

**IC 5-20**

**ARTICLE 20. HOUSING**

**IC 5-20-1**

Chapter 1. Indiana Housing and Community Development Authority

**IC 5-20-1-1**

**Legislative findings and declaration of public policy**

Sec. 1. Legislative Findings and Declaration of Public Policy. It is hereby declared:

(1) that there exists in the state of Indiana a need for safe and sanitary residential housing within the financial means of low and moderate income persons and families, a need which unmet is a threat to the health, safety, morals and welfare of Indiana residents and which will require an excessive expenditure of public funds for the social problems thus created;

(2) that private enterprise and investment will more adequately be able to produce the needed construction of decent, safe and sanitary residential housing at prices or rentals which persons and families of low and moderate income can afford, or to achieve the urgently needed rehabilitation of much of the present low and moderate income housing; that it is imperative that the supply of residential housing for persons and families of low and moderate income displaced by public actions or natural disaster be increased; and that private enterprise and investment be encouraged to sponsor, build and rehabilitate residential housing for such persons and families;

(3) that the provision of decent, safe and sanitary housing for persons and families of low and moderate income who would otherwise be unable to obtain adequate housing at costs they could afford is a valid public purpose for which public money may be spent;

(4) that there exists a need in Indiana to stimulate the residential housing industry; that public employees have unmet needs with regard to residential housing; that state retirement plans need additional, safe avenues for investment; and that the provision of money for mortgage loans through the issuance of mortgage-backed bonds or notes will in part meet these needs; and

(5) that the necessity in the public interest and welfare for the provisions of this chapter is hereby declared a matter of legislative determination.

*As added by Acts 1978, P.L.28, SEC.1. Amended by Acts 1982, P.L.35, SEC.2.*

**IC 5-20-1-2**

**Definitions**

Sec. 2. As used in this chapter:

"Assisted" means, with respect to a loan:

(1) the payment by the United States or any duly authorized agency of the United States of assistance payments, interest payments, or mortgage reduction payments with respect to such loan; or

(2) the provision of insurance, guaranty, security, collateral, subsidies, or other forms of assistance or aid acceptable to the authority for the making, holding, or selling of a loan from the United States, any duly authorized agency of the United States, or any entity or corporation acceptable to the authority, other than the sponsor.

"Authority" means the Indiana housing and community development authority created by section 3 of this chapter.

"Bonds" or "notes" means the bonds or notes authorized to be issued by the authority under this chapter.

"Community based residential programs" refers to programs developed by the division of mental health and addiction under IC 12-22-2-3.5.

"Development costs" means the costs approved by the authority as appropriate expenditures and credits which may be incurred by sponsors, builders, and developers of residential housing prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage, including but not limited to:

(1) payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the authority, payments for the purchase of such properties;

(2) legal, organizational, and marketing expenses, including payments of attorney's fees, project manager, clerical, and other incidental expenses;

(3) payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work;

(4) expenses for surveys as to need and market analyses;

(5) necessary application and other fees;

(6) credits allowed by the authority to recognize the value of service provided at no cost by the sponsors, builders, or developers; and

(7) such other expenses as the authority deems appropriate for the purposes of this chapter.

"Governmental agency" means any department, division, public agency, political subdivision, or other public instrumentality of the state of Indiana, the federal government, any other state or public agency, or any two (2) or more thereof.

"Construction loan" means a loan to provide interim financing for the acquisition or construction of single family residential housing, including land development.

"Mortgage" or "mortgage loan" means a loan to provide permanent financing for:

(1) the rehabilitation, acquisition, or construction of single family residential housing, including land development; or

(2) the weatherization of single family residences.

"Mortgage lender" means a bank, trust company, savings bank, savings association, credit union, national banking association, federal savings association or federal credit union maintaining an office in this state, a public utility (as defined in IC 8-1-2-1), a gas utility system organized under IC 8-1-11.1, an insurance company authorized to do business in this state, or any mortgage banking firm or mortgagee authorized to do business in this state and approved by either the authority or the Department of Housing and Urban Development.

"Land development" means the process of acquiring land primarily for residential housing construction for persons and families of low and moderate income and making, installing, or constructing nonresidential housing improvements, including water, sewer, and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or works, whether on or off the site, which the authority deems necessary or desirable to prepare such land primarily for residential housing construction.

"Obligations" means any bonds or notes authorized to be issued by the authority under this chapter.

