part of the cost of any one (1) or more toll road projects. The principal of and the interest on such bonds shall be payable solely from an allocation of money from the rural transportation road fund under IC 8-9.5-8-16 or from the revenues or from the proceeds of bonds issued under the provisions of this chapter and earnings thereon, or from all three (3).

(b) The bonds of each issue shall:

(1) be dated;

(2) bear interest at such rate or rates as shall be established by the authority;

(3) mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the authority; and

(4) be made redeemable before maturity at the option of the authority at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

(c) The authority shall:

(1) determine the form of the bonds, including any interest coupons to be attached thereto;

(2) fix the denomination or denominations of the bonds; and

(3) fix the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state.

(d) The bonds shall be signed by the chairman of the authority or by his facsimile signature, and attested to by the manual or the facsimile signature of the ~~secretary-treasurer of the authority,~~ **public finance director,** and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until

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such delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent.

(e) All bonds issued under the provisions of this chapter shall have and are declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state of Indiana.

(f) The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(g) The authority may sell such bonds in such manner and for such price as it may determine to be for the best interests for the state, either at a public or private sale.

(h) The proceeds of the bonds of each issue shall be:

(1) used solely for the payment of the cost of the toll road project or projects for which such bonds shall have been issued; and

(2) disbursed in such manner and under such restrictions, if any, as the authority may provide in authorizing the issuance of such bonds or in the trust agreement mentioned securing the same.

(i) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued.

(j) If the proceeds of the bonds of any issue shall exceed the cost of the toll road project or projects for which the same shall have been issued, the surplus shall be deposited to the credit of the sinking fund for such bonds.

(k) Prior to the preparation of definitive bonds, the authority may under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(l) Except as provided by IC 8-9.5-8-10, bonds may be issued under the provisions of this chapter without:

(1) obtaining the consent of any department, division, commission, board, bureau, or agency of the state; and

(2) any other proceedings or the happening of any other

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conditions or things than those proceedings, conditions, or things which are specifically required by this chapter.

SECTION 32. IC 8-16-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) Subject to IC 8-9.5-8-10, the authority is authorized to provide funds for each and every purpose of this chapter by the issuance of bridge revenue bonds of the state, the principal and interest of which bonds shall be payable solely from the revenues of the bridge to be constructed or acquired by purchase from the proceeds of such bonds. Such revenue bonds:

(1) shall bear interest at a rate or rates approved by the authority payable on such day as specified in the resolution or any trust agreement;

(2) shall mature in not more than thirty (30) years from their date or dates; and

(3) may be made redeemable at the option of the authority, at not more than the par value thereof and a premium of five percent (5%) under such terms and conditions as the authority may fix prior to the issuance of such bonds.

(b) The authority shall:

(1) provide the form of such bonds;

(2) fix the denomination or denominations of such bonds; and

(3) fix the place or places of payment of the principal and interest thereof.

(c) The bonds shall be executed by the manual or facsimile signature of the chairman of the authority and sealed and attested by the manual or facsimile signature of the ~~secretary-treasurer of the authority.~~ **public finance director.** The coupons shall bear the facsimile signature of the chairman. The authority may also provide for authentication of the bonds by a trustee or fiscal agent.

(d) The said bonds shall be exempt from taxation by the state of Indiana and by the municipalities and political subdivisions thereof.

(e) The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provisions may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

(f) Such bonds shall be sold in such manner, either at public or private sale, as the authority may determine to be for the best interests, taking into consideration the financial responsibility of the purchaser and the terms and conditions of the purchase and especially the availability of the proceeds of the bonds when required for payment of the cost of the bridge, by the authority. Such sale shall be at not less

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than ninety cents ($.90) on the dollar and accrued interest, and the proceeds of such bonds shall be used solely for the payment of the bridge costs, and expenses incident thereto as authorized by this chapter, and shall be disbursed by said authority as provided in this chapter. If the proceeds of the sale of such bonds shall exceed such costs, any surplus remaining therefrom shall be paid into the fund provided in section 16 of this chapter for payment of the principal and interest of said bonds.

(g) The authority shall have the right to purchase any bonds so issued by it that may be outstanding at the market price, but not exceeding one hundred five dollars ($105) for each one hundred dollars ($100) of par value and accrued interest nor exceeding the price at which the same shall in the same year be redeemable, with the consent of the holders of such bonds, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued.

