

## HOSPITAL FINANCE AUTHORITY ACT

### Act 38 of 1969

AN ACT to create a state hospital finance authority to lend money to nonprofit hospitals and nonprofit health care providers for capital improvements or to refinance hospital, health care, and certain retirement housing indebtedness; to provide for the incorporation of local hospital authorities with power to lend money to nonprofit hospitals and nonprofit health care providers for hospital and health care indebtedness or to refinance hospital, health care, and certain retirement housing indebtedness; to construct, acquire, reconstruct, remodel, improve, add to, enlarge, repair, own, lease, and sell hospital and health care facilities; to finance outstanding hospital, health care, and certain retirement housing indebtedness; to authorize the authorities to borrow money and issue obligations to accomplish the purposes of this act, including the refunding or advance refunding of obligations issued by certain entities; to permit the authorities to enter into loans, contracts, leases, mortgages, and security agreements which may include provisions for the appointment of receivers; to exempt obligations and property of the authorities from taxation; and to provide other rights, powers, and duties of the authorities.

**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;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992;—Am. 1994, Act 428, Imd. Eff. Jan. 6, 1995.

*The People of the State of Michigan enact:*

### CHAPTER 1

#### **331.31 Hospital finance authority act; short title.**

Sec. 1. This act shall be known and may be cited as the "hospital finance authority act".

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

#### **331.32 Legislative declaration.**

Sec. 2. It is declared that, for the benefit of the people of this state and the improvement of their health, welfare, and living conditions, it is essential that hospitals within this state be provided with appropriate means at reasonable cost to maintain, expand, enlarge, and establish health care, hospitals, nursing care, certain retirement housing, and other related facilities; that hospitals be provided with the ability to refinance indebtedness; and that authorities created or incorporated under this act be provided with the ability to refund or to refund in advance obligations issued for the benefit of hospitals. This act shall provide a method to enable hospitals in this state to provide or maintain at reasonable cost pursuant to reasonable terms the facilities, structures, and services needed to accomplish the purposes of this act, all to the public benefit and good, to the extent and manner provided in this act.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1994, Act 428, Imd. Eff. Jan. 6, 1995.

#### **331.33 Definitions.**

Sec. 3. As used in this act:

- (a) "State authority" means the hospital finance authority created by this act.
- (b) "Local authority" means a public municipal corporation incorporated under this act.
- (c) "Incorporating unit" means a county, city, village, or township or a combination of 1 or more counties, cities, villages, or townships incorporating a local authority pursuant to this act.
- (d) "Governing body" means the board charged with the governing of the incorporating unit.
- (e) Except as provided in subdivision (f)(iii), "hospital" means a public or nonpublic corporation, association, institution, or establishment located within this state for the care of the sick or wounded or of those who require medical treatment or nursing care or home for the aged or which provides retirement housing facilities described in subdivision (f)(iii) operated without profit to an individual, corporation, or association. Hospital includes a nonprofit corporation or other nonprofit organization engaged in some phase of hospital, nursing care, home for the aged, or, to the extent described in subdivision (f)(iii), retirement housing activity or in owning, controlling, or providing a supporting service to a hospital or public corporation that operates or owns a hospital facility. Hospital does not include a health facility or agency located in a correctional institution, a veterans facility operated by this state or the federal government, or a facility owned and operated by the department of community health.
- (f) "Hospital facilities" means any of the following:
  - (i) A building or structure suitable and intended for, or incidental or ancillary to, use by a hospital and

includes nursing homes, homes for the aged, outpatient clinics, laboratories, laundries, nurses', doctors', or interns' residences, administration buildings, facilities for research directly involved with hospital care, maintenance, storage, or utility facilities, parking lots, and garages and all necessary, useful, or related equipment, furnishings, and appurtenances and all lands necessary or convenient as a site for these facilities.

(ii) An office facility not less than 80% of which is intended for lease to direct providers of health care, and that has been determined by the department of public health to meet a demonstrated need and to be geographically or functionally related to 1 or more other hospital facilities, if the authority that is issuing the bonds determines the financing of the office facility is necessary to accomplish the purposes and objectives of this act.