"Persons and families of low and moderate income" means persons and families of insufficient personal or family income to afford adequate housing as determined by the standards established by the authority, and in determining such standards the authority shall take into account the following:

- (1) The amount of total income of such persons and families available for housing needs.
- (2) The size of the family.
- (3) The cost and condition of housing facilities available in the different geographic areas of the state.
- (4) The ability of such persons and families to compete successfully in the private housing market and to pay the amounts at which private enterprise is providing sanitary, decent, and safe housing.

The standards shall, however, comply with the applicable limitations of section 4(b) of this chapter.

"Residential facility for children" means a facility:

- (1) that provides residential services to individuals who are:
  - (A) under twenty-one (21) years of age; and
  - (B) adjudicated to be children in need of services under IC 31-34 (or IC 31-6-4 before its repeal) or delinquent children under IC 31-37 (or IC 31-6-4 before its repeal); and
- (2) that is:
  - (A) a child caring institution that is or will be licensed under IC 31-27;
  - (B) a residential facility that is or will be licensed under IC 12-28-5; or
  - (C) a facility that is or will be certified by the division of mental health and addiction under IC 12-23.

"Residential facility for persons with a developmental disability" means a facility that is approved for use in a community residential

program for the developmentally disabled under IC 12-11-1.1.

"Residential housing" means a specific work or improvement undertaken primarily to provide single or multiple family housing for rental or sale to persons and families of low and moderate income, including the acquisition, construction, or rehabilitation of lands, buildings, and improvements to the housing, and such other nonhousing facilities as may be incidental or appurtenant to the housing.

"Sponsors", "builders", or "developers" means corporations, associations, partnerships, limited liability companies, or other entities and consumer housing cooperatives organized pursuant to law for the primary purpose of providing housing to low and moderate income persons and families.

"State" means the state of Indiana.

"Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

- (1) Counseling on household management, housekeeping, budgeting, and money management.
- (2) Child care and similar matters.
- (3) Access to available community services related to job training and placement, education, health, welfare, and other community services.
- (4) Guard and other matters related to the physical security of the housing residents.
- (5) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management, and maintenance.
- (6) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations.
- (7) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs.
- (8) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices either in general or in relation to an individual or family.

*As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.60-1983, SEC.1; P.L.39-1984, SEC.1; P.L.40-1984, SEC.1; P.L.28-1985, SEC.3; P.L.2-1992, SEC.54; P.L.81-1992, SEC.3; P.L.1-1993, SEC.26; P.L.8-1993, SEC.72; P.L.61-1993, SEC.1; P.L.62-1993, SEC.1; P.L.1-1994, SEC.22; P.L.1-1997, SEC.36; P.L.79-1998, SEC.10; P.L.272-1999, SEC.4; P.L.215-2001, SEC.8; P.L.1-2006, SEC.105; P.L.145-2006, SEC.11; P.L.181-2006, SEC.17; P.L.99-2007, SEC.19; P.L.143-2011, SEC.1.*

### **IC 5-20-1-3**

**Authority creation; membership; terms; expenses; references to Indiana housing finance authority**

Sec. 3. (a) There is created a public body corporate and politic of the state of Indiana to be known as the "Indiana housing and community development authority". The authority shall consist of the following seven (7) members:

- (1) The lieutenant governor or the lieutenant governor's designee.
- (2) The treasurer of state, or the treasurer of state's designee.
- (3) The public finance director of the Indiana finance authority, or the public finance director's designee.
- (4) Four (4) members appointed by the governor.

Not more than three (3) of the members of the authority appointed under subdivision (4) shall be members of the same political party. Members of the authority appointed by the governor shall serve for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. However, any appointed member of the authority shall be removable at the pleasure of the governor, with or without cause. A member of the authority shall receive no compensation for the member's services but shall be entitled to reimbursement for the necessary expenses, including traveling expenses, incurred in the discharge of the member's duties. Each member shall hold office until the member's successor has been appointed and has qualified. A certificate of appointment or reappointment of any members shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointments of the member.

(b) The powers of the authority shall be vested in the members thereof in office from time to time. A majority of the members of the authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. Meetings of the members of the authority may be held anywhere within or outside the state.

(c) The governor shall appoint a chairman and vice-chairman from the members of the authority. The governor shall appoint an executive director for the authority, who shall serve at the pleasure of the governor and receive compensation as fixed by the authority. The authority shall employ legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The authority may also engage independent legal counsel to assist it. The authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

(d) The authority may also contract with any entity, including the Indiana finance authority, to provide staff or services, including the functions of the executive director and employees of the authority, under such terms as the authority determines.