(h) Prior to the preparation of definitive bonds the authority may under like restrictions issue temporary bonds, with or without coupons, exchangeable for definitive bonds upon the issuance of the latter.

(i) The authority may enter into an agreement with any trust company as trustees for the holders of such bonds, setting forth the duties of the authority in respect to:

(1) the construction, maintenance, operation, and insurance of any such bridge;

(2) the conservation and application of all funds;

(3) the insurance of moneys on hand or on deposit; and

(4) the rights and remedies of said trustee and the holders of such bonds, restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds of a corporation.

(j) Said trust agreement may:

(1) contain such provisions for protecting and enforcing the rights and remedies of the trustee and the bondholders as may be reasonable and proper in the judgment of the authority, and also a provision for approval by the original bond purchasers of the appointment of consulting engineers and of the security given by the bridge contractors and by any bank or trust company in which the proceeds of bonds or bridge tolls or other moneys of the authority shall be deposited; and

(2) provide that no contract for construction shall be made without the approval of the consulting engineers.

(k) Such trust agreement may contain such further provisions as in the judgment of the authority will best accomplish the purposes of this

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chapter, with respect to:

(1) the fixing, maintaining, and collecting of tolls;

(2) the deposit, safeguarding, and disposition of the revenues derived from such bridge;

(3) the application of revenues;

(4) the determination and establishment of priorities in the disbursement of such revenues;

(5) the establishment of reserve funds to secure the prompt payment of the principal of and the interest on said bonds;

(6) the limitation of the amount of expenses of the authority chargeable to said revenues; and

(7) such other matters as in the judgment of the authority are proper and suitable.

(l) The bonds issued under this section shall be a first lien on all revenues of the bridge on account of which they are issued, subject only to such prior charges as may be provided in such trust agreement or in the resolution authorizing their issuance. The bonds may be issued without any other proceedings or happening or any other conditions or things than those proceedings, conditions, and things which are specified and required by this chapter or by the Constitution of the State of Indiana.

SECTION 33. IC 14-14-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. The commission may lease property to the department and others. A lease:

(1) may provide for the operation, maintenance, improvement, or renovation of the property;

(2) must contain standards for operation, quality of goods and services, and price of goods and services;

(3) need not be approved by the attorney general or the governor;

(4) may be executed by the:

(A) chairman or vice chairman **of the commission;** and

(B) ~~secretary or acting secretary,~~ **public finance director;** ~~of the commission,~~ and

(5) is binding on the state after advertisement one (1) time a week for two (2) weeks in two (2) newspapers published in Indianapolis. The first publication must be at least fourteen (14) days before a public hearing by the commission, and the proposed lease must be on file in the department during the period of publication.

SECTION 34. IC 14-14-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) The bonds of each issue:

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(1) must:
(A) be dated;
(B) bear interest at the rate or rates; and
(C) mature at the time or times not exceeding fifty (50) years; as determined by the commission; and
(2) may be made redeemable before maturity, at the option of the commission, at the price or prices and under the terms and conditions fixed by the commission in the authorizing resolution.

(b) The commission shall determine the following:
(1) The form of the bonds, including any interest coupons to be attached.
(2) The denomination or denominations of the bonds.
(3) The place or places of payment of principal and interest, which may be at any bank or trust company within or outside Indiana.

(c) The bonds shall be signed in the name of the commission by:
(1) the chairman or vice chairman; or
(2) the facsimile signature of the chairman or vice chairman.

(d) The official seal of the commission or a facsimile of the seal shall be:
(1) affixed to the bonds; and
(2) attested by the ~~secretary of the commission.~~ **public finance director.**

(e) Any coupons attached to the bonds must bear the facsimile signature of the chairman of the commission.

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

SECTION 35. IC 16-18-2-338.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 338.5. "State authority", for purposes of IC 16-22, means the Indiana ~~health financing~~ **finance** authority ~~provided in IC 5-1-16.~~ **established by IC 4-4-11-4.**

SECTION 36. IC 16-22-5-15, AS AMENDED BY P.L.235-2005, SECTION 194, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. As the tax is collected, the levies become a part of the hospital funds without further appropriation by the county fiscal body and may be invested in accordance with IC 16-22-3-20. The levies shall be separately accounted for as a hospital cumulative building fund and may not be used for any

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purposes other than that for which the cumulative building fund was established, except for the following:

(1) A lease entered into with an authority or the Indiana ~~health and educational facility financing~~ **finance** authority ~~established~~ under ~~IC 5-1-16-2~~ **IC 5-1-16** may provide that the lease agreement to pay lease rentals be paid in whole or in part from the hospital cumulative building fund.

