

IC 5-1-16

Chapter 16. Indiana Finance Authority Financing of Health Facilities

IC 5-1-16-1

Definitions

Sec. 1. As used in this chapter:

"Authority" refers to the Indiana 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 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;

(2) is a residential facility for:

- (A) individuals with a physical, mental, or emotional disability;
- (B) individuals with a physical or mental illness; 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) individuals with a physical, mental, or emotional disability;
- (ii) individuals with a physical or mental illness; 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 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 individuals with a physical, mental, or emotional disability, individuals with a physical or mental illness, 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 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) individuals with a physical, mental, or emotional disability;
- (ii) individuals with a physical or mental illness; 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.

As added by P.L.45-1983, SEC.1. Amended by P.L.41-1985, SEC.1; P.L.28-1986, SEC.1; P.L.45-1987, SEC.1; P.L.39-1988, SEC.1; P.L.11-1990, SEC.104; P.L.2-1992, SEC.44; P.L.27-1992, SEC.1; P.L.2-1993, SEC.40; P.L.43-1993, SEC.1; P.L.56-1995, SEC.1; P.L.272-1999, SEC.3; P.L.5-2001, SEC.1; P.L.215-2001, SEC.7; P.L.64-2002, SEC.1; P.L.235-2005, SEC.62; P.L.141-2006, SEC.7; P.L.162-2007, SEC.15; P.L.99-2007, SEC.11.

IC 5-1-16-1.1

Applicability of provisions to the authority

Sec. 1.1. This chapter:

- (1) applies to the Indiana finance authority only when acting as the authority for the purposes set forth in this chapter; and
- (2) does not apply to the Indiana finance authority when acting under any other statute for any other purpose.

As added by P.L.235-2005, SEC.63. Amended by P.L.162-2007, SEC.16.

IC 5-1-16-1.5

Appropriation and expenditure of county tax money; leases binding upon county

Sec. 1.5. (a) For purposes of this chapter, county commissioner action or approval for the appropriation and expenditure of county tax money shall presuppose and include approval by the county council.

(b) A lease entered into by the board of county commissioners with the authority is valid or binding upon the county only if the lease is approved by a majority vote of the county council.

As added by P.L.43-1993, SEC.2.

IC 5-1-16-2

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-3

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-4

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-5

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-6

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-7

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-8

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-9

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-10

Repealed

(Repealed by P.L.235-2005, SEC.212.)

IC 5-1-16-10.5

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-11

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-12

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-13

Powers of authority

Sec. 13. (a) The authority has all powers necessary to carry out and effectuate its public and corporate purposes, including but not limited to the following:

(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.

(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.

(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.

(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.

(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.

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

(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.

(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.

(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.

(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.

(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.

(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.

(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.

(14) To sell, convey, mortgage, pledge, assign, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets.

(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.

(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.

(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.

(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.

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

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

(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 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.

(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.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.4; P.L.5-2001, SEC.2; P.L.235-2005, SEC.72; P.L.162-2007, SEC.17.

IC 5-1-16-13.1

Repealed

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-14

Competitive bidding requirement

Sec. 14. Health facility property financed under this chapter is not subject to any statutory requirement of competitive bidding or other restriction imposed on the procedure for award of contracts or the lease, sale, or other disposition of health facility property with regard to any action taken under authority of this chapter. However, if the prospective lessee or purchaser requests in writing, the authority shall call for the construction bids in a manner determined by the authority with the approval of such lessee or purchaser.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.5.

IC 5-1-16-15

Health facility property; participating providers

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)(4) and 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 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.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.6; P.L.5-2001, SEC.3; P.L.162-2007, SEC.18.

IC 5-1-16-16

Authority management; agreements

Sec. 16. The authority may employ and may enter into agreements with, and delegate to any person as it sees fit, the power to manage the routine affairs of the authority, including the originating and processing of any applications from participating providers for the lease or purchase from the authority, or financing, reimbursing, or refinancing by the authority, of health facility property and to service the leases, installment purchase contracts, and loan agreements between the authority and the participating providers.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.7.