(e) After May 14, 2005, a reference to the Indiana housing finance authority in a statute, rule, or other document is considered a reference to the authority as the successor agency.

*As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.235-2005, SEC.86; P.L.20-2010, SEC.5.*

### **IC 5-20-1-3.5**

#### **Surety bonds**

Sec. 3.5. Before the issuance of any bonds under this chapter:

- (1) the executive director of the authority;
- (2) each member of the authority; and
- (3) any other employee or agent of the authority authorized by resolution of the authority to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars (\$50,000). If an individual described in subdivisions (1) through (3) is already covered by a bond required by state law, the individual need not obtain another bond if the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the authority. In lieu of this bond, the chairman of the authority may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the authority. Each surety bond must be conditioned upon the faithful performance of the individual's duties, and shall be issued by a surety company authorized to transact business in Indiana as surety. At all times after the issuance of any surety bonds, these surety bonds shall be maintained in full force and effect. All costs of the surety bonds shall be borne by the authority.

*As added by P.L.235-2005, SEC.87.*

### **IC 5-20-1-4**

#### **Powers of the authority**

Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

- (1) to make or participate in the making of construction loans for multiple family residential housing under terms that are approved by the authority;
- (2) to make or participate in the making of mortgage loans for multiple family residential housing under terms that are approved by the authority;
- (3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;
- (4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or

resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in

residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;

(17) to accept gifts, devise, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) to sue and be sued in its own name, plead and be impleaded;

(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;

(20) to adopt an official seal and alter the same at pleasure;

(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;

(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, 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;

(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for individuals with a developmental disability or for individuals with a mental illness or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for individuals with a developmental disability or for individuals with a mental illness;

(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

(A) public utilities (as defined in IC 8-1-2-1); or

(B) municipally owned gas utility systems organized under

IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing;

(29) 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;

(30) to promote and foster community revitalization through community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals and families, including individuals or families facing or experiencing homelessness;

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to prescribe, in accordance with IC 32-30-10.5-10(i), a list of documents that must be included as part of a debtor's loss mitigation package in a foreclosure action filed under IC 32-30-10.5 after June 30, 2011;

(34) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(35) to administer any program or money designated by the state or available from the federal government or other sources that is consistent with the authority's powers and duties.

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) The authority shall ensure that a mortgage loan acquired by the authority under subsection (a)(3) or made by a mortgage lender with funds provided by the authority under subsection (a)(4) is not knowingly made to a person whose adjusted family income, as determined by the authority, exceeds one hundred twenty-five percent (125%) of the median income for the geographic area involved. However, if the authority determines that additional encouragement is needed for the development of the geographic area involved, a mortgage loan acquired or made under subsection (a)(3) or (a)(4) may be made to a person whose adjusted family income, as

determined by the authority, does not exceed one hundred forty percent (140%) of the median income for the geographic area involved. The authority shall establish procedures that the authority determines are appropriate to structure and administer any program conducted under subsection (a)(3) or (a)(4) for the purpose of acquiring or making mortgage loans to persons of low or moderate income. In determining what constitutes low income, moderate income, or median income for purposes of any program conducted under subsection (a)(3) or (a)(4), the authority shall consider:

- (1) the appropriate geographic area in which to measure income levels; and
- (2) the appropriate method of calculating low income, moderate income, or median income levels including:
  - (A) sources of;
  - (B) exclusions from; and
  - (C) adjustments to;income.

(c) The authority, when directed by the governor, shall administer programs and funds under 42 U.S.C. 1437 et seq.

(d) The authority shall identify, promote, assist, and fund:

- (1) home ownership education programs; and
- (2) mortgage foreclosure counseling and education programs under IC 5-20-6;

conducted throughout Indiana by nonprofit counseling agencies that the authority has certified, or by any other public, private, or nonprofit entity in partnership with a nonprofit agency that the authority has certified, using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

(e) The authority shall:

- (1) oversee and encourage a regional homeless delivery system that:
  - (A) considers the need for housing and support services;
  - (B) implements strategies to respond to gaps in the delivery system; and
  - (C) ensures individuals and families are matched with optimal housing solutions;
- (2) facilitate the dissemination of information to assist individuals and families accessing local resources, programs, and services related to homelessness, housing, and community development; and
- (3) each year, estimate and reasonably determine the number of the following:
  - (A) Individuals in Indiana who are homeless.
  - (B) Individuals in Indiana who are homeless and less than eighteen (18) years of age.
  - (C) Individuals in Indiana who are homeless and not residents of Indiana.

