



HOUSE BILL No. 5381

March 1 1994 Introduced by Reps Brackenridge Anthony Pitoniak Hammerstrom
McBryde Kukuk DeLange Dalman Johnson and McNutt and referred to the Committee on
Local Government

A bill to amend sections 1 2 3 4 and 5 of Act No 354 of
the Public Acts of 1972 entitled as amended

An act to authorize the replacement or payment without presenta-
tion of lost destroyed or wrongfully taken bonds or other evi-
dences of indebtedness issued by public corporations and to pre-
scribe the powers and duties of certain departments and
agencies

being sections 129 131 129 132 129 133 129 134 and 129 135 of
the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Sections 1 2 3 4 and 5 of Act No 354 of the
2 Public Acts of 1972 as amended being sections 129 131, 129 132
3 129 133 129 134 and 129 135 of the Michigan Compiled Laws are
4 amended to read as follows

5 Sec 1 AS USED IN THIS ACT

6 (A) PAYING AGENT MEANS EITHER OF THE FOLLOWING

1 (1) FOR AN OBLIGATION THAT IS NOT REGISTERED AS TO PAYMENT
 2 OF PRINCIPAL BY OR ON BEHALF OF THE PUBLIC CORPORATION THAT
 3 ISSUED THE OBLIGATION, ANY BANK OR TRUST COMPANY DESIGNATED BY
 4 THE PUBLIC CORPORATION TO MAKE PAYMENT OF PRINCIPAL OF OR INTER-
 5 EST ON THE OBLIGATION

6 (2) FOR AN OBLIGATION THAT IS REGISTERED AS TO PAYMENT OF
 7 PRINCIPAL BY OR ON BEHALF OF THE PUBLIC CORPORATION THAT ISSUED
 8 THE OBLIGATION, ANY BANK OR TRUST COMPANY THAT IS AUTHORIZED BY
 9 THE PUBLIC CORPORATION TO AUTHENTICATE THE OBLIGATION ON BEHALF
 10 OF THE PUBLIC CORPORATION

11 (B) ~~(1)~~ 'Public corporation' means a body corporate orga-
 12 nized pursuant to the laws of this state to carry out a public
 13 governmental or proprietary function, including, ~~without limita-~~
 14 ~~tion on the foregoing, the~~ BUT NOT LIMITED TO, THIS state, ~~and~~
 15 ~~any~~ AN agency ~~thereof~~ OF THIS STATE or ~~any~~ A school dis-
 16 trict, INTERMEDIATE SCHOOL DISTRICT, city, village, township,
 17 county, district, commission authority university, college, or
 18 any combination ~~thereof, which~~ OF THESE THAT is a corporate
 19 entity

20 (C) ~~(2)~~ 'Obligation' means evidence of indebtedness ~~such~~
 21 ~~as~~ INCLUDING, BUT NOT LIMITED TO, a bond, refunding bond, reve-
 22 nue bond, note, certificate of indebtedness and other like
 23 instrument ~~heretofore or hereafter~~ issued by a public
 24 corporation, and any coupon representing interest ~~thereon~~ ON
 25 THE OBLIGATION

26 (D) ~~(3)~~ "Governing body" means the legislative body, ~~or~~
 27 ~~that~~ THE official, or THE official body to whom ~~is designated~~

1 THE general governing powers of a public corporation ARE
 2 DESIGNATED or in the case of ~~the~~ THIS state or an agency
 3 ~~thereof~~ OF THIS STATE, the ~~state treasurer or such~~ official
 4 body designated by law to issue the obligation to be replaced

5 (E) ~~(4)~~ "Replacement obligation" means an obligation and
 6 any coupon representing interest in connection ~~therewith~~ WITH
 7 THE OBLIGATION issued under this act

8 (F) OBLIGOR MEANS A PERSON OR ENTITY THAT HAS BORROWED THE
 9 PROCEEDS OF AN OBLIGATION FROM A PUBLIC CORPORATION AND IS CON-
 10 TRACTUALLY OBLIGATED TO MAKE LOAN REPAYMENTS SUFFICIENT TO PAY
 11 PRINCIPAL OF AND INTEREST ON AN OBLIGATION OR A PERSON OR ENTITY
 12 THAT HAS LEASED OR RENTED OR PURCHASED ON AN INSTALLMENT BASIS A
 13 FACILITY FROM A PUBLIC CORPORATION, WHICH FACILITY WAS FINANCED
 14 WITH PROCEEDS OF AN OBLIGATION AND IS MAKING PAYMENTS FOR THE USE
 15 OR PURCHASE OF THAT FACILITY IN AMOUNTS SUFFICIENT TO PAY PRINCI-
 16 PAL OF AND INTEREST ON THAT OBLIGATION

17 Sec 2 (1) ~~A public corporation, by resolution of the~~
 18 ~~governing body or the state treasurer~~ A PAYING AGENT, WITHOUT
 19 APPROVAL FROM A GOVERNING BODY may provide for issuance and
 20 delivery of a replacement obligation for an unmatured obligation
 21 or for payment without presentation of a matured obligation
 22 ~~which~~ THAT has been lost, apparently destroyed, or wrongfully
 23 taken when furnished with all of the following

24 (a) Proof of ownership as required by the ~~governing body~~
 25 PAYING AGENT

26 (b) Proof of loss, destruction, or ~~wrongfully~~ WRONGFUL
 27 taking as required by the ~~governing body~~ PAYING AGENT