IC 5-1-16-17

Security; transactions with participating providers

Sec. 17. Before exercising any of the powers conferred by section 15 of this chapter, the authority may:

(1) require that the lease, installment purchase contract, or loan agreement involved be insured by a loan insurer, be guaranteed by a loan guarantor, or be secured by a letter of credit; and

(2) require any other type of security from the participating providers that it considers reasonable and necessary.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-18

Power to issue bonds

Sec. 18. The authority may issue, sell, and deliver its bonds, in accordance with this chapter, for the purpose of paying for or making loans to participating providers for the financing, reimbursing, or refinancing of all or any part of the cost of health facility property, to finance the acquisition of health facility property for lease or sale to participating providers, and any other purposes authorized by this chapter.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.8.

IC 5-1-16-19

Bonds; requisites

Sec. 19. (a) The bonds must be dated, must bear interest at such rates (fixed or variable), must mature at such times not exceeding forty (40) years from their date, and may be made redeemable before maturity at such prices and upon terms and conditions determined by the authority. The bonds, including any interest coupons to be initially attached thereto, must be in the forms and denominations and payable at such places, as the authority determines. The bonds shall be executed by the manual or facsimile signature of the chairman or vice chairman of the authority, and the seal of the authority, or facsimile seal, shall be affixed or imprinted on the bonds. The seal shall be attested by the manual or facsimile signature of the public finance director. However, one (1) of the signatures must be manual, unless the bonds are authenticated by the manual signature of an authorized officer of a trustee for the bondholders. Any coupons attached must bear the facsimile signature of the chairman or vice chairman of the authority. If an officer's signature or a facsimile of whose signature appears on any bonds or coupons, and the officer ceases to be an officer before the delivery of and payment for such bonds, such signature or such facsimile is nevertheless valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery and payment. The bonds may be issued in coupon or in fully registered form, or both, or may be payable to a specific person, as the authority determines, and provision may be made for the registration of any coupon bonds as to principal alone or as to both principal and interest, for the conversion of coupon bonds into fully registered bonds without coupons, and for the conversion into coupon bonds of any fully registered bonds without coupons. The duty of conversion may be imposed upon a trustee in a trust agreement.

(b) The principal of, redemption premium, if any, and interest on such bonds shall be payable solely from and may be secured by a pledge of all or any part of the proceeds of bonds, revenues derived from the lease or sale of health facility property or realized from a

loan made by the authority to finance or refinance in whole or in part health facility property, revenues derived from operating health facility property, including insurance proceeds, or any other revenues provided by a participating provider.

(c) The authority shall sell the bonds at prices it determines, at public or private sale.

(d) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of such bonds, and, if considered advisable by the authority, for the additional purpose of paying all or any part of the cost of health facility property.

(e) The proceeds of any bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the authority. Subject to the provisions of any trust indenture to the contrary, any such escrowed proceeds, pending such use, may be invested and reinvested in such obligations as are determined by the authority in order to assure the prompt payment of the principal and interest and redemption premium, if any, on the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. Only after the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof shall be returned to the authority or the participating providers for use by them in any lawful manner. All such bonds are subject to this chapter in the same manner and to the same extent as other bonds issued under this chapter.

As added by P.L. 45-1983, SEC.1. Amended by P.L. 28-1986, SEC.9; P.L. 1-2009, SEC.12.

IC 5-1-16-20

Bond proceeds; use; disbursement

Sec. 20. The proceeds of the bonds (other than refunding bonds) of each issue shall be used for the payment of all or part of the cost of, or for the making of a loan in the amount of all or part of the cost of, the health facility property for which such bonds have been authorized and, at the option of the authority, for the deposit to a reserve fund or reserve funds for the bonds. However, the authority may be paid, out of money from the proceeds of the sale and delivery of its bonds issued in accordance with this chapter, all of the authority's out-of-pocket expenses and costs in connection with the

issuance, sale, and delivery of such bonds, and the costs of obtaining insurance, guarantees, and letters of credit securing payment of the bonds and the lease and the loan and installment purchase payments, plus an amount equal to the compensation paid to any employees of the authority for the time those employees have spent on activities relating to the issuance, sale, and delivery of the bonds. Bond proceeds shall be disbursed in the manner and under the restrictions determined by the authority.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.10.