(iii) For the purpose of refinancing or refunding debt described in this subdivision only, retirement housing facilities owned by a nonpublic, nonprofit organization on September 1, 1994, placed in service on or before September 1, 1994, and for which there was outstanding on September 1, 1994 debt incurred for the construction or acquisition of the retirement housing facilities, which debt is not eligible for refinancing by the Michigan state housing development authority solely by reason of the provisions of section 44c(2) of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1444c; provided that the refinancing debt, incurred with an authority created by or incorporated under this act to refinance the retirement housing facilities, is debt that a nonprofit hospital or nonprofit nursing home or a nonprofit entity which owns or controls or is owned or controlled by a nonprofit hospital or nonprofit nursing home is obligated to repay and that no allocation of the state volume limitation on tax exempt obligations is required with respect to the refinancing debt or obligations issued by an authority created by or incorporated under this act to fund that refinancing debt. As used in this subparagraph:

(A) "Hospital" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(B) "Nursing home" means that term as defined in section 20109 of the public health code, 1978 PA 368, MCL 333.20109.

(g) "Hospital loan" means a loan made by the state authority or a local authority to a hospital.

(h) "Project costs" means the total of the reasonable or necessary costs incurred for carrying out the works and undertakings for the acquisition or construction of hospital facilities under this act. These include the costs of studies and surveys; plans and specifications; architectural and engineering services; legal, organization, marketing, or other special services; financing, acquisition, demolition, construction, equipment, and site development of new and rehabilitated buildings; rehabilitation, reconstruction, repair, or remodeling of existing buildings; interest and carrying charges during construction and before full earnings are achieved and operating expenses before full earnings are achieved or a period of 1 year following the completion of construction, whichever occurs first; and a reasonable reserve for payment of principal and interest on bonds or notes of the authority. Project costs include reimbursement of a hospital for the costs described in this subdivision expended by a hospital either from its own funds or from money borrowed by the hospital for such purposes before issuance and delivery of bonds by the authority for the purpose of providing funds to pay the project costs. Project costs also includes the refinancing of any existing debt of a hospital necessary in order to permit the hospital to borrow or lease from the authority and give adequate security for the loan or lease. The determination of the authority with respect to the necessity of refinancing and adequate security for a loan or lease is conclusive except with respect to the approval of the municipal finance commission or its successor agency when prior approval is required.

(i) "Direct provider of health care" means a person or organization whose primary current activity is the provision of health care to individuals, and includes a licensed or certified physician, dentist, nurse, podiatrist, physician's assistant, or an organization comprised of these health professionals or employing these health professionals.

**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;—Am. 1983, Act 48, Imd. Eff. May 16, 1983;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992;—Am. 1994, Act 428, Imd. Eff. Jan. 6, 1995;—Am. 2008, Act 294, Imd. Eff. Oct. 6, 2008.

## CHAPTER 2

### **331.41 State hospital finance authority; creation; public body corporate and politic; appointment and terms of members; vacancies; deputies; quorum; action by authority; expenses; authority within department of treasury; independent exercise of powers, duties, and functions; conducting business at public meeting; notice.**

Sec. 11. (1) The state hospital finance authority is created. The state authority is a public body corporate and politic of the state and shall consist of the director of the department of public health, the state treasurer, 4

public members, and a chairperson. The 4 public members and chairperson shall be appointed by the governor, by and with the advice and consent of the senate. The public members and the chairperson of the authority shall serve for terms of 4 years, or until a successor is appointed and qualified by taking and filing the constitutional oath of office, whichever is later. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. The director of public health and the state treasurer may each designate a deputy or other employee of their respective departments to serve as a member of the state authority in their absences. The deputy or other employee of that department shall serve at the pleasure of the director of public health or the state treasurer. A majority of the members constitute a quorum for the purpose of conducting the business and exercising the powers of the state authority. Action may be taken by the state authority upon the vote of the majority of its members.

(2) Members of the state authority shall not receive compensation for services but are entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties. Any payments for compensation and expenses shall be paid from the funds of the authority.

(3) The state authority is located within the department of treasury and shall exercise its prescribed statutory powers, duties, and functions independently of the head of the department.

(4) The business that the state hospital finance authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1970, Act 142, Imd. Eff. Aug. 1, 1970;—Am. 1973, Act 195, Imd. Eff. Jan. 8, 1974;—Am. 1974, Act 137, Imd. Eff. June 5, 1974;—Am. 1978, Act 206, Imd. Eff. June 4, 1978;—Am. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992.