(2) If a loan has been obtained for the same purposes for which the cumulative building fund was established, the fund may be used to pay principal and interest on the bonds, notes, or other evidences of indebtedness of the hospital.

SECTION 37. IC 20-12-63-3, AS AMENDED BY P.L.235-2005, SECTION 199, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. For the purposes of this chapter, unless the context clearly requires otherwise, the following words are defined as follows:

(1) "Authority" refers to the Indiana ~~health and educational facility~~ finance authority established by ~~IC 5-1-16-2.~~ **IC 4-4-11-4.**

(2) "Project" means:

(A) the acquisition, construction, enlarging, remodeling, renovation, improvement, furnishing, or equipping of an educational facility by the authority for a private institution of higher education; or

(B) the funding of any liability, other loss, or insurance reserves or the funding and contribution of such insurance reserves or other capital to a risk retention group for the purpose of providing insurance coverage against liability claims or other losses.

(3) "Cost" means all costs necessary or incident to the acquisition, construction, or funding of a project, including the costs of refunding or refinancing outstanding indebtedness incurred for the financing of such project, reserves for principal and interest, engineering, legal, architectural and all other necessary and incidental expenses, together with interest on bonds issued to finance the project to a date six (6) months subsequent to the estimated date of completion.

(4) "Bonds" means revenue bonds, notes, bond anticipation notes, or other obligations of the authority issued under this chapter, including refunding bonds, notes, bond anticipation notes, or other obligations.

(5) "Bond resolution" means the resolution or resolutions and the trust agreement, if any, authorizing or providing for the terms and

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conditions applicable to bonds issued pursuant to this chapter.

(6) "Educational facility" means any property located within the state which:

(A) is suitable for:

(i) the instruction, feeding, recreation, or housing of students;

(ii) the conduct of research or other work of a private institution of higher education; or

(iii) use, by a private institution of higher education, in connection with any educational, research, or related or incidental activity conducted by the private institution of higher education;

(B) is suitable for use as or in connection with the following: an academic facility, administrative facility, agricultural facility, assembly hall, athletic facility, auditorium, boating facility, campus, communication facility, computer facility, continuing education facility, classroom, dining hall, dormitory, exhibition hall, firefighting facility, fire prevention facility, food service and preparation facility, gymnasium, greenhouse, health care facility, hospital, housing, instructional facility, laboratory, library, maintenance facility, medical facility, museum, offices, parking area, physical education facility, recreational facility, research facility, stadium, storage facility, student union, study facility, theater, or utility;

(C) is not used or to be used for sectarian instruction or study or as a place for devotional activities or workshop; and

(D) is not used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination.

(7) "Eligible member" means a corporation defined under IC 20-12-6-1 or any private institution of higher education.

(8) "Liability or loss insurance reserves" means a fund or funds set aside as a reserve to cover risk retained by an eligible member in connection with liability claims or other losses.

(9) "Liability" means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons or entities, damage to the property or business of other persons or entities, or other damage or loss to such other persons or entities resulting from or arising out of any activity of an eligible member.

(10) "Private institution of higher education" means a nonprofit

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educational institution with a principal office in Indiana that:

(A) is not owned or controlled by the state of Indiana or any political subdivision, agency, instrumentality, district, or municipality of the state of Indiana;

(B) is authorized by law to provide a program of education beyond the high school level;

(C) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(D) provides an educational program:

(i) for which the institution awards an associate degree;

(ii) for which the institution awards a bachelor's degree;

(iii) admission into which is conditioned upon the prior attainment of a bachelor's degree or equivalent, for which the institution awards either a postgraduate degree or provides not less than a two (2) year program which is acceptable for full credit toward a postgraduate degree; or

(iv) of two (2) years duration in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(E) is accredited by a nationally recognized accrediting agency or association or, if not so accredited, is an institution whose credits are accepted on transfer by not less than three (3) institutions which are so accredited for credit on the same basis as if transferred from an institution so accredited; and

(F) does not discriminate in the admission of students on the basis of race, color, or creed.

(11) "Property" means any real, personal, or mixed property, or any interest therein, including, without limitation, any real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, rights-of-way and structures, or any interest therein.

