

HOSPITAL FINANCE AUTHORITY ACT (EXCERPT)

Act 38 of 1969

CHAPTER 4

331.71 Applicability of chapter.

Sec. 41. The state authority and each local authority shall be subject to and governed by the provisions of this chapter of this act except as to those matters which are specifically or by necessary implication provided for in chapter 2 for the state authority and chapter 3 for the local authority.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.72 Bonds and notes; authorization; type; payment; interest; denominations; form; registration privileges; execution; redemption; sale; revised municipal finance act inapplicable; bonds and notes subject to agency financing reporting act.

Sec. 42. (1) The notes and bonds authorized by the state authority or local authority shall be authorized by resolution adopted by a majority vote of the members of the authority. The notes and bonds shall be serial bonds, term bonds, or term and serial bonds and shall bear a date and mature at a time, not exceeding 50 years from the date of issue, as the resolution provides. The notes and bonds shall bear interest at the rate or rates as may be set, reset, or calculated from time to time or may bear no interest as provided in the resolution. The notes and bonds shall be in denominations, be in a form, either coupon or registered or both, carry registration privileges, be executed in a manner, be payable in a medium of payment, at a place or places and, at the times, and be subject to the terms of redemption as the resolution provides. The notes and bonds of the authority may be sold by the authority, at public or private sale, at a price or prices as the authority determines. The bonds may be sold at a discount. The bonds shall not be sold at a price that would make the interest costs on the money borrowed exceed 10% or the maximum interest permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, whichever is greater. Except as otherwise provided in this act, bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

History: 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1970, Act 142, Imd. Eff. Aug. 1, 1970;—Am. 1974, Act 137, Imd. Eff. June 5, 1974;—Am. 1974, Act 347, Imd. Eff. Dec. 21, 1974;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992;—Am. 2002, Act 436, Imd. Eff. June 10, 2002.

331.72a Bond reserve fund; creation; payment into fund; funding; discretion of authority; uses.

Sec. 42a. (1) Except as otherwise provided in this act, an authority shall create and establish a special fund or funds to secure the notes and bonds or any issue of the notes or bonds, referred to as a bond reserve fund, and may pay into the bond reserve fund any proceeds of sale of notes or bonds or any issue of the notes or bonds to the extent provided in the resolution of the authority authorizing the issuance of the notes or bonds and any other money that may be made available to the authority for the purpose of the fund from any other source or sources.

(2) An authority may determine to fund a bond reserve account with cash, securities, a letter of credit, bond insurance, or any combination of cash, securities, a letter of credit, or bond insurance. An authority may in its sole discretion determine not to have a reserve fund for an issue of notes or bonds that are not general obligations of the authority if, at the time of issuance of the notes or bonds, the notes or bonds are any of the following:

- (a) Sold by the authority in denominations of at least \$100,000.00.
 - (b) Rated by a national bond rating service in 1 of its 3 highest major rating categories.
 - (c) Insured by a bond insurance company acceptable to the authority.
 - (d) Secured by a letter of credit acceptable to the authority issued by a financial institution.
 - (e) Secured by the guarantee of an entity that the authority determines is capable of paying the principal of and interest on the bonds or notes if the borrowing hospital should default on the loan.
 - (f) Secured by collateral acceptable to the authority.
- (3) All money held in any bond reserve fund and any income or interest earned by, or increment to, the bond reserve fund due to the investment or reinvestment of the bond reserve fund may be used for the purposes the authority determines in the resolution authorizing the notes or bonds.

History: Add. 1992, Act 302, Imd. Eff. Dec. 21, 1992.

331.73 Pledges and liens; validity; recording.

Sec. 43. Any pledge made by an authority shall be valid and binding from the time the pledge is made. The moneys or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the 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. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.73a Refunding bonds; issuance; purposes.

Sec. 43a. (1) Refunding bonds of an authority created or incorporated under this act, issued pursuant to section 14(2) or 32, may be issued in 1 or more series, to refund any series of bonds or notes, in whole or in part, issued by that authority, issued by any other authority created or incorporated under this act, or issued for the benefit of a hospital by an economic development corporation incorporated pursuant to the economic development corporations act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636, or in the case of the state authority by an entity for the benefit of a hospital, whether the bonds to be refunded have or have not matured, are or are not redeemable on the date of the issuance of the refunding bonds, or are or are not subject to redemption prior to maturity. The bonds may be issued partly to refund bonds and partly for any other purpose authorized by this act. Refunding bonds shall not be issued to refund bonds that do not mature or will not be redeemed pursuant to the plan of refunding within 40 years after the date of issuance of the refunding bonds. The refunding bonds may be issued in a principal amount greater than the principal amount of the bonds to be refunded, as may be necessary to effect the refunding pursuant to the plan of refunding. Refunding bonds shall not be issued unless the authority issuing the bonds is reasonably satisfied that the hospital facility and other revenues pledged will produce sufficient revenues to meet the principal and interest on the refunding bonds, other costs, expenses, and charges in connection with the issuance of the refunding bonds, and the charges or obligations of the hospital which may be prior to or equal to the refunding bonds promptly as they become due; and that the hospital is otherwise soundly financed.