**Compiler's note:** For consolidation of administrative staff of Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, and state hospital finance authority, and for transfer of certain functions to state treasurer, see E.R.O. No. 2002-8, compiled at MCL 12.193.

For transfer of powers and duties of state hospital finance authority to Michigan finance authority, see E.R.O. No. 2010-2, compiled at MCL 12.194.

For transfer of powers and duties of state hospital finance authority to Michigan finance authority, see E.R.O. No. 2010-2, compiled at MCL 12.194.

### **331.42 Powers of state authority.**

Sec. 12. The state authority has the powers necessary to carry out and effectuate the purposes of this act, including, but not limited to, all of the following:

(a) To sue and be sued, to have a seal and authority to alter that seal at pleasure, to have perpetual succession, to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers, and to make and amend bylaws.

(b) To solicit and accept gifts, grants, loans, and other aids from any person, corporation, or governmental agency.

(c) To make loans, to participate in the making of loans, to undertake commitments, to make loans and mortgages, to sell loans and mortgages at public or private sale, to modify or alter loans and mortgages, to discharge loans and mortgages, to foreclose on a mortgage or commence an action to protect or enforce a right conferred upon the state authority by a law, mortgage, loan, contract, or other agreement, to bid for and purchase property that was the subject of a mortgage at a foreclosure or at any other sale and to acquire or take possession of that property, to complete, administer, pay the principal and interest on any obligations incurred in connection with acquired property, and to dispose of and otherwise deal with the property in a manner necessary or desirable to protect the interests of the state authority in the property. The loans made by the authority may be secured or unsecured, as the authority determines.

(d) To loan money to hospitals for the purpose of refinancing any outstanding indebtedness of a hospital if the state authority determines the refinancing is necessary to realize the objectives and purposes of this act. A hospital loan made pursuant to this subdivision shall not exceed the amount of the principal, interest, and redemption premium, if any, of the indebtedness to be refinanced that has not been repaid, plus the marketing, financing, legal, and other costs incurred in connection with the refinancing and the issuance of bonds of the state authority issued in whole or in part to provide funds to make the hospital loan described in this subdivision, including the costs of funding a bond reserve and paying capitalized interest on the bonds for a period not to exceed 1 year after the issuance of the bonds. The determination of the state authority under this subdivision is conclusive except with respect to the approval of the municipal finance commission or its successor agency when prior approval is required.

(e) To charge, impose, and collect fees and charges in connection with its loans, commitments, and servicing including reimbursement of costs of financing by the authority, service charges, insurance

premiums, and an allocable share of the operating expenses of the authority and to make provision for increasing those fees and charges, if necessary, as the state authority determines is reasonable and approved by the state authority.

(f) To acquire, hold, and dispose of real or personal property convenient for the accomplishment of the purpose of this act.

(g) To procure insurance against a loss in connection with its property, assets, or activities.

(h) To borrow money and issue its bonds or notes for the money and provide for the rights of the holders of the bonds or notes and to secure the bonds by mortgage, assignment, or pledge of any or all of its properties including any part of the security for its hospital loans. The state shall not be liable on any bonds of the state authority, the bonds and notes are not a debt of the state, and each bond and note shall contain on its face a statement to that effect.

(i) To invest any funds not required for immediate use or disbursement, at its discretion, in any of the following:

(i) Obligations of this state, the United States, or an agency of the United States.

(ii) Obligations the principal and interest of which are guaranteed by this state or the United States.

(iii) Certificates of deposit of a bank that is a member of the federal reserve system.

(iv) Certificates of deposit of a savings and loan association that is a member of the federal home loan bank system.

(v) Commercial paper that is rated at the time of purchase within the 2 highest classifications established by not less than 2 national rating services and that matures not more than 270 days after the date of purchase.

(vi) In United States government or federal agency obligation repurchase agreements.

(vii) In bankers' acceptances of United States banks.

(viii) In mutual funds composed of investment vehicles that are legal for direct investment by the state authority.

(ix) Subject to the approval of the state treasurer, obligations specified by the state authority in a contract with the holders of its bonds or notes.

(j) To engage necessary personnel and to engage the services of private consultants for rendering professional and technical assistance and advice.