IC 5-1-16-21

Trust indenture to secure bonds; operating expenses

Sec. 21. (a) The bonds may be secured by a trust indenture by and between the authority and a corporate trustee which may be any bank having the power of a trust company or any trust company in Indiana. The trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the holders of the bonds as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the exercise of its powers and the custody, investing, safekeeping, and application of all money. The authority may provide by the trust indenture for the payment of the proceeds of the bonds and the revenue to the trustee under the trust indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as the authority may determine. All expenses incurred in carrying out the trust indenture may be treated as a part of the operating expenses of the authority. If the bonds are secured by a trust indenture, the holders of the bonds have no authority to appoint a separate trustee to represent them.

(b) All expenses incurred in carrying out this chapter shall be payable solely from funds provided under the authority of this chapter and no liability may be incurred by the authority or the state beyond the extent to which money has been provided under this chapter.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-22

Bond resolutions or related instruments; provisions and additional security authorized

Sec. 22. Any bond resolution or related trust indenture, indenture of mortgage, or deed of trust may contain provisions, which must be a part of the contract with the holders of the bonds to be authorized, as to:

- (1) pledging or assigning the revenues generated by the health facility property, pledging or assigning the notes and mortgage, lease, or other security given by the participating providers whose health facility property has been financed with the proceeds of such bonds or other specified revenues or property of the authority;
- (2) the rentals, fees, interest, and other amounts to be charged

by the authority, the schedule of principal payments, and the sums to be raised in each year thereby, and the use, investment, and disposition of such sums;

(3) setting aside any reserves or sinking funds, and the regulation, investment, and disposition thereof;

(4) limitation on the use of the health facility property;

(5) limitations on the purpose to which or the investments in which the proceeds of sale of any issue of bonds then or thereafter may be applied;

(6) limitations on the issuance of additional bonds, terms upon which additional bonds may be issued and secured, and the terms upon which additional bonds may rank on a parity with, or be subordinate or superior to, other bonds;

(7) the refunding of outstanding bonds;

(8) the procedure, if any, by which the terms of any contract with holders of the bonds may be amended or abrogated, the amounts of bonds the holders of which must consent thereto, the manner in which such consent may be given, and restrictions on the individual rights of action by holders of the bonds;

(9) acts or omissions that constitute a default in the duties of the authority to holders of its bonds and providing the rights and remedies of such holders in the event of default; and

(10) any other matters relating to the bonds that the authority considers desirable.

Bonds of the authority may also be secured by and payable from a pooling of leases or of notes and mortgages or other security instruments whereby the authority may assign its rights, as lessor, and pledge rents under two (2) or more leases of health facility property with two (2) or more participating providers, as lessees, or assign its rights as payee or secured party and pledge the revenues under two (2) or more notes and loan agreements from two (2) or more participating providers, upon such terms as may be provided for in bond resolutions or other instruments under which such bonds are issued.

As added by P.L.45-1983, SEC.1. Amended by P.L.28-1986, SEC.11.

IC 5-1-16-23

Payment of bonds

Sec. 23. Every issue of bonds is payable solely out of revenues, assets, or money of the authority as the authority determines, subject only to any agreements with the holders of particular bonds pledging any particular money or revenue. The bonds may be additionally secured by a pledge of any grant, contribution, or guarantee from the federal government or any corporation, limited liability company, association, institution, or person or a pledge of any money, income, or revenue of the authority from any source.

As added by P.L.45-1983, SEC.1. Amended by P.L.8-1993, SEC.49.