*As added by Acts 1978, P.L.28, SEC.1. Amended by Acts 1982,*

*P.L.35, SEC.3; P.L.60-1983, SEC.2; P.L.39-1984, SEC.2; P.L.3-1989, SEC.30; P.L.69-1989, SEC.2; P.L.14-1991, SEC.3; P.L.2-1992, SEC.55; P.L.8-1993, SEC.73; P.L.27-1993, SEC.16; P.L.1-1994, SEC.23; P.L.235-2005, SEC.88; P.L.145-2006, SEC.12; P.L.181-2006, SEC.18; P.L.99-2007, SEC.20; P.L.133-2008, SEC.1; P.L.145-2008, SEC.3; P.L.1-2009, SEC.23; P.L.105-2009, SEC.1; P.L.170-2011, SEC.2.*

#### **IC 5-20-1-4.1**

##### **Repealed**

*(Repealed by P.L.177-2011, SEC.5.)*

#### **IC 5-20-1-4.5**

##### **Housing for special needs populations; allocation of federal low income housing credits**

Sec. 4.5. (a) As used in this section, "special needs populations" includes the following:

- (1) Persons with physical or developmental disabilities.
- (2) Persons with mental impairments.
- (3) Single parent households.
- (4) Victims of domestic violence.
- (5) Abused children.
- (6) Persons with chemical addictions.
- (7) Homeless persons.
- (8) The elderly.

(b) As used in this section, "qualified building" means a building:

- (1) that is used or will be used to provide residential housing for special needs populations; and
- (2) for which a taxpayer is eligible to claim a low income housing credit under 26 U.S.C. 42.

(c) Subject to subsection (d), the authority shall allocate to qualified buildings at least ten percent (10%) of the total dollar amount of federal low income housing credits allocated to the authority under 26 U.S.C. 42. The authority shall allocate credits under this section based on the proportionate amount of a qualified building that is used to provide residential housing for special needs populations, as determined by the authority.

(d) The authority shall hold available the allocation made under subsection (c) for qualified buildings through October 31 of each calendar year. Beginning November 1 of each calendar year, any part of the allocation that remains unassigned shall be available for any appropriate use under 26 U.S.C. 42.

*As added by P.L.74-1989, SEC.1. Amended by P.L.2-1993, SEC.52; P.L.23-1993, SEC.17; P.L.272-1999, SEC.5; P.L.145-2008, SEC.4.*

#### **IC 5-20-1-5**

##### **Repealed**

*(Repealed by P.L.145-2008, SEC.34.)*

#### **IC 5-20-1-6**

**Repealed**

*(Repealed by P.L.145-2008, SEC.34.)*

**IC 5-20-1-7**

**State not liable for obligations of the Indiana housing and community development authority**

Sec. 7. (a) Obligations issued under the provisions of this chapter do not constitute a debt, liability, or obligation of the state of Indiana or a pledge of the faith and credit of the state of Indiana, but shall be payable solely from the revenues or assets of the authority. Under any circumstances, general fund revenues of the state of Indiana may not be used to pay all or part of the obligations of the authority, and there is no moral obligation of the state of Indiana to pay all or part of the obligations of the authority. Each obligation issued under this chapter shall contain on the face thereof a statement to the effect that the authority shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the state of Indiana is pledged to the payment of the principal of or the interest on such obligation.

(b) Expenses incurred by the authority in carrying out the provisions of this chapter may be made payable from funds provided pursuant to this chapter, and no liability shall be incurred by the authority under this chapter beyond the extent to which moneys shall have been so provided.

*As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.1-2006, SEC.106 and P.L.181-2006, SEC.19.*

**IC 5-20-1-8**

**Authorization to use revenue bond financing; approval of public finance director required**

Sec. 8. (a) Subject to the approval of the public finance director appointed under IC 4-4-11-9, the authority is hereby authorized to issue bonds or notes, or a combination thereof, to carry out and effectuate its purposes and powers. The principal of, and the interest on, such bonds or notes shall be payable solely from the funds provided for such payment in this chapter. The authority may secure the repayment of such bonds and notes by the pledge of mortgages and notes of others, revenues derived from operations and loan repayments, the proceeds of its bonds, and any available revenues or assets of the authority. The bonds or notes of each issue shall be dated and may 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 determined by the authority. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the authority. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates, and bonds shall mature at such time or times not exceeding forty-five (45) years from their date or dates, as may be determined by the authority. The authority shall determine the form and manner of execution of the

bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or outside the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the person had remained in office until such delivery. The authority may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the authority authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of this chapter.