(k) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(l) To enter into interest rate exchanges or swaps, hedges, or similar agreements with respect to its bonds or notes in the same manner and subject to the same limitations and conditions as provided for a municipality in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1974, Act 137, Imd. Eff. June 5, 1974;—Am. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1983, Act 48, Imd. Eff. May 16, 1983;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992;—Am. 1992, Act 303, Imd. Eff. Dec. 21, 1992;—Am. 1994, Act 428, Imd. Eff. Jan. 6, 1995;—Am. 2002, Act 436, Imd. Eff. June 10, 2002.

**Compiler's note:** For consolidation of administrative staff of Michigan higher education assistance authority, Michigan higher education facilities authority, Michigan higher education student loan authority, Michigan municipal bond authority, and state hospital finance authority, and for transfer of certain functions to state treasurer, see E.R.O. No. 2002-8, compiled at MCL 12.193.

**Administrative rules:** R 331.1 et seq. of the Michigan Administrative Code.

### **331.43 Hospital loan from state authority; purpose; requirements; security; appointment of receiver; limitation on loan; repayment; interest.**

Sec. 13. The state authority may lend money to hospitals for the acquisition, construction, improvement, or alteration of hospital facilities. A hospital loan shall not be made unless the state authority is reasonably satisfied that there will be made available to the hospital from the hospital loan and other sources all the funds necessary to pay all project costs; that the hospital facility and other revenues pledged will produce sufficient revenues to meet the principal and interest on the hospital loan, other costs, expenses, and charges in connection with the loan and other charges or obligations of the hospital which may be prior or equal to the loan promptly as they become due; and that the hospital is otherwise soundly financed. The hospital loan may be secured by a mortgage of property of the hospital including the hospital facility and may provide for the appointment of a receiver to operate the hospital facilities in case of default. A hospital loan made pursuant to this section shall not exceed the project costs as determined by the state authority. A loan shall be secured in a manner, be repaid in a period not exceeding 50 years, and bear interest at a rate, as determined by the authority, which rate may be decreased or increased so that it is not less than the rate paid by the authority on notes, renewal notes, or bonds issued to fund the loan.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1970, Act 142, Imd. Eff. Aug. 1, 1970;—Am. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1983, Act 48, Imd. Eff. May 16, 1983;—Am. 1992, Act 302, Imd. Eff. Dec. 21, 1992;—Am. 1992, Act 303, Imd. Eff. Dec. 21, 1992;—Am. 1994, Act 428, Imd. Eff. Jan. 6, 1995;—Am. 2002, Act 436, Imd. Eff. June 10, 2002.

**331.44 Bonds and notes; renewal notes; refunding bonds; notes or bonds as general obligations of authority; contents of resolution authorizing notes or bonds; authority of member, officer, or other employee.**

Sec. 14. (1) The state authority periodically may issue its negotiable bonds and notes, including, but not limited to, commercial paper in a principal amount that, in the opinion of the state authority, is necessary to provide sufficient funds for the making of hospital loans, including temporary loans during the construction of hospital facilities, and for the payment of interest on bonds and notes of the state authority during construction of hospital facilities for which the hospital loan was made and for a reasonable time after the loan was made and for the establishment of reserves to secure those bonds and notes.

(2) The state authority periodically may issue renewal notes, may issue bonds to pay notes, and if the state authority considers refunding expedient, to refund or to refund in advance bonds or notes issued by an entity for the benefit of a hospital, pursuant to the requirements of sections 43a to 43g.

(3) Except as may otherwise be expressly provided by the state authority, every issue of its notes or bonds shall be general obligations of the authority payable out of any properties, revenues, or money of the state authority, subject only to any agreements with the holders of particular notes or bonds pledging any particular properties, revenues, or money.

(4) A resolution authorizing notes or bonds or an issue of notes or bonds under this chapter may contain provisions, which are a part of the contract with the holders of the bonds or notes, regarding 1 or more of the following:

(a) Pledging and creating a lien on all or any part of the fees and charges made or received or to be received by the state authority, all or any part of the money received in payment of hospital loans and interest on hospital loans, and other money received or to be received, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to those agreements with bondholders or noteholders that then exist.

(b) Pledging and creating a lien on all or any part of the assets of the state authority, including notes, mortgages, and obligations securing the assets, to secure the payment of the notes or bonds or of any issue of notes or bonds, subject to those agreements with noteholders or bondholders that then exist.

(c) Pledging and creating a lien on any loan, grant, or contribution to be received from the federal, state, or local government or other source.

(d) The use and disposition of the income from hospital loans and mortgages owned by the state authority and payment of principal and interest of mortgages and loans owned by the state authority.

