

## **IC 5-1.5-5**

### **Chapter 5. Reserve Fund**

#### **IC 5-1.5-5-1**

##### **Establishment; application of funds; required debt service reserve; excess money**

Sec. 1. (a) The board may establish and maintain a reserve fund for each issue of bonds or notes in which there shall be deposited or transferred:

- (1) all money appropriated by the general assembly for the purpose of the fund in accordance with section 4(a) of this chapter;
- (2) all proceeds of bonds or notes required to be deposited in the fund by terms of a contract between the bank and its holders or a resolution of the bank with respect to the proceeds of bonds or notes;
- (3) all other money appropriated by the general assembly to a reserve fund; and
- (4) any other money or funds of the bank that it decides to deposit in the fund.

(b) Subject to section 4(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds or notes of the bank as the interest and principal become due and payable and for the retirement of bonds or notes. The money may not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds or notes and the principal of bonds or notes then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other money of the bank is not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution or trust agreement of the bank.

(c) Money in any reserve fund in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to another fund or account of the bank, subject to the provisions of any agreement with the holders of any bonds or notes.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.18; P.L.46-1987, SEC.13.*

#### **IC 5-1.5-5-2**

##### **Investment of funds**

Sec. 2. Money in any reserve fund may be invested in the manner provided in IC 5-1.5-3-3.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.19.*

#### **IC 5-1.5-5-3**

##### **Valuation of investments**

Sec. 3. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the bank. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.20.*

#### **IC 5-1.5-5-4**

##### **Required debt service reserve; resolution concerning appropriations; excess funds; budget committee review**

Sec. 4. (a) Except as provided in subsection (c), and in order to assure the maintenance of the required debt service reserve in any reserve fund, a resolution authorizing the bank to issue bonds or notes may include a provision stating that:

- (1) the general assembly may annually appropriate to the bank for deposit in one (1) or more of the funds the sum, certified by the chairman of the board to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve; and
- (2) the chairman annually, before December 1, shall make and deliver to the general assembly a certificate stating the sum required to restore the funds to that amount.

Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the bank for that fiscal year may be transferred to the general fund of the state.

(c) Notwithstanding any other law, and except as provided by subsection (d), after June 30, 2005, the:

- (1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or
- (2) execution by the bank of any other agreement that creates a reserve fund subject to subsection (a) to pay all or part of any indebtedness issued by the bank;

is subject to the conditions set forth in subsection (e) and review by the budget committee and approval by the budget director as required by subsection (f).

(d) If the budget committee does not conduct a review of a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the review is considered to have

been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

(e) Issuance by the bank of any indebtedness that establishes a reserve fund under subsection (a), the establishment of a procedure for certification, or the execution by the bank of any other agreement that creates a reserve fund subject to subsection (a) may be extended only for a project or a purpose that:

- (1) can be financed by a qualified entity under the law applying to financing by the qualified entity; or
- (2) is specifically authorized by the general assembly.

A reserve fund established under subsection (a) may be used only to finance the purchase of securities (as defined in IC 5-1.5-1-10) issued by entities described in IC 5-1.5-1-8.

(f) The budget director may approve establishing a reserve fund under subsection (a) only if the following conditions are satisfied:

- (1) The project or purpose qualifies under subsection (e).
- (2) The documentation required by subsection (g) has been provided by the bank.
- (3) The bank has provided the budget agency with a written finding that revenues available to the qualified entity to pay annual debt service exceed the annual debt service requirements by at least twenty percent (20%).
- (4) If the financing is for a project or purpose that will produce ongoing revenue from fees or user charges, the qualified entity agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) that the qualified entity will first increase the rate of the fees or user charges, or both, by an amount sufficient to satisfy any shortfall in the reserve fund established under subsection (a) before subsection (a) is to be applied.
- (5) A qualified entity seeking the benefit of a reserve fund established under subsection (a) agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) that the qualified entity will pledge sufficient property taxes, user fees, hook up fees, connection fees, or any other available local revenues or any combination of those revenues that will be sufficient to satisfy any shortfall in the reserve fund established under subsection (a) before subsection (a) is to be applied.
- (6) The instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) will include, to the extent the budget director determines is possible, a provision that money payable to the qualified entity by the state may be withheld by the auditor of state to recover any funds provided by the state, if subsection (a) is applied in connection with the qualified entity's securities.

(g) If the bank proposes that a reserve fund be established under subsection (a) for a project or purpose, the bank shall provide to the

budget committee and the budget agency at or before the time of the bank's request, the following information in writing:

- (1) A description of the project or purpose.
- (2) How the project or purpose satisfies the requirements of subsection (e).
- (3) The qualified entity's application for financing that was filed with the bank.
- (4) The estimated relative savings that can be achieved by establishing a reserve fund under subsection (a).
- (5) The finding required by subsection (f)(3) and proposed language for those instrument provisions required by subsection (f)(4) through (f)(6), if applicable.
- (6) Any other information required by the budget committee or budget agency.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.21; P.L.235-2005, SEC.77; P.L.229-2011, SEC.67.*

#### **IC 5-1.5-5-5**

##### **Combining reserve funds**

Sec. 5. Subject to the provisions of any agreement with its holders, the bank may combine a reserve fund established for an issue of bonds or notes into one (1) or more reserve funds.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.22.*

#### **IC 5-1.5-5-6**

##### **Certain qualified entities; debt service reserve appropriations not available**

Sec. 6. The provisions of section 4(a) of this chapter are not available to any bonds or notes issued by the bank to purchase securities of, or fund loans to, any qualified entity described in IC 5-1.5-1-8(5) or IC 5-1.5-1-8(6).

*As added by P.L.37-1991, SEC.4.*