(b) The proceeds of any bonds or notes shall be used solely for the purposes for which they are issued. The proceeds shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement securing the same.

(c) Prior to the preparation of definitive bonds, the authority may, under like restrictions and subject to the approval of the public finance director appointed under IC 4-4-11-9, 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 or notes which shall become mutilated or shall be destroyed or lost.

(d) 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.

*As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.235-2005, SEC.89; P.L.145-2008, SEC.5.*

### **IC 5-20-1-9**

#### **Trust agreements to secure authority obligations**

Sec. 9. Trust Agreement to Secure Authority Obligations. In the discretion of the authority, any obligations issued under the provisions of this chapter may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the state of Indiana. Such trust agreement or the resolution providing for the issuance of such obligations, whether or not

secured, may pledge or assign all or any part of the revenues or assets of the authority, including, without limitation, mortgage loans, mortgage loan commitments, construction loans, loans to lenders, contracts, agreements and other security or investment obligations, the fees or charges made or received by the authority, the moneys received in payment of loans and interest thereon, and any other moneys received or to be received by the authority. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such obligations 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 purposes to which obligation proceeds may be applied, the disposition or pledging of the revenues or assets of the authority, the terms and conditions for the issuance of additional obligations, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of obligations, revenues, or other money to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust agreement or resolution may set forth the rights and remedies of the holders of any obligations and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the holders of any obligations. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on obligations, or from any other funds available to the authority.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-10**

##### **Pledge of authority assets to obligations of the authority**

Sec. 10. Pledge of Authority Assets to Obligations of the Authority. The pledge of any assets or revenues of the authority to the payment of the principal of, premium, if any, and interest on any obligations of the authority shall be valid and binding from the time when the pledge is made, and any such assets or revenues shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-11**

##### **Receipts as trust funds; investment**

Sec. 11. All Moneys Received Are Trust Funds and May Be Temporarily Invested. Notwithstanding any other provisions of law

to the contrary, all moneys received pursuant to the authority of this chapter are trust funds to be held and applied solely as provided in this chapter. The resolution authorizing any obligations, or the trust agreement securing the same, may provide that any of such moneys may be temporarily invested pending the disbursement thereof, and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes of this chapter, subject to such regulations as this chapter and such resolution or trust agreement may provide.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-12**

##### **Enforcement of authority duties; rights of holders of authority obligations**

Sec. 12. Holders of Authority Obligations Granted Legal Rights to Enforce Duties of the Authority. Any holder of obligations issued under the provisions of this chapter or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such obligations, 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 the state, or granted in this chapter, or under such trust agreement or resolution, or under any other contract executed by the authority pursuant to 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.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-13**

##### **Declaration of negotiability of authority obligations**

Sec. 13. Declaration of Negotiability of Obligations of the Authority. Notwithstanding any of the provisions of this chapter or any recitals in any obligations issued by the authority under the provisions of this chapter, all such obligations and interest coupons appertaining thereto are negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-14**

##### **Authority obligations as authorized investments**

Sec. 14. Obligations of Authority Are Authorized Investments. Obligations issued under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the state of Indiana and its political subdivisions, all insurance companies, trust companies, banking associations, savings and loan associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds,

including capital in their control or belonging to them. Such obligations are securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-15**

##### **Authorization for issuance of refunding obligations**

Sec. 15. Authorization for Issuance of Refunding Obligations. (a) The authority is authorized to provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations, and for any corporate purpose of the authority. The issuance of such obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the authority in respect of the same shall be governed by the provisions of this chapter which relate to the issuance of obligations, insofar as such provisions may be appropriate therefor.

(b) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations (together with any other available funds) to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, or if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds shall be invested in: (1) direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America and agencies of the United States of America; or (2) general obligations of the state, which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-16**

##### **Capital reserve fund**

Sec. 16. Capital Reserve Fund. (a) The authority may create and establish one (1) or more special funds, herein referred to as capital reserve funds, to secure the notes and bonds. The authority shall pay into each such capital reserve fund: (1) any moneys appropriated and

made available by the state for the purposes of such fund; (2) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the authority authorizing the issuance thereof; and (3) any other moneys which may be made available to the authority for the purpose of such fund from any other source or sources.