IC 5-1-16-24

Bonds not indebtedness or obligation of state

Sec. 24. (a) Bonds issued under this chapter do not, and shall state upon the face of each bond that they do not, represent or constitute a debt of the authority or of the state within the meaning of the provisions of the Constitution or statutes of Indiana or a pledge of the faith and credit of the authority or the state or grant to the owners or holders thereof any right to have the authority or the state levy any taxes or appropriate any funds for the payment of the principal thereof or interest thereon. Such bonds are payable and shall state that they are payable solely from the funds pledged for their payment in accordance with the bond resolution or trust agreement securing the same.

(b) This chapter does not authorize the authority or any department, board, commission, or other agency to create an obligation of the state within the meaning of the Constitution or statutes of Indiana.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-25

Pledge by authority

Sec. 25. Any pledge made by the authority is valid and binding from the time when the pledge is made. The revenue, money, or properties so pledged and thereafter received by the authority are immediately subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-26

Repurchase of authority bonds

Sec. 26. The authority, subject to such agreements with holders of the bonds as then exist, may purchase bonds of the authority out of any available funds, which shall thereupon be cancelled, at any reasonable price which, if the bonds are then redeemable, does not exceed the redemption price then applicable plus accrued interest to the next interest payment date thereon.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-27

Negotiability of bonds

Sec. 27. Regardless of whether the bonds are in the form and character of negotiable instruments, the bonds are negotiable instruments, subject only to provisions of the bonds relating to registration.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-28

Personal liability of bond issuers

Sec. 28. Neither the members of the authority nor any other person executing the bonds issued under this chapter is subject to personal liability by reason of the issuance of the bonds.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-29**Establishment of funds and accounts**

Sec. 29. The authority may establish funds and accounts necessary for its purposes.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-30**Deposit of funds in accounts**

Sec. 30. All money of the authority, except as otherwise provided in this chapter, shall be deposited as soon as practical in a separate account in banks or trust companies organized under the laws of Indiana or in national banking associations. The money in these accounts shall be paid by checks signed by the public finance director or other officers or employees of the authority as the authority authorizes. All deposits of money shall, if required by the authority, be secured in such a manner as the authority determines to be prudent, and all banks or trust companies are authorized to give security for the deposits.

As added by P.L.45-1983, SEC.1. Amended by P.L.1-2009, SEC.13.

IC 5-1-16-31**Enforcement of rights and duties concerning bonds**

Sec. 31. (a) Any holder of bonds or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such bonds, except to the extent the rights given in this chapter may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of Indiana, or under such trust agreement or resolution, or under any other contract executed by the authority under this chapter, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the authority or by any officer thereof.

(b) The state does hereby pledge to and agree with the holders of any bonds issued under this chapter that the state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders of bonds, or in any way impair the rights or remedies of the holders until the bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The authority may include this subsection in any agreement with the holders of the bonds.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-32**Payment of expenses**

Sec. 32. All expenses incurred by the authority in carrying out this chapter are payable solely from funds provided under this chapter, except to the extent payable from grants or advances from participating providers or any other entity, which grants or advances may be reimbursed from bond proceeds, and this chapter does not authorize the authority to incur indebtedness or liability on behalf of or payable by the state or any political subdivision of it.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-33**Public property; tax exemption**

Sec. 33. All property acquired or held by the authority under this chapter is declared to be public property used for public and governmental purposes, and all property, income therefrom and bonds issued under this chapter, interest payable thereon and income derived therefrom, are exempt from all taxes, direct or indirect, imposed by the state, any county, any city, or any political subdivision of the state.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-34**Bonds as legal investments**

Sec. 34. The bonds issued under this chapter by the authority are legal investments in which all public officers or public bodies of this state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies, associations, and other persons carrying on insurance business, all banks, bankers, banking associations, trust companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or in other obligations of this state, may invest funds, including capital, in their control or belonging to them. Such bonds are securities which may be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is authorized by law.

As added by P.L.45-1983, SEC.1.

IC 5-1-16-35**Repealed**

(Repealed by P.L.162-2007, SEC.42.)