(e) The setting aside of reserves or sinking funds and the regulation and disposition of those reserves or sinking funds.

(f) Limitations on the purpose to which the proceeds of the sale of notes or bonds may be applied and pledging the proceeds to secure the payment of the notes or bonds or of any issue of the notes or bonds.

(g) Limitations on the issuance of additional notes or bonds and the terms upon which additional notes or bonds may be issued and secured.

(h) The procedure by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent to the amendment or abrogation, and the manner in which the consent may be given.

(i) Vesting in a trustee or trustees the property, rights, powers, remedies, and duties that the state authority considers necessary or convenient.

(5) Within limitations stated in the issuance or authorization resolution of the state authority, the state authority may authorize a member of the state authority or an officer or other employee of the state authority to do 1 or more of the following:

(a) Sell, deliver, and receive payment for notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured or are subject to redemption.

(c) Deliver notes or bonds, to refund notes or bonds or for any other authorized purpose.

(d) Purchase notes or bonds issued by the state authority and resell those notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, mandatory or optional redemption provisions, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized by the state authority.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1970, Act 142, Imd. Eff. Aug. 1, 1970;—Am. 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.



### **331.45 Repealed. 1992, Act 302, Imd. Eff. Dec. 21, 1992.**

**Compiler's note:** The repealed section pertained to the creation and establishment of a bond reserve fund.

### **331.46 State authority; state treasurer, agent; deposits, payments, security; agreements; system of accounts.**

Sec. 16. (1) All moneys of the state authority, except as otherwise authorized or provided in this section, shall be paid to the state treasurer, as agent of the state authority, who shall not commingle such moneys with any other moneys. The moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the state treasurer on requisition of the chairman of the state authority or of such other officer or employee as the state authority shall authorize. If required by the state treasurer or the state authority, all deposits of such moneys shall be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

(2) Notwithstanding the provisions of this section, the state authority, subject to the approval of the state treasurer, may contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment and payment of any moneys of the state authority and any moneys held in trust or otherwise for the payment of notes or bonds. Moneys held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of such moneys may be secured in the same manner as moneys of the state authority and all banks and trust companies are authorized to give such security for such deposits.

(3) Subject to agreements with noteholders and bondholders and the approval of the auditor general, the authority shall prescribe a system of accounts for the state authority.

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

## **CHAPTER 3**

### **331.51 Incorporation of local hospital authority; purposes.**

Sec. 21. An incorporating unit may incorporate a local hospital authority under this act for the purposes of constructing, acquiring, reconstructing, remodeling, improving, adding to, enlarging, repairing, owning, and leasing hospital facilities for the use of a hospital within or without the boundaries of the incorporating unit; lending money to a hospital for those purposes; refunding or refunding in advance obligations of a local authority or the state authority; or refinancing the indebtedness of a hospital.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1978, Act 277, Imd. Eff. July 3, 1978.

### **331.52 Local authority; articles of incorporation, adoption, certificate form.**

Sec. 22. The incorporation of a local hospital authority shall be accomplished by the adoption of articles of incorporation by the governing body of the incorporating unit. The affirmative vote of the majority of the members-elect of the governing body of the incorporating unit is required for such adoption. The articles of incorporation shall be executed for and on behalf of the incorporating unit by the chief executive officer and clerk. The clerk of each incorporating unit shall also affix to the articles of incorporation, following the signatures thereto, a certificate in form substantially as follows:

"The foregoing articles of incorporation were adopted by the ..... of the ..... of ....., County of ....., Michigan, at a meeting duly held on the ..... day of ....., 19..... . Dated: ....., 19..... .  
.....Clerk"

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

### **331.53 Local authority; articles, contents.**

Sec. 23. The articles of incorporation shall set forth the name of the local authority, which name shall include the word "hospital"; the name of the incorporating unit; the purpose for which the local authority is created; the number, terms and manner of selection of the local authority's officers, including its governing board which shall be known as the "commission"; the powers and duties of the local authority and of its officers; the date upon which the articles of incorporation shall become effective and the local authority shall be established; the name of the newspaper in which the articles of incorporation shall be published and the name of the person responsible for the publication and filings required by this act; and any other matters necessary or expedient to be included therein.