1 (c) ~~A~~ AN OPEN PENALTY bond of indemnity ~~to indemnify~~
2 ISSUED BY A COMPANY RATED IN 1 OF THE 3 HIGHEST RATING CATEGORIES
3 AND 1 OF THE TOP 10 FINANCIAL SIZE CATEGORIES BY A NATIONALLY
4 RECOGNIZED INSURANCE RATING AGENCY, WHICH INDEMNIFIES the public
5 corporation and ~~a~~ THE OBLIGOR, IF ANY, AND paying agent ~~at~~
6 ~~which the obligation is payable,~~ against any loss they may
7 suffer on account of issuance and delivery of the replacement
8 obligation, or payment of the obligation without presentation in
9 amounts and with coverage as required by the ~~governing body~~
10 PAYING AGENT

11 (d) Payment of the cost of preparation of the replacement
12 obligation and all other costs incurred by the public corporation
13 and the FEES, COSTS, AND EXPENSES OF THE paying agent in connec-
14 tion with the issuance and delivery of the replacement obliga-
15 tion, or payment without presentation of the obligation

16 (2) A PERSON HOLDING THE SAME OFFICE AS THE PERSON WHO EXE-
17 CUTED THE OBLIGATION ORIGINALLY ISSUED IS AUTHORIZED UPON NOTICE
18 FROM THE PAYING AGENT OF SATISFACTION OF THE CONDITIONS DESCRIBED
19 IN SUBSECTION (1)(A) THROUGH (D), TO EXECUTE AND SEAL WHERE NEC-
20 ESSARY, A REPLACEMENT OBLIGATION WITHOUT FURTHER ACTION OF THE
21 GOVERNING BODY

22 Sec 3 A replacement obligation shall be of the same form
23 and tenor and be secured in the same manner as the obligation
24 originally issued ~~THE REPLACEMENT OBLIGATION~~ shall be exe-
25 cuted in the same manner and subject to the same formal require-
26 ments as those provided by law for the obligation originally
27 issued ~~and shall bear an indorsement in substantially the~~

1 following form ~~"This (bond) has been reissued to replace a~~
 2 ~~(bond) of like tenor Coupons attached to replacement~~
 3 ~~obligations~~ OBLIGATIONS THAT ARE NOT REGISTERED AS TO PAYMENT OF
 4 EITHER PRINCIPAL OR INTEREST shall be indorsed with the word
 5 "replacement" ~~—~~

6 Sec 4 ~~The governing body may provide for replacement of~~
 7 ~~unmatured interest coupons lost, destroyed, or wrongfully taken~~
 8 Matured interest coupons shall not be replaced, ~~nor shall~~ AND
 9 replacement coupons SHALL NOT be issued separately from a
 10 replacement obligation evidencing principal The ~~governing body~~
 11 ~~may authorize a~~ paying agent ~~to~~ MAY make payment of matured
 12 interest coupons lost, destroyed, or wrongfully taken without
 13 presentation upon receipt of DOCUMENTATION AND indemnification
 14 satisfactory to the paying agent and ~~the governing body~~ PAYMENT
 15 OF ANY FEES COSTS, AND EXPENSES OF THE PAYING AGENT

16 Sec 5 ~~The department of treasury may promulgate rules~~
 17 ~~pursuant to Act No 306 of the Public Acts of 1969, as amended,~~
 18 ~~being sections 24 201 to 24 315 of the Michigan Compiled Laws to~~
 19 ~~implement this act~~ IF THERE IS NO PAYING AGENT DESIGNATED FOR
 20 AN OBLIGATION, THE GOVERNING BODY MAY AUTHORIZE ISSUANCE AND
 21 DELIVERY OF A REPLACEMENT OBLIGATION FOR AN UNMATURED OBLIGATION
 22 OR PAYMENT WITHOUT PRESENTATION OF A MATURED OBLIGATION AND PAY-
 23 MENT OF A MATURED INTEREST COUPON THAT HAS BEEN LOST, APPARENTLY
 24 DESTROYED OR WRONGFULLY TAKEN WHEN FURNISHED WITH ALL OF THE
 25 FOLLOWING

26 (A) PROOF OF OWNERSHIP AS REQUIRED BY THE GOVERNING BODY

1 (B) PROOF OF LOSS DESTRUCTION OR WRONGFUL TAKING AS
2 REQUIRED BY THE GOVERNING BODY

3 (C) AN OPEN PENALTY BOND OF INDEMNITY, ISSUED BY A COMPANY
4 RATED IN 1 OF THE 3 HIGHEST RATING CATEGORIES AND 1 OF THE TOP 10
5 FINANCIAL SIZE CATEGORIES BY A NATIONALLY RECOGNIZED INSURANCE
6 RATING AGENCY, THAT INDEMNIFIES THE PUBLIC CORPORATION AND THE
7 OBLIGOR IF ANY, AGAINST ANY LOSS THEY MAY SUFFER ON ACCOUNT OF
8 ISSUANCE AND DELIVERY OF THE REPLACEMENT OBLIGATION, OR PAYMENT
9 OF THE OBLIGATION WITHOUT PRESENTATION, AS REQUIRED BY THE GOV-
10 ERNING BODY

11 (D) PAYMENT OF THE COST OF PREPARATION OF THE REPLACEMENT
12 OBLIGATION AND ALL OTHER COSTS INCURRED BY THE PUBLIC CORPORATION
13 IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF THE REPLACEMENT
14 OBLIGATION, OR PAYMENT WITHOUT PRESENTATION OF THE OBLIGATION