IC 5-1-16-36**Construction of chapter**

Sec. 36. Nothing in this chapter may be construed as a restriction

or limitation upon any powers which the authority might otherwise have under any other law of this state, and this chapter is cumulative to such powers. This chapter shall be construed to provide a complete, additional, and alternative method for the doing of the things authorized, and shall be construed as supplemental to powers conferred by any other laws. The adoption by the authority of bylaws and rules, and the issuance of bonds by the authority under this chapter need not comply with the requirements of any other state laws applicable to the adoption of bylaws and rules and the issuance of bonds, notes, and other obligations. No proceedings, notice, or approval is required for the issuance of any bonds or any instrument or the security therefor, or for the proper conduct of the authority's business, affairs, or operations, except as provided in this chapter.
As added by P.L.45-1983, SEC.1.

IC 5-1-16-37

Repealed

(Repealed by P.L.1-2010, SEC.156.)

IC 5-1-16-38

Leases by county with the authority

Sec. 38. (a) A county may lease land and buildings, including the necessary equipment and appurtenances, from the authority for hospital purposes. No contract of lease on a particular building shall be entered into for a period of more than forty (40) years. However, a contract of lease is renewable for less than forty (40) years.

(b) A lease entered into by a county may require the funding of a reserve fund for the benefit of the authority or the authority's assigns. In order to assure the maintenance of the required reserve amount in any reserve fund, the county council may appropriate for deposit in the reserve fund the sum certified by the county fiscal officer to the county council that is necessary to restore the reserve fund to an amount equal to the required reserve amount. The county fiscal officer shall annually before December 1 prepare and deliver a certificate to the county council stating the sum required to restore the reserve fund to the appropriate reserve amount. Nothing in this subsection creates a debt or liability of the county to make an appropriation.

(c) All amounts received because of money appropriated by the county to a reserve fund must be held by the authority under the lease and applied in accordance with the lease.

As added by P.L.43-1993, SEC.3.

IC 5-1-16-39

Leases before construction, erection, or renovation of buildings

Sec. 39. A county may, in anticipation of the construction, erection, or renovation of a building (including the necessary equipment and appurtenances), make and enter into a contract of lease with the authority prior to the actual acquisition of a site and the construction, erection, or renovation of the building. The contract

of lease shall not provide for the payment of any lease rental by the lessee until the building is ready for occupancy. However, if a building is to be acquired and renovated under this chapter, a county may, in anticipation of the acquisition and renovation, make and enter into a contract of lease upon terms and conditions that are agreed upon by the county and the authority, including:

- (1) terms and conditions upon which the county may continue to operate the building until completion of the renovation; and
- (2) the payment of a lease rental by the lessee during the period of renovation.

As added by P.L.43-1993, SEC.4.

IC 5-1-16-40

Payment of lease rental

Sec. 40. (a) Any lease executed under section 38 or 39 of this chapter may provide for the payment of the lease rental in any one (1) of the following ways as established in the lease:

- (1) Entirely from the levy of taxes.
- (2) Entirely from the net revenues of the hospital of which the leased building is a part.
- (3) In part from the levy of taxes and in part from the net revenues described in subdivision (2).

(b) If any lease provides for the payment of lease rental in whole or in part from net revenues of the hospital, the lease may further provide that the county and the board of trustees or board of managers of the hospital set aside and hold as a reserve for such purpose excess net revenues over and above the amount required to pay lease rental payable from net revenues. The reserve fund may not exceed an amount equal to the amount of lease rental payable from net revenues for two (2) years. The reserve fund shall be held and used only for the purpose of paying lease rental payable from net revenues, if such net revenues at any time are insufficient to pay lease rentals. The amount in the reserve fund may be invested in the manner and to the extent provided in the lease. All interest or other income from the investment shall become part of the reserve fund unless the reserve fund contains the maximum amount required to be in the reserve fund. The following occur if the reserve fund contains the maximum amount required to be in the reserve fund:

- (1) If any of the lease rental is payable from taxes, the interest or other income shall be transferred to the fund to be used for the payment of the lease rental provided to be paid from taxes.
- (2) If none of the lease rental is payable from taxes, the interest or other income shall become a part of the reserve fund.

As added by P.L.43-1993, SEC.5.