(2) Refunding bonds may be issued for any 1 or more of the following purposes:

(a) To reduce debt service costs on the basis of the total amount of debt service to be paid on the refunding bonds as compared with the total amount of debt service that would be required to be paid on the bonds to be refunded should the refunding not occur.

(b) To reduce debt service costs on the basis of the present value of debt service to be paid on the refunding bonds as compared with the present value of debt service that would be required to be paid on the bonds to be refunded should the refunding not occur.

(c) To produce a repayment schedule on the refunding bonds more favorable to the hospital than the repayment schedule on the bonds to be refunded.

(d) To eliminate restrictions or requirements determined by the authority to be excessively burdensome to the hospital.

History: Add. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992;—Am. 1994, Act 428, Imd. Eff. Jan. 6, 1995.

331.73b Refunding bonds; resolution; plan of refunding; determination; designation of bonds.

Sec. 43b. Before issuing refunding bonds, the authority issuing the bonds shall adopt a resolution setting forth the determination of that authority that the refunding is necessary to accomplish the purposes and objectives of this act and adopting a plan of refunding, setting forth the purpose of the refunding and the schedule on which, and the sources from which, the principal, interest, and redemption premiums, if any, on the bonds to be refunded, and the refunding bonds will be paid. Pursuant to the refunding plan, the bonds to be refunded may be called for redemption before maturity on the first possible date, or may be allowed to remain outstanding beyond the first possible date of redemption, either to a later redemption date or to maturity. The determination of the authority issuing the bonds as to the expediency of refunding, for the purposes set forth in the refunding plan, shall be conclusive, except with respect to the approval of the municipal finance commission or its successor agency when prior approval is required. The bonds of any series of refunding bonds issued pursuant to this act shall bear a distinctive designation clearly indicating that those bonds are refunding bonds.

History: Add. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1983, Act 48, Imd. Eff. May 16, 1983.

331.73c Refunding bonds issued by state authority; payment of principal, interest, and redemption premiums; sources; loan agreement.

Sec. 43c. (1) The principal of, and interest and redemption premiums, if any, on refunding bonds issued by the state authority pursuant to section 14(2) shall be payable from 1 or more of the following sources:

(a) Proceeds of the repayment of the loan described in subsection (2) and any investment earnings or profits on those proceeds.

(b) Proceeds of the refunding bonds.

(c) Investment earnings or profits on the proceeds of the refunding bonds.

(d) Any other properties, revenues, or moneys of the state authority, as provided in the resolution authorizing the issuance of the refunding bonds, and any investment earnings or profits on those properties, revenues, or moneys, subject only to an agreement with the holders of particular notes or bonds pledging particular properties, revenues, or moneys.

(2) The state authority shall enter into a loan agreement, or a supplement or amendment to an existing loan agreement, with the hospital whose facilities were financed or refinanced by the proceeds of the bonds to be refunded, or with the hospital's successors, with respect to the loan from the authority to the hospital arising from the issuance of the refunding bonds.

History: Add. 1978, Act 277, Imd. Eff. July 3, 1978.

331.73d Refunding bonds; nonliability of state; statement.

Sec. 43d. The state shall not be liable on the refunding bonds of the state authority, and the bonds shall not be a debt of the state. Each bond shall contain on its face a statement to that effect. The state shall not be or become liable for a debt evidenced by the bonds or notes to be refunded as a result of the issuance of the refunding bonds.

History: Add. 1978, Act 277, Imd. Eff. July 3, 1978.

331.73e Refunding bonds issued by local authority; payment of principal, interest, and redemption premiums; sources; loan agreement; bond, coupon, or indebtedness not general obligation or debt.

Sec. 43e. (1) The principal of, and interest and redemption premiums, if any, on refunding bonds issued by a local authority pursuant to section 32 shall be payable from 1 or more of the following sources:

(a) The net revenues derived from the hospital facilities financed or refinanced from the proceeds of the bonds to be refunded and any investment earnings or profits on those revenues.

(b) Proceeds of the repayment of the loan described in subsection (2) and any investment earnings or profits on those proceeds.