(b) All moneys held in any capital reserve fund, except as otherwise specifically provided, shall be used, as required, solely: (1) for the payment of the principal of bonds of the authority secured in whole or in part by such fund; (2) for payment of the sinking fund payments mentioned in this section with respect to such bonds; (3) for the purchase or redemption of such bonds; (4) for the payment of interest on such bonds; or (5) for the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. However, if moneys in such fund at any time are less than the capital reserve fund requirement established for such fund as provided in this section, the authority shall not use such moneys for any optional purchase or optional redemption of such bonds. Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by the authority to other funds or accounts of the authority to the extent such transfer does not reduce the amount of such capital reserve fund below the capital reserve fund requirement for such fund.

(c) The authority shall not at any time issue bonds secured in whole or in part by a capital reserve fund, if, upon the issuance of such bonds, the amount in such capital reserve fund will be less than the capital reserve fund requirement of such fund, unless the authority, at the time of issuance of such bonds, deposits in such fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the capital reserve fund requirement for such fund. For purposes of this section, "capital reserve fund requirement" means, as of any particular date of computation, an amount of money, as provided in the resolutions of the authority authorizing the bonds with respect to which such fund is established, which amount shall not exceed the average of the annual debt service on the bonds of the authority for that calendar year and succeeding calendar years secured in whole or in part by such fund. The annual debt service for any calendar year is the amount of money equal to the aggregate of (1) all interest payable during such calendar year on all bonds secured in whole or in part by such fund outstanding on the date of computation, plus (2) the principal amount of all such bonds outstanding on said date of computation which mature during such calendar year, plus (3) all amounts specified as payable during such calendar year as a sinking fund payment with respect to any of such bonds which mature after such calendar year. This calculation shall embody the assumption that such bonds will, after such date of computation, cease to be outstanding by reason, but only by reason, of (1) the payment of bonds when due, and (2) the payment when due of all such sinking fund payments payable at or after such date of computation. However, in computing the annual debt service for any

calendar year, bonds deemed to have been paid in accordance with the defeasance provisions of the resolution of the authority authorizing the issuance thereof shall not be included in bonds outstanding on such date of computation.

(d) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this chapter, the authority shall accumulate in each capital reserve fund an amount equal to the capital reserve fund requirement for such fund.

(e) In computing the amount of any capital reserve fund for the purposes of this section, securities in which all or a portion of such capital reserve fund is invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

(f) Notwithstanding subsections (a) through (e), the authority, subject to such agreements with noteholders or bondholders as may then exist, may elect not to secure any particular issue of its bonds with a capital reserve fund. Such election shall be made in the resolution authorizing such issue. In this event, subsections (b) and (c) shall not apply to the bonds of such issue in that they shall not be entitled to payment out of, or be eligible for purchase by, any such fund, nor shall they be taken into account in computing or applying any capital reserve fund requirement.

*As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.42-2011, SEC.4.*

#### **IC 5-20-1-17**

##### **State power to alter authority; pledge against impairment of authority contracts**

Sec. 17. State Power to Alter Authority; Pledge Against Impairment of Authority Contracts. The state may at any time, or from time to time, alter or change the structure, organization programs, activities or powers of the authority and may, at its sole discretion, terminate the existence of the authority. However, the state pledges and agrees with the holders of any obligations issued pursuant to 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 thereof, or in any way impair the right and remedy of the holders until the notes or 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 such holders are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-18**

##### **Annual report; annual audit**

Sec. 18. The authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the public finance director appointed under IC 4-4-11-9, the budget committee, and the general assembly. An annual report

submitted under this section to the general assembly must be in an electronic format under IC 5-14-6. The report shall set forth a complete operating and financial statement of the authority during such year, and a copy of such report shall be available to inspection by the public at the Indianapolis office of the authority. The authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available money of the authority.