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

**Compiler's note:** The term "world" near the beginning of this section evidently should read "word."

### **331.54 Local authority; articles, execution, filing, publication; validity of incorporation.**

Sec. 24. The articles of incorporation shall be executed in duplicate and delivered to the county clerk of the

county in which the local authority is located, who shall file 1 duplicate in his office and the other with the recording officer of the hospital authority when selected. The county clerk shall publish a copy of the articles of incorporation once in a newspaper designated in the articles of incorporation and circulating within the county. He shall file 1 printed copy of the articles of incorporation with the secretary of state and 1 in his office, attached to each shall be his certificate setting forth that the same is a true and complete copy of the original articles of incorporation on file in his office and also the date and place of the publication thereof. The local authority shall be established at the time provided in the articles of incorporation. The validity of the incorporation shall be conclusively presumed unless questioned in a court of competent jurisdiction within 60 days after the filing of the certified copies with the secretary of state and the county clerk.

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

### **331.55 Local authority; articles, amendment.**

Sec. 25. Amendments may be made to articles of incorporation if adopted by the governing body of the incorporating unit. No amendment shall impair the obligation of any bond or other contract. Each amendment shall be adopted, executed and published and certified printed copies filed, in the same manner as the original articles of incorporation.

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

### **331.56 Local authority as public body corporate; enumeration of powers; general powers not limited; conducting business at public meeting; notice.**

Sec. 26. (1) Each local authority is a public body corporate, having the succession and term as may be provided in its articles of incorporation. It may adopt and amend bylaws for the regulation of its affairs and the conduct of its business; adopt an official seal and alter it at its discretion; maintain offices at places as it designates; sue and be sued in its own name in any court of this state; and generally do and suffer to be done all things necessary for and convenient and incident to the carrying out of the purposes of its incorporation. The enumeration of powers in this act shall not be construed as a limitation upon the general powers.

(2) The business which the local authority may perform shall be conducted at a public meeting of the authority held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1978, Act 206, Imd. Eff. June 4, 1978.

### **331.57 Powers of local authority.**

Sec. 27. A local authority may:

(a) Construct, acquire by gift, purchase, lease, or condemnation, reconstruct, remodel, improve, add to, enlarge, repair, own, and lease hospital facilities, and acquire a site or sites for the facilities. For the purpose of condemnation, it may proceed under Act No. 149 of the Public Acts of 1911, as amended, being sections 213.21 to 213.41 of the Michigan Compiled Laws, or any other appropriate statute. The governing body of an incorporating unit by majority vote of the body's members elected and serving, may transfer any real property, except cemetery property, owned by the incorporating unit to a local authority established pursuant to this act.

(b) Issue revenue bonds to finance all or any part of the project costs of any hospital facilities or to refinance any outstanding indebtedness of a hospital if the local authority determines that the refinancing is necessary to realize the objectives and purposes of this act. Bonds issued to refinance outstanding hospital indebtedness pursuant to this subdivision shall not exceed the amount of principal, interest, and redemption premium, if any, of the indebtedness to be refinanced which has not been paid, plus the marketing, financing, legal, and other costs incurred in connection with the refinancing and the issuance of the bonds, including the costs of funding a bond reserve, and paying capitalized interest on the bonds for a period not to exceed 1 year after the issuance of the bonds. The determination of the local authority under this subdivision shall be conclusive except with respect to the approval of the municipal finance commission or its successor agency when prior approval is required.

(c) Enter into lease or lease-purchase agreements with a hospital for the use of the hospital facilities. The agreement shall provide that the rents to be charged for the use shall be fixed and revised to produce income and revenues sufficient to pay promptly when due the interest upon and the principal of all bonds issued payable from the income and revenues after provision has been made for the payment of operation and maintenance costs.

(d) Mortgage the hospital facilities in favor of the holders of the bonds issued for those facilities, and may pledge and create a lien in favor of the bondholders on all or part of the funds which are available for payment of principal and interest on the bonds.

(e) Sell and convey part or all of the hospital facilities and site, including without limitation a sale and conveyance subject to a mortgage, for a price and at a time which the local authority may determine. A sale or conveyance shall not be made in a manner as to impair the rights or interests of the holders of bonds.