(c) Proceeds of the refunding bonds.

(d) Investment earnings or profits on the proceeds of the refunding bonds.

(e) Gifts or grants, or amounts derived from disposition of hospital facilities, mortgaged or otherwise pledged as security for the payment of the refunding bonds, or investment earnings or profits on those gifts, grants, or amounts.

(2) If there arises from the issuance of the refunding bonds a loan from the local authority to the hospital whose facilities were financed or refinanced by the proceeds of the bonds to be refunded, or its successors, the local authority shall enter into a loan agreement, or a supplement or amendment to an existing loan agreement, with the hospital with respect to the loan. A bond or coupon issued pursuant to this section shall not be a general obligation of, nor constitute a debt of, the local authority or any of the incorporating units within the meaning of any constitutional, charter, or statutory limitation. An indebtedness evidenced by the bonds or notes to be refunded shall not be or become, as a result of the issuance of the refunding bonds, a general obligation of, nor constitute a debt of, the local authority or any of the incorporating units within the meaning of any constitutional, charter, or statutory limitation.

History: Add. 1978, Act 277, Imd. Eff. July 3, 1978.

331.73f Use of proceeds of refunding bonds and of earnings or profits on proceeds; resolution.

Sec. 43f. (1) Except as provided in subsection (2), the proceeds of the refunding bonds issued pursuant to section 14(2) or 32 and the investment earnings or profits on those proceeds may be used to pay all or any part of any 1 or more of the following:

(a) Principal of the bonds to be refunded, upon their maturity or earlier redemption.

(b) Interest accruing on the bonds to be refunded from the interest payment date last preceding the issuance of the refunding bonds, to the date the bonds to be refunded are paid, at maturity or earlier redemption.

(c) Redemption premiums, if any, on the bonds to be refunded, and the cost of redemption or payment of the bonds to be refunded.

- (d) Incidental costs of the issuance of the refunding bonds.
 - (e) The funding of a reasonable reserve fund for the refunding bonds, in an amount established by the resolution authorizing the sale of the refunding bonds.
 - (f) Principal of, and interest and redemption premiums, if any, on any or all series of the refunding bonds.
- (2) The resolution or other documents pursuant to which the refunding bonds are issued may provide that investment earnings or profits on the proceeds of the refunding bonds may be paid or rebated to the hospital whose facilities were financed or refinanced by the proceeds of the bonds to be refunded, or to the hospital's successors.

History: Add. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992.

331.73g State treasurer or financial institution as trustee for proceeds of refunding bonds, other funds, and investment earnings and profits; purposes; trust agreement; investment of proceeds; defeasance.

Sec. 43g. (1) To provide for the protection of the rights of the holders of the bonds to be refunded and the refunding bonds, the proceeds of refunding bonds and any other funds set aside for refunding purposes, and the investment earnings and profits from the proceeds or funds, to the extent required to be held for future retirement of the bonds to be refunded, or the refunding bonds, or for payment of interest or call premiums on those bonds, or for refunding expenses pertaining to the bonds, shall be held in trust by the state treasurer or by a financial institution qualified to serve as trustee pursuant to a trust agreement entered into between the authority issuing the refunding bonds and the state treasurer or the financial institution providing for the investment and disposition of the funds.

(2) Before the use of the proceeds of the refunding bonds for the purposes set forth in subsection (1), the proceeds of the refunding bonds may be invested pursuant to the trust agreement in direct obligations of the United States, in obligations in which the principal and interest are guaranteed by the United States, or, if refunding bonds are issued by the state authority, in any other investments as determined by the state authority pursuant to the contract with the holders of the refunding bonds with the approval of the state treasurer. If the instrument by which the bonds or notes to be refunded are secured is to be defeased on the date of the issuance of the refunding bonds, then the proceeds of the refunding bonds shall be deposited and invested in accordance with the defeasance requirements of that instrument.

History: Add. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992.

331.74 Authority members; persons executing notes or bonds; personal liability.

Sec. 44. Neither the members of any authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.75 Bond or note holders; vested rights, impairment.

Sec. 45. The state pledges and agrees with the holders of any notes or bonds issued under this act, that the state will not limit or alter the rights vested in any authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies 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. Any authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.76 Repealed. 2002, Act 436, Imd. Eff. June 10, 2002.

Compiler's note: The repealed section pertained to issuance of bonds or notes.