IC 5-1-16-41

Payment of lease rental from cumulative building fund

Sec. 41. In addition to the ways specified in section 40 of this chapter for the payment of lease rental, any lease executed under this chapter may provide for the payment of lease rental from a

cumulative building fund established by the lessee under IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1, 1993). Part or all of a cumulative building fund and the tax levied for that cumulative building fund may be committed and pledged to the payment of the lease rental. To the extent that the amount committed and pledged is insufficient to pay the lease rental, the lease shall provide that any remaining lease rental shall be paid entirely from the net revenues of the hospital of which the leased building is a part. So long as the lease remains in effect:

- (1) any amount of cumulative building fund so committed and pledged may not be expended by lessee for any other purpose; and
- (2) the tax levy committed and pledged for the cumulative building fund may not be reduced or rescinded by the county council.

Notwithstanding any other provision of this chapter, if a lease provides for payment of lease rental under this section, no approval of the county council is required for the lease, the terms and conditions of the lease, or the sale of the land by the county to the authority under this chapter.

As added by P.L.43-1993, SEC.6.

IC 5-1-16-42

Notice of public hearing; notice of execution of lease; action to contest validity of lease; taxpayer objections to lease

Sec. 42. (a) When the authority, the board of trustees or board of managers of the hospital, the board of commissioners of the county, and a majority of the county council have agreed upon the terms and conditions of any lease proposed to be entered into under section 38 or 39 of this chapter, and before the final execution of the lease, the county auditor shall give notice by publication of a public hearing to be held in the county by the board of commissioners. The hearing shall take place on a day not earlier than ten (10) days after the publication of the notice. The notice of the hearing shall be published one (1) time in a newspaper of general circulation printed in the English language and published in the county. The notice shall do the following:

- (1) Name the day, place, and hour of the hearing.
- (2) Set forth a brief summary of the principal terms of the lease agreed upon, including the character and location of the property to be leased, the lease rental to be paid, and the number of years the contract is to be in effect.
- (3) State a location where the proposed lease, drawings, plans, specifications, and estimates may be examined.

The proposed lease and the drawings, plans, specifications, and estimates of construction cost for the building shall be open to inspection by the public during the ten (10) day period and at the hearing. All interested persons shall have a right to be heard at the hearing on the necessity for the execution of the lease and whether the lease rental under the lease is fair and reasonable. The hearing

may be adjourned to a later date with the place of the hearing fixed prior to adjournment. Following the hearing, the board of commissioners may either authorize the execution of the lease as originally agreed upon or may make modifications that are agreed upon by the authority, the board of trustees or board of managers of the hospital, and the county council. The authorization shall be by an order that is entered in the official records of the board of commissioners. The lease contract shall be executed on behalf of the county by the board of commissioners.

(b) If the execution of the lease as originally agreed upon or as modified by agreement is authorized, notice of the signing of the lease shall be given on behalf of the county by publication one (1) time in a newspaper of general circulation printed in the English language and published in the county. Except as provided in subsection (d), ten (10) or more taxpayers in the county whose tax rate will be affected by the proposed lease and who may be of the opinion that no necessity exists for the execution of the lease or that the lease rental under the lease is not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after publication of notice of the execution of the lease that sets forth the taxpayers' objections and facts supporting those objections. Upon the filing of a petition, the county auditor shall immediately certify a copy of the petition together with such other data as may be necessary in order to present the questions involved to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place in the affected county for the hearing of the matter that is not less than five (5) or more than fifteen (15) days after receipt. Notice of the hearing shall be given by the department of local government finance to the board of county commissioners and to the first ten (10) taxpayer petitioners upon the petition by certified mail sent to the addresses listed on the petition at least five (5) days before the date of the hearing.

(c) No action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease shall be instituted at any time later than thirty (30) days after publication of notice of the execution of the lease, or if an appeal has been taken to the department of local government finance, then within thirty (30) days after the decision of the department.

(d) The authority for taxpayers to object to a proposed lease under subsection (b) does not apply if the authority complies with the procedures for the issuance of bonds and other evidences of indebtedness described in IC 6-1.1-20.