(f) Make loans; participate in the making of loans; undertake commitments; make loans and mortgages; sell loans and mortgages at public or private sale; modify or alter loans and mortgages; discharge loans and mortgages; foreclose on a mortgage or commence an action to protect or enforce a right conferred upon it by law, mortgage, loan, contract, or other agreement; bid for and purchase property which was the subject of a mortgage at a foreclosure or other sale and acquire or take possession of the property and in that event complete, administer, pay the principal and interest on any obligations incurred in connection with the property; and dispose of and otherwise deal with the property in any manner necessary or desirable to protect the interests of the local authority in the property. The loans made by the authority may be secured by mortgages or not, as the local authority determines.

(g) Loan money to hospitals for the purpose of refinancing outstanding indebtedness of a hospital if the local authority determines that the refinancing is necessary to realize the objectives and purposes of this act. A hospital loan made pursuant to this subdivision shall not exceed the amount of the principal, interest, and redemption premium, if any, of the indebtedness to be refinanced which has not been repaid, plus the marketing, financing, legal, and other costs incurred in connection with the refinancing and the issuance of bonds of the local authority issued in whole or in part to provide funds to make the hospital loan described in this subdivision, including the costs of funding a bond reserve and paying capitalized interest on the bonds for a period not to exceed 1 year after the issuance of the bonds. The determination of the local authority under this subdivision shall be conclusive except with respect to the approval of the municipal finance commission or its successor agency when prior approval is required.

(h) Employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents necessary in its judgment and fix their compensation.

(i) Receive and accept from a public or private agency loans or grants for or in aid of a project undertaken, or a portion of a project, and receive and accept loans, grants, aid, or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which the loans, grants, aid, and contributions are made.

(j) Charge, impose, and collect fees and charges in connection with its loans, commitments, and servicing, including reimbursement of costs of financing by the local authority, service charges, insurance premiums, and an allocable share of the operating expenses of the local authority; make provision for increasing the fees and charges, if necessary, as the local authority shall determine to be reasonable and as approved by the local authority; and collect fees and charges from the lessees of the hospital facilities sufficient to meet operation and maintenance expenses of the authority.

(k) Exercise its powers and undertake a project for the benefit of a single hospital or the joint benefit of a group or association of 1 or more hospitals.

(l) Invest funds not required for immediate use or disbursement, at its discretion, in obligations of the state or the United States, in obligations the principal and interest of which are guaranteed by the state or the United States, or in certificates of deposit of a bank which is a member of the federal reserve system or a savings and loan association which is a member of the federal home loan bank system.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1978, Act 277, Imd. Eff. July 3, 1978;—Am. 1983, Act 48, Imd. Eff. May 16, 1983.

### **331.57a Hospital loan from local authority; purpose; requirements; security; appointment of receiver; limitation on loan; repayment; interest.**

Sec. 27a. A local authority may lend money to hospitals for the payment of project costs. A hospital loan shall not be made unless the local authority is reasonably satisfied that there will be made available to the hospital from the hospital loan and other sources all the funds necessary to pay the project costs; that the hospital facility and other revenues pledged will produce sufficient revenues to meet the principal and interest on the hospital loan, other costs, expenses, and charges connected with the loan, and other charges or obligations of the hospital which may be prior or equal to the loan promptly as they become due; and the hospital is otherwise soundly financed. The hospital loan may be secured by a mortgage of hospital property, including the hospital facility, and may provide for the appointment of a receiver to operate the hospital facilities in case of default. A hospital loan made pursuant to this section shall not exceed the project costs as determined by the local authority. A loan shall be secured in a manner, be repaid in a period not exceeding 50 years, and bear interest at a rate, as determined by the local authority. The rate may be decreased or increased so that it is not less than the rate paid by the local authority on notes, renewal notes, or bonds issued to fund



the loan.

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

### **331.58 Power of local authority to borrow money and issue negotiable bonds; purpose; payment of principal and interest; bond or coupon not general obligation or debt.**

Sec. 28. (1) For the purpose of defraying the project costs of hospital facilities, making hospital loans, refinancing indebtedness of a hospital, or refunding or refunding in advance obligations of any authority created or incorporated under this act, a local authority may borrow money and issue its negotiable bonds. The principal and interest of the bonds shall be payable solely from the net revenues derived from the hospital facilities, from the repayment of hospital loans, from gifts or grants, from amounts derived from the disposition of hospital facilities mortgaged or otherwise pledged as security for payment of the bonds or from investment earnings or profits on any of these sources.

(2) A bond or coupon issued pursuant to this act 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.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1978, Act 277, Imd. Eff. July 3, 1978.