331.77 Certificate of need required; exception.

Sec. 47. Before a state or local authority adopts a resolution authorizing the issuance of bonds or notes and as a condition precedent to the authority to issue the bonds or notes, a certificate of need shall be obtained pursuant to Act No. 256 of the Public Acts of 1972, as amended, being sections 331.451 to 331.462 of the Michigan Compiled Laws, or a determination shall be secured from the agency issuing the certificate of need that a certificate is not necessary for the project. This section shall not apply to refinancing of present indebtedness or to refunding or advance refunding of bonds or notes; provided, however, that prior to the issuance of bonds pursuant to section 14(2) or section 32, entirely for the purpose of refunding or advance

refunding bonds of any authority created or incorporated under this act, and prior to the issuance of bonds pursuant to section 12(d) or sections 27(b) or 28, entirely for the purpose of refinancing indebtedness of a hospital, the authority issuing the bonds shall determine that the issuance of the bonds is not inconsistent with a hospital bed reduction plan, if such a plan has been developed and is applicable to the hospital facilities in connection with which the bonds are issued, which is part of the state medical facilities plan approved by the statewide health coordinating council, and the determination of the authority issuing the bonds shall be conclusive.

History: 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1970, Act 142, Imd. Eff. Aug. 1, 1970;—Am. 1974, Act 137, Imd. Eff. June 5, 1974;—Am. 1978, Act 277, Imd. Eff. July 3, 1978.

331.77a Bonds to refinance indebtedness or refund obligations as to facilities located outside state; determination.

Sec. 47a. An authority may issue bonds pursuant to this act to refinance indebtedness issued or incurred by a hospital with respect to hospital facilities located outside the state, or to refund or refund in advance obligations issued by the state authority, a local authority, or any other issuer with respect to hospital facilities located outside the state, if the authority issuing the bonds determines that their issuance will enable the hospital to provide or maintain at reasonable cost pursuant to reasonable terms, facilities, structures, and services within the state, or is otherwise necessary in order to realize the objectives and purposes of this act. The determination of the authority shall be conclusive except with respect to the approval of the municipal finance commission or its successor agency when prior approval is required.

History: Add. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1983, Act 48, Imd. Eff. May 16, 1983.

331.77b Resolution authorizing issuance of bonds or notes; determination and consideration of conditions.

Sec. 47b. In addition to the other requirements of this act, before a state or local authority adopts a resolution authorizing the issuance of bonds or notes and as a condition precedent for the authority to issue the bonds or notes to finance project costs for nursing homes, the state or local authority shall attempt to determine and consider all of the following:

- (a) Whether the nursing home has a ban on admissions to that nursing home.
- (b) Whether the nursing home is medicaid certified.

History: Add. 1994, Act 428, Imd. Eff. Jan. 6, 1995.

331.78 Bonds or notes; negotiability.

Sec. 48. Whether or not the notes or bonds are of such form or character as to be negotiable instruments under the uniform commercial code, the notes or bonds authorized to be issued by this act are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.79 Bonds and notes; legal investments.

Sec. 49. The notes and bonds of any authority are securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on an insurance business, all banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, all administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.80 Tax exemption.

Sec. 50. The property of any authority and its income and operation is exempt from all taxation.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.81 Bonds and notes; tax exemption, exception.

Sec. 51. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued pursuant to this act, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds issued pursuant to this act and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledged to pay or secure the payment of such notes or bonds at all times shall be free and exempt from all state, city, county or other taxation provided by the laws of the state, except for estate, inheritance and gift taxes and taxes on transfers.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.82 Nondiscrimination provision.

Sec. 52. The authority shall require that use of hospital facilities assisted under this act shall be open to all regardless of race, religion, sex, or creed and that contractors and subcontractors engaged in the construction or alteration of hospital facilities assisted under this act shall provide an equal opportunity for employment, without discrimination as to race, religion, sex, or creed. The hospital to which any hospital loan is made shall covenant with the authority that the nondiscrimination provision shall be enforced.

History: 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1983, Act 206, Imd. Eff. Nov. 10, 1983.

331.83 Construction of act as to powers conferred; purpose and intention.

Sec. 53. This act shall be construed as granting cumulative authority for the exercise of the various powers herein conferred, and neither the powers nor any bonds or notes issued hereunder shall be affected or limited by any other statutory or charter provision now or hereafter in force, other than as may be provided in this act, it being the purpose and intention of this act to create full, separate and complete additional powers. The various powers conferred herein may be exercised independently and notwithstanding that no bonds are issued hereunder.

History: 1969, Act 38, Imd. Eff. July 14, 1969.

331.84 Declaration of necessity; liberal construction.

Sec. 54. This act, being necessary for and to secure the public health, safety, convenience and welfare of the citizens of the state, shall be liberally construed to effect the public purposes hereof.

History: 1969, Act 38, Imd. Eff. July 14, 1969.