

## **IC 5-1.5-8**

### **Chapter 8. Loans to Qualified Entities**

#### **IC 5-1.5-8-1**

##### **Purchase of securities offered by qualified entity; private sale; issuance of bonds and notes for purpose of purchase**

Sec. 1. The bank, to carry out the purposes and policies of this article, may purchase securities of the qualified entity. Notwithstanding any law to the contrary, a qualified entity may sell its securities to the bank at a negotiated, private sale. The bank, for this purpose, may issue its bonds and notes payable solely from the revenues or funds available to the bank for such payment and may otherwise assist qualified entities as provided in this article.

*As added by P.L.25-1984, SEC.1. Amended by P.L.28-1992, SEC.3.*

#### **IC 5-1.5-8-2**

##### **Securities to be purchased and held in name of bank; required documentation**

Sec. 2. (a) All securities at any time purchased, held, or owned by the bank shall at all times be purchased and held in the name of the bank.

(b) Except for agreements described in IC 5-1.5-1-10(4), all securities at any time purchased by the bank, upon delivery to the bank, shall, unless waived by the board, be accompanied by all documentation required by the board that shall include an approving opinion of recognized bond counsel, certification and guarantee of signatures, and certification as to no litigation pending as of the date of delivery of the securities challenging the validity or issuance of such securities.

*As added by P.L.25-1984, SEC.1. Amended by P.L.44-1990, SEC.3; P.L.28-1992, SEC.4.*

#### **IC 5-1.5-8-3**

##### **Contracts with bank; terms and conditions; fees and charges; denomination and prices**

Sec. 3. (a) Every qualified entity is authorized and empowered to contract with the bank with respect to the loan or purchase of its securities, and the contracts shall contain the terms and conditions of the loan or purchase and may be in any form agreed to by the bank and the qualified entity, including a customary form of bond ordinance or resolution. Every qualified entity is authorized and empowered to pay fees and charges required to be paid to the bank for its services.

(b) Notwithstanding any statute applicable to or constituting any limitation on the sale of bonds or notes or on entry into an agreement, any qualified entity may sell its securities to the bank, without limitation as to denomination, at a private sale at such price or prices as may be determined by the bank and the qualified entity.

(c) Notwithstanding any law that applies to or constitutes a limitation on the leasing or disposition of materials or other property,

and subject to subsection (d), any qualified entity, or any purchasing agency (as defined in IC 5-22-2-25) of a qualified entity, may:

- (1) assign or sell a lease or purchase contract for property to the bank;
- (2) enter into a lease or purchase contract for property with the bank; or
- (3) buy property from or sell property to the bank;

at any price and under any other terms and conditions as may be determined by the bank and the qualified entity.

(d) This subsection does not apply to a school corporation that buys or leases a school bus from the bank under IC 5-1.5-4-1(a)(5). Before taking an action described under subsection (c)(1) through (c)(3) that would otherwise be subject to IC 5-22, a qualified entity or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the sale, purchase contract, or lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

*As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.14; P.L.48-1989, SEC.2; P.L.49-1997, SEC.25; P.L.192-2006, SEC.2.*

#### **IC 5-1.5-8-4**

##### **Agreement with bank; waiver of statutory defenses to nonpayment; rights and remedies of bank**

Sec. 4. Upon the sale and delivery by a qualified entity of any securities to the bank, the qualified entity shall be deemed to have agreed that upon its failure to pay interest or principal on the securities owned or held by or arising from an agreement with the bank when payable, all statutory defenses to nonpayment are waived. Upon nonpayment and demand on the qualified entity for payment, if the securities are payable from property taxes and funds are not available in the treasury of the qualified entity to make payment, an action in mandamus for the levy of a tax to pay the interest and principal on the securities shall lie, and the bank shall be constituted a holder or owner of the securities as being in default. The bank may thereupon avail itself of all remedies, rights, and provisions of law applicable in the circumstances, and the failure to exercise or exert any rights or remedies within a time or period provided by law may not be raised as a defense by the qualified entity. The bank may carry out this section and exercise all the rights, remedies, and provisions of law provided or referred to in this section.

*As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.15.*

#### **IC 5-1.5-8-5**

##### **Department or agency of state as custodian of money payable to qualified entity; duty on default on payment of principal or interest by qualified entity**

Sec. 5. Notwithstanding any other provision of law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the qualified entity (other

than for goods or services provided by the qualified entity), at any time after written notice to the department or agency head from the bank that the qualified entity is in default on the payment of principal or interest on the securities of the qualified entity then held or owned by or arising from an agreement with the bank, the department or agency shall withhold the payment of that money from that qualified entity and pay over the money to the bank for the purpose of paying principal of and interest on bonds of the bank. However, the withholding of payment from the qualified entity and payment to the bank under this section must not adversely affect the validity of the security in default.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.26; P.L.46-1987, SEC.16.*

### **IC 5-1.5-8-6**

#### **Repealed**

*(Repealed by P.L.43-1985, SEC.28.)*

### **IC 5-1.5-8-6.1**

#### **Anticipation notes; issuance and purchase**

Sec. 6.1. (a) Notwithstanding any law applicable to a qualified entity concerning the issuance of bonds, a qualified entity that has complied with all statutory requirements for the issuance of its bonds may, in lieu of issuing bonds at that time and without the need for complying with any other law applicable to the issuance of bonds, notes, or other evidences of indebtedness, issue its notes in anticipation of the issuance of bonds to the bank, and the bank may purchase the bond anticipation notes. The bond anticipation notes may be issued on terms set forth in a resolution authorizing their issuance and in any amount equal to or less than the amount of bonds authorized to be issued. The qualified entity may renew or extend the bond anticipation notes from time to time on terms agreed to with the bank, and the bank may purchase the renewals or extensions. The amount of the accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended so long as the aggregate principal amount of bond anticipation notes outstanding at any time does not exceed the maximum principal amount permitted by this section. The bond anticipation notes of the qualified entity, including any renewals or extensions, must mature in the amounts and at the times (not exceeding five (5) years from the date of the original issuance of the bond anticipation notes) agreed to by the qualified entity and the bank. The bond anticipation notes must be finally paid, and interest on the bond anticipation notes may be finally paid, with the proceeds of the bonds issued by the qualified entity. In connection with the issuance of bonds part or all of the proceeds of which will be used to retire the bond anticipation notes, it is not necessary for the qualified entity to repeat the procedures for the issuance of bonds, as the procedures followed before the issuance of the bond anticipation notes are for all purposes sufficient to authorize the issuance of the

bonds.

(b) In connection with the purchase of bond anticipation notes, the bank may by agreement with the qualified entity impose any terms, conditions, and limitations as in its opinion are proper for the security of the bank and the holders of its bonds or notes. If the qualified entity fails to comply with the agreement or to issue its bonds to retire its bond anticipation notes, the bank may enforce all rights and remedies provided in the agreement or at law, including an action in mandamus to compel the issuance of bonds by the qualified entity.

*As added by P.L.43-1985, SEC.27.*

#### **IC 5-1.5-8-7**

##### **Investment and reinvestment; securities sold to bank**

Sec. 7. Notwithstanding any statute applicable to or constituting any limitation on the investment or reinvestment of funds by or on behalf of political subdivisions, a qualified entity selling securities to the bank in connection with a program established by the bank may invest and reinvest funds that constitute, replace, or substitute for the proceeds of securities sold to the bank under an established bank program in any instrument or other investment authorized under a resolution of the bank.

*As added by P.L.29-1992, SEC.3.*