(12) "Revenues" means with respect to any project the rents, fees, charges, and other income or profit derived therefrom.

(13) "Risk retention group" means a trust, pool, corporation, limited liability company, partnership, or joint venture funded by and owned and operated for the benefit of more than one (1) eligible member.

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SECTION 38. IC 28-5-1-6, AS AMENDED BY P.L.235-2005, SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) Every company may exercise all the powers conferred upon domestic corporations by IC 23-1 but only to the extent that those powers may be necessary, convenient, or expedient to accomplish the purposes for which it is organized. Subject to the restrictions and limitations contained in this chapter, every company may exercise the following powers:

(1) To issue, negotiate, and sell its secured or unsecured certificates of investment or indebtedness, subject to subdivision ~~(17),~~ **(16),** upon terms and conditions, in any form, and payable at times that are not inconsistent with this chapter and, subject to subsection (c), bearing a rate of interest approved by the department.

(2) To make, purchase, discount, or otherwise acquire extensions of credit under IC 24-4.5.

(3) To lend money without security or upon the security of comakers, personal endorsement, or the mortgage of real or personal property or the mortgage or pledge of bailment leases or rentals due and to become due thereunder and other choses in action, and to contract for interest, discount, fees, charges, or other consideration fixed or permitted by any laws of Indiana concerning interest, discount, or usury.

(4) To discount, purchase, or otherwise acquire notes, bills of exchange, acceptances, bailment leases, and the property covered thereby or the rentals due or to become due thereunder or other choses in action and, subject to such restrictions the department imposes, to become owner or lessor of personal or real property acquired upon the request and for the use of a customer, and to incur additional obligations incident to becoming an owner or lessor of the property. The liability of a lessee under the lease does not constitute an obligation (as defined in section 8 of this chapter).

(5) To purchase or construct buildings and hold legal title to them, to be leased for public purposes to municipal corporations or other public authorities having resources sufficient to make payment of all rentals as they become due. Each lease agreement shall provide that upon expiration the lessee shall become owner of the building.

(6) To invest in bonds, notes, or certificates which are:

(A) the direct or indirect obligations of the United States or of the state;

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(B) obligations of mutual funds or financial institutions if the obligations represent a participation in a fund invested in, or are secured by, direct or indirect obligations of the United States owned by the mutual fund or financial institution;

(C) the direct obligations of a civil or school county, township, city, town, other taxing district, municipality of Indiana;

(D) a special taxing district in Indiana;

(E) issued by or in the name of:

(i) the trustees of Indiana University;

(ii) the trustees of Purdue University;

(iii) the trustees of Ball State University;

(iv) the trustees of Indiana State University; or

(v) the Indiana ~~health and educational facility~~ finance authority. ~~under IC 20-12-63;~~

(F) issued by or in the name of any municipality of Indiana and payable from the revenues to be derived from the operation of facilities for the production or distribution of water, electricity, gas, or from the operation of sewage works; or

(G) the obligations of any Indiana toll road commission, public library, or schoolhouse holding corporation first mortgage bonds;

which district, municipality, taxing unit, or corporation is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted for a period of more than six (6) months within the five (5) year period immediately preceding the purchase of the securities.

(7) To invest in bonds, notes, or debentures rated in one (1) of the first four (4) classifications established by one (1) or more standard rating services specified by the department that satisfy requirements of marketability prescribed periodically by the department that are the obligations of a person, a firm, a limited liability company, a corporation, a state, a territory, an insular possession of the United States, or a county, township, town, city, taxing district, or municipality thereof which is not then in default in the payment of either principal or interest on any of its funded obligations and has not so defaulted within the five (5) year period immediately preceding the purchase of the securities and other investment securities prescribed by the department by rule. As used in this section, the term "investment securities" means marketable obligations evidencing indebtedness of a person, firm, limited liability company, or corporation in the form of bonds, notes, or debentures commonly known as "investment securities"

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and the definition of the term "investment securities" prescribed by the department by rule. Except as is otherwise provided in this chapter or otherwise permitted by law, nothing contained in this subdivision authorizes the purchase by an industrial loan and investment company of shares of stock or other securities, unless the purchase is necessary to prevent loss under a debt previously contracted in good faith and stocks or other securities so purchased or acquired shall, within six (6) months from the time of its purchase, be sold or disposed of at public or private sale, unless otherwise ordered by the department.