### **331.59 Contents of resolution authorizing bonds.**

Sec. 29. A resolution authorizing bonds or an issue of bonds under this chapter may contain provisions, which shall be a part of the contract with the holders of the bonds, as to:

(a) The use and disposition of the rentals received under the agreement, or the income from hospital loans and mortgages owned by the local authority, and payment of principal and interest on the loans and mortgages, including the creation of reserves or sinking funds, and the regulation and disposition of the reserves and sinking funds.

(b) The limitations on the purpose to which the proceeds of a sale of notes or bonds may be applied, and pledging those proceeds to secure the payment of the notes or bonds or of an issue of notes or bonds.

(c) The limitations on the issuance of additional notes or bonds and the terms and conditions upon which additional notes or bonds may be issued.

(d) The maintenance and repair costs of the hospital facilities, which costs may be assumed by the lessee hospital, in which event provision need not be made for rental payments to meet the costs.

(e) The insurance to be carried on the hospital facilities and the use and disposition of insurance moneys.

(f) The terms and conditions upon which the holder of the bonds, or a portion of the bonds, or any trustees therefor, shall be entitled to the appointment of a receiver by a court which has jurisdiction in the proceedings, and which receiver may enter and take possession of the hospital facilities and lease and maintain the facilities, prescribe rentals, and collect, receive, and apply all income and revenues thereafter arising from the facilities in the same manner and to the same extent as the hospital authority might do.

(g) The procedure by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which must consent to an amendment or abrogation, and the manner in which the consent may be given.

(h) The vesting in 1 or more trustees of the property, rights, powers, remedies, and duties which the local authority considers necessary or convenient.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1978, Act 277, Imd. Eff. July 3, 1978.

### **331.60 Additional provisions of resolution authorizing bonds.**

Sec. 30. A resolution authorizing the issuance of bonds under this act may provide that the principal of, and interest on, the bonds issued shall be secured by:

(a) In the case of a lease or lease purchase agreement, a mortgage or deed of trust covering the hospital facilities for which the bonds are issued and may include additions, improvements, or extensions made after the date of issuance. The mortgage or deed of trust may contain covenants and agreements to properly safeguard the bonds as may be provided for in the resolution authorizing the bonds, but not inconsistent with this act, and shall be executed in the manner provided in the resolution. The resolution may provide for the appointment of 1 or more trustees for bondholders and any such trustee may be an individual or corporation domiciled or located within or without the state and may be given appropriate powers whether with or without the execution of a mortgage or deed of trust covering the hospital facilities or site.

(b) In the case of loans to hospitals, a lien on all or part of the fees and charges made or received, or to be received, by the local authority from the hospital, on all or part of the money received in payment of the hospital loan and interest on the hospital loan, on all or part of investment earnings or profits on any of these sources, and on all or part of the security held for that payment.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1978, Act 277, Imd. Eff. July 3, 1978.

### **331.61 Local authority; bonds, enforcement of payment, validity, publication.**

Sec. 31. (1) The provisions of this act and any resolution and any mortgage or deed of trust shall continue in effect until the principal and interest on the bonds has been fully paid and the duties of the hospital authority and its commission and officers under this act and any resolution and any mortgage or deed of trust shall be enforceable by any bondholder by mandamus, foreclosure of the mortgage or deed of trust or other appropriate action in any court of competent jurisdiction.

(2) The resolution authorizing the bonds shall provide that the bonds shall contain a recital that they are issued pursuant to this act, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(3) Any resolution authorizing the issuance of bonds under this act shall not be effective until publication once in a newspaper of general circulation within the incorporating unit.

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

### **331.62 Issuance of new bonds.**

Sec. 32. If it considers refunding expedient, a local authority may periodically issue bonds to refund or refund in advance bonds or notes issued by the local authority, any other local authority, or the state authority, by the issuance of new bonds pursuant to the requirements of sections 43a to 43g.

**History:** 1969, Act 38, Imd. Eff. July 14, 1969;—Am. 1978, Act 277, Imd. Eff. July 3, 1978.

### **331.63 Local authority; conveyance of hospital facilities.**

Sec. 33. When all bonds issued pursuant to the provisions of this chapter have been retired, then the local authority may convey the title to the hospital facilities to the lessee hospital or organization authorized to operate a hospital in accordance with any agreement executed between the local authority and the lessee hospital.

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