*As added by Acts 1978, P.L.28, SEC.1. Amended by P.L.28-2004, SEC.60; P.L.235-2005, SEC.90; P.L.145-2008, SEC.6.*

#### **IC 5-20-1-19**

##### **Limitation of liability; authority members or officers**

Sec. 19. Limitation of Liability for Authority Members or Officers. No member or other officer of the authority shall be subject to any personal liability or accountability by reason of his execution of any obligations or the issuance thereof.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-20**

##### **Authority to accept and expend funds**

Sec. 20. Authority to Accept and Expend Funds. The authority is authorized to accept and expend such moneys as may be received from any source, including income from the authority's operations, for effectuating its corporate purposes including, without limitation, the payment of the initial expenses of administration and operation, and the establishment of a reserve or contingency fund to be available for the payment of the principal of and the interest on any bonds or notes of the authority.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-21**

##### **Tax exempt status**

Sec. 21. Tax Exempt Status. The authority shall not be required to pay any taxes and assessments to the state, or any county, municipality or other governmental subdivision of the state, upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this chapter, or upon any moneys, funds, revenues or other income held or received by the authority, and the notes and bonds of the authority and the income therefrom shall at all times be exempt from taxation imposed by the state, except for death and gift taxes and taxes on transfers. Real property owned by the authority shall be exempt from all property taxation and special assessments of the state or political subdivisions thereof, but the authority may agree to pay, in lieu of such taxes, such amounts as the authority finds consistent with the cost to the state or political subdivision of supplying municipal services for such real property and any housing development constructed thereon, which payments such bodies are authorized to accept.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-22**

##### **Disclosure of conflicts of interest**

Sec. 22. Disclosure of Conflicts of Interest. If any member, officer or employee of the authority shall be interested either directly or indirectly, or shall be an officer or employee of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract with the authority, including the making of any loan to any sponsor, builder or developer, such interest shall be disclosed to the authority and it shall be set forth in the minutes of the authority. The member, officer or employee having such interest shall not participate on behalf of the authority in the authorization of any such contract with the authority.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-23**

##### **Authority assets; disposition upon termination or dissolution**

Sec. 23. Authority Assets; Disposition upon Termination or Dissolution. The authority shall fund its operating costs from the net revenues derived from the operation of the programs under section 4 of this chapter. No part of the revenues or assets of the authority shall 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 shall inure to the benefit of the state. Upon termination or dissolution, all rights and properties of the authority shall pass to and be vested in the state, subject to the rights of lienholders and other creditors.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-24**

##### **Chapter as supplemental to other laws**

Sec. 24. Provisions of this Chapter Deemed to Be Supplemental Powers to Other Laws. This chapter shall be deemed to provide an additional and alternative method for the performance of the activities authorized by this chapter, and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. However, the issuance of bonds or notes under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

*As added by Acts 1978, P.L.28, SEC.1.*

#### **IC 5-20-1-25**

##### **Liberal construction**

Sec. 25. Liberal Construction. This chapter, being necessary for the prosperity of the state and its inhabitants, shall be liberally construed to effect its purposes.

*As added by Acts 1978, P.L.28, SEC.1.*

## **IC 5-20-1-26**

### **Chapter controlling**

Sec. 26. Chapter Controlling. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this chapter shall be controlling.

*As added by Acts 1978, P.L.28, SEC.1.*

## **IC 5-20-1-27**

### **Home ownership education account established**

Sec. 27. (a) The home ownership education account within the state general fund is established to support:

- (1) home ownership education programs established under section 4(d) of this chapter;
- (2) mortgage foreclosure counseling and education programs established under IC 5-20-6-2; and
- (3) programs conducted by one (1) or a combination of the following to facilitate settlement conferences in residential foreclosure actions under IC 32-30-10.5:
  - (A) The judiciary.
  - (B) Pro bono legal services agencies.
  - (C) Mortgage foreclosure counselors (as defined in IC 32-30-10.5-6).
  - (D) Other nonprofit entities certified by the authority under section 4(d) of this chapter.

The account is administered by the authority.

(b) The home ownership education account consists of:

- (1) court fees collected under IC 33-37-5-30 (before its expiration on January 1, 2013);
- (2) civil penalties imposed and collected under:
  - (A) IC 6-1.1-12-43(g)(2)(B); or
  - (B) IC 27-7-3-15.5(e); and
- (3) any civil penalties imposed and collected by a court for a violation of a court order in a foreclosure action under IC 32-30-10.5.

(c) The expenses of administering the home ownership education account shall be paid from money in the account.

(d) The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

*As added by P.L.235-2005, SEC.91. Amended by P.L.181-2006, SEC.20; P.L.145-2008, SEC.7; P.L.105-2009, SEC.2; P.L.170-2011, SEC.3.*