(8) To invest in bonds or debentures issued under and by the authority of the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1429), or of the Home Owners' Loan Act (12 U.S.C. 1461 through 1468), or obligations issued by or for farm credit banks, and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(9) To invest in insured shares of an insured savings association organized under the laws of Indiana, and in insured shares of an insured federal savings association whose principal place of business is located in Indiana; and in certificates of indebtedness or investment of an industrial loan and investment company organized under the laws of Indiana. However, not more than twenty percent (20%) of the resources of the company may be invested in the insured shares of any such association nor more than ten percent (10%) of sound capital in such certificates of industrial loan and investment companies.

(10) To make loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator, and to obtain insurance from the administrator.

(11) To make loans secured by mortgage on real property or leasehold, insured by the federal housing administrator, or makes a commitment to insure and to obtain insurance from the administrator.

(12) To purchase, invest in, and dispose of notes or bonds secured by mortgage or trust deed insured by the federal housing administrator or debentures issued by the federal housing administrator, or bonds or other securities insured by national mortgage associations.

(13) To discount, purchase, or otherwise acquire charge accounts, and drafts and bills of exchange evidencing charge accounts and to impose and collect monthly service charges and maintenance

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charges on charge accounts, drafts, or bills of exchange which are owned or acquired in amounts agreed upon between the company and the obligor, or obligors, on charge accounts, drafts, and bills of exchange.

(14) To purchase or otherwise acquire property, real or personal, tangible or intangible, in which the company has a security interest to secure a debt owing to the company contracted in good faith or the purchase or acquisition of which property is considered expedient to prevent loss from a debt owing to the company contracted in good faith, and for such purpose to engage in any lawful business considered necessary or expedient by the company to preserve, protect, or make saleable the property. Property thus purchased or acquired shall be sold and disposed of within two (2) years, or a longer period permitted by the department, after the purchase or acquisition.

(15) To act as trustee of a trust created in the United States and forming part of a stock bonus, pension, or profit sharing plan that is qualified for tax treatment under Section 401(d) of the Internal Revenue Code, and to act as trustee or custodian of an individual retirement account within the meaning of Section 408 of the Internal Revenue Code, if the funds of that trust or account are only invested in certificates of investment or indebtedness of the company or in obligations or securities issued by that company. All funds held under this subdivision in a fiduciary capacity may be commingled by the company for appropriate investment purposes. However, individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this subdivision.

(16) To do anything necessary and appropriate to obtain or maintain federal deposit insurance under the Federal Deposit Insurance Corporation Act (12 U.S.C. 1811 through 1833e) or insurance under any other federal or Indiana law providing insurance for certificates of investment or indebtedness issued by a company. A company that obtains and maintains federal deposit insurance is not required to obtain approval from the department concerning the rate of interest payable on, or the form, the terms, or the conditions of the certificates of investment or indebtedness, and the company may exercise all of the powers that are conferred upon institutions maintaining federal deposit insurance that are not in conflict with Indiana law.

(17) To become a member of a federal home loan bank and acquire, own, pledge, sell, assign, or otherwise dispose of shares

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of the capital stock of a federal home loan bank.

(18) To borrow money and procure advances from a federal home loan bank and to transfer, assign to, and pledge with the federal home loan bank any of the bonds, notes, contracts, mortgages, securities, or other property of the company held or acquired as security for the payment of the loans and advances.

(19) To possess and exercise all rights, powers, and privileges conferred upon and do and perform all acts and things required of members or shareholders of a federal home loan bank, or by the provisions of 12 U.S.C. 1421 through 1449.

(20) Subject to section 6.3 of this chapter, to exercise the rights and privileges (as defined in section 6.3(a) of this chapter) that are or may be granted to national banks domiciled in Indiana.

(b) No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, applies to loans, advances of credit, or purchases made pursuant to subsection (a)(10), (a)(11), or (a)(12).

(c) If any national or state chartered bank or savings association is not limited by law with regard to the rate of interest payable on any type or category of checking account, savings account, or deposit, certificate of deposit, membership share, or other account, then industrial loan and investment companies are similarly not limited with regard to the interest payable on certificates of investment or indebtedness.

SECTION 39. IC 34-30-2-8, AS AMENDED BY P.L.235-2005, SECTION 207, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. IC 5-1-16-28 (Concerning bonds issued by the Indiana ~~health and educational facility financing~~ **finance** authority under IC 5-1-16).