As added by P.L.43-1993, SEC.7. Amended by P.L.35-1997, SEC.1; P.L.90-2002, SEC.13; P.L.146-2008, SEC.32.

IC 5-1-16-43

Options to renew and to purchase; obligations of county; general obligation bonds

Sec. 43. (a) A lease under this chapter may provide that the lessee

has an option to renew the lease for a like or lesser term, on the conditions that are provided in the lease. A lease shall contain an option to purchase:

(1) at any time after ten (10) years from the execution of the lease and prior to the expiration of the term of lease on the date fixed in the lease; and

(2) at a price equal to:

(A) the amount required to enable the authority to redeem all outstanding securities payable out of the rentals provided for in the lease, all premiums payable on the redemption, and accrued and unpaid interest; and

(B) all other expenses, indebtedness, and obligations of the authority attributable to the acquisition, construction, renovation, and leasing of the building.

(b) No lease shall provide or be construed to provide that the county is under any obligation to purchase the leased building or under any obligation with respect to any creditor or bondholder of the authority.

(c) A county exercising an option to purchase may issue general obligation bonds for the purpose of procuring funds with which to pay the purchase price of the building. The general obligation bonds shall be authorized, issued, and sold in the manner provided by law for the authorization, issuance, and sale of general obligation bonds of the county for other purposes.

As added by P.L.43-1993, SEC.8.

IC 5-1-16-44

Approval of plans, specifications, and cost estimates

Sec. 44. On behalf of the authority, the board of directors or board of managers of the hospital shall, prior to the execution of a contract of lease, submit to and receive the approval of the board of commissioners of the county of the plans, specifications, and estimates of cost for the building or renovation. The plans and specifications shall be submitted to and approved by the state board of health, the division of fire and building safety, and other state agencies that are required by law to pass on plans and specifications for public buildings.

As added by P.L.43-1993, SEC.9. Amended by P.L.1-2006, SEC.86.

IC 5-1-16-45

Sale of county land to the authority

Sec. 45. (a) A county desiring to have a building erected or renovated on land owned or to be acquired by the county may sell that land or building to the authority. Before the sale may take place, the county commissioners shall file a petition with the circuit court of the county requesting the appointment of:

(1) one (1) disinterested freeholder of the county as an appraiser; and

(2) two (2) disinterested appraisers licensed under IC 25-34.1; who are residents of Indiana to determine the fair market value of the

land or building. One (1) of the appraisers described under subdivision (2) must reside not more than fifty (50) miles from the land or building. Upon appointment, the appraisers shall fix the fair market value of the land or building and shall report that value within two (2) weeks from the date of their appointment. The county may then sell the land or building to the authority for an amount not less than the amount fixed by the appraisers as the fair market value. The amount shall be paid in cash upon delivery of the deed by the county to the authority. If a cumulative building fund exists at the time of the sale, the proceeds from the sale shall be placed in that fund. If a cumulative building fund does not exist at the time of the sale, the proceeds from the sale shall be paid into the county hospital fund with the principal and interest on the fund to be used solely by the county hospital for the purposes set forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1, 1993). A sale of land or a building by a county to the authority shall be authorized by the board of commissioners by an order that shall be entered in the official records of the board. The deed shall be executed on behalf of the county by the board of county commissioners.

(b) A contract entered into under this chapter for a public work (as defined in IC 5-16-7-4) is subject to IC 5-16-7.

As added by P.L.43-1993, SEC.10. Amended by P.L.113-2006, SEC.1.

IC 5-1-16-46

Party wall agreements

Sec. 46. A county and an authority that have entered into, or propose to enter into, a lease under this chapter may enter into party wall agreements or other agreements concerning the attaching of an addition to a hospital building, if the agreement is:

- (1) approved by the board of trustees or board of managers of the hospital; and
- (2) recorded in the office of the recorder of the county in which the hospital is located.

An agreement may provide for an easement or license to construct a part of an addition over or above the existing hospital building.

As added by P.L.43-1993, SEC.11.