SECTION 40. IC 34-30-2-87, AS AMENDED BY P.L.235-2005, SECTION 209, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 87. IC 20-12-63-15 (Concerning members of, and persons executing bonds for, the Indiana ~~health and educational facility~~ finance authority under IC 20-12-63).

SECTION 41. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2007]: IC 4-4-10.9-7.5; IC 4-4-10.9-8.5; IC 4-4-10.9-9; IC 4-4-10.9-9.5; IC 4-4-10.9-10; IC 4-4-10.9-16; IC 4-4-10.9-17; IC 4-4-10.9-26; IC 4-4-11-16; IC 4-4-11-16.3; IC 4-4-11-16.5; IC 4-4-11-44; IC 4-4-11-45; IC 4-4-26; IC 5-1-16-2; IC 5-1-16-3; IC 5-1-16-4; IC 5-1-16-5; IC 5-1-16-6; IC 5-1-16-7; IC 5-1-16-8;

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IC 5-1-16-9; IC 5-1-16-10.5; IC 5-1-16-11; IC 5-1-16-12; IC 5-1-16-13.1; IC 5-1-16-35; IC 15-7-4.9; IC 15-7-5; IC 20-12-63-24.

SECTION 42. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "IHEFFA" means the Indiana health and educational facility financing authority established by IC 5-1-16-2 (before its repeal).**

(b) As used in this SECTION, "IFA" means the Indiana finance authority established by IC 4-4-11-4.

(c) On July 1, 2007, all powers, duties, and liabilities of the IHEFFA are transferred to the IFA, as the successor entity. The terms of office of the members of the IHEFFA serving on June 30, 2007, terminate on July 1, 2007.

(d) On July 1, 2007, all records and property of the IHEFFA, including appropriations and other funds under the control or supervision of the authority, are transferred to the IFA, as the successor entity.

(e) After July 1, 2007, any amounts owed to the IHEFFA before July 1, 2007, are considered to be owed to the IFA, as the successor entity.

(f) After June 30, 2007, a reference to the IHEFFA in a statute, rule, or other document is considered a reference to the IFA, as the successor entity.

(g) All powers, duties, and liabilities of the IHEFFA with respect to bonds issued by the IHEFFA in connection with any trust agreement or indenture securing those bonds are transferred to the IFA, as the successor entity. The rights of the trustee under any trust agreement or indenture and the rights of the bondholders of the IHEFFA remain unchanged, although the powers, duties, and liabilities of the IHEFFA have been transferred to the IFA, as the successor entity.

SECTION 43. [EFFECTIVE JULY 1, 2007] **(a) As used in this SECTION, "transferred programs" refers to the following:**

(1) Shovel ready site development center under IC 5-28-28, as added by this act (IC 4-4-11-44 before its repeal).

(2) Capital access program under IC 5-28-29, as added by this act (IC 4-4-26 before its repeal).

(3) Industrial development loan guaranty program under IC 5-28-30, as added by this act (IC 4-4-11-16 before its repeal).

(4) Agricultural loan and rural development project guarantee fund under IC 5-28-31, as added by this act (IC 15-7-5-19.5 before its repeal).

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(5) Business development loan fund under IC 5-28-32, as added by this act (IC 4-4-11-16.5 before its repeal).

(b) On July 1, 2007, all powers, duties, and liabilities of the Indiana finance authority with respect to the transferred programs are transferred to the Indiana economic development corporation.

(c) On July 1, 2007, all records and property of the Indiana finance authority with respect to the transferred programs, including appropriations and other funds under the authority's control or supervision, are transferred to the Indiana economic development corporation.

(d) After June 30, 2007, any amounts owed to the Indiana finance authority under the transferred programs before July 1, 2007, are considered to be owed to the Indiana economic development corporation.

(e) After June 30, 2007, a reference to the Indiana finance authority in a statute, rule, or other document concerning a transferred program is considered a reference to the Indiana economic development corporation unless the reference applies to the issuance of obligations.

(f) On July 1, 2007, all powers, duties, and liabilities of the Indiana finance authority with respect to agreements entered into or obligations issued in connection with a transferred program are transferred to the Indiana economic development corporation. The rights of a party to such an agreement or the holder of such an obligation remain unchanged, although the powers, duties, and liabilities described in this subsection have been transferred to the Indiana economic development corporation.

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