

CHAPTER 159

BOND FINANCING

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PART I

REVENUE BOND ACT OF 1953

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159.01 Short title.—This part shall be known and may be cited as the “Revenue Bond Act of 1953.”

History.—s. 1, ch. 28045, 1953.

159.02 Definitions.—As used in this part, the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

(1) The word “municipality” shall mean any city, town, village or port authority in the state, whether incorporated by special act of the Legislature or under the general laws of the state.

(2) The word “unit” shall mean any county or municipality in the state, now or hereafter created or established.

(3) The term “governing body,” as applied to a county, shall mean the board of county commissioners, and as applied to a municipality, shall mean the council, commission or other board or body in which the general legislative powers of the municipality shall be vested.

(4) The word “project” shall include all property, rights, easements, and franchises relating thereto and deemed necessary or convenient for the construction or acquisition or the operation thereof, and shall embrace waterworks systems, sewer systems, gas systems, bridges, causeways, tunnels, incinerator and solid waste disposal systems, harbor and port facilities, mass transportation systems, expressways, marinas, civic auditoriums, sports arenas, parking facilities, and theme and amusement parks.

(5) A project shall be deemed “self-liquidating” if, in the judgment of the governing body, the revenues and earnings thereof and other special funds pledged therefor as provided in this part, will be sufficient to pay the cost of maintaining, repairing and operating the project and to pay the principal and interest of revenue bonds (as hereinafter defined) which may be issued to pay the cost of such project or improvements thereof.

(6) The term “revenue bonds” shall mean the obligations issued by a unit under the provisions of this part to pay the cost of a self-liquidating project or improvements thereof or combination of one or more projects or improvements thereof, and payable from the earnings of such project, and any other special funds authorized to be pledged as additional security therefor under this part. Whenever the word “bonds” is used in this part, it shall be deemed to mean “revenue bonds,” unless the specific term “general obligation bonds” is used.

(7) The word “bridge” and the word “tunnel” shall include not only the bridge or the tunnel but also all structures and equipment connected therewith and the approaches thereto and approach roads.

(8) The word “causeway” shall mean any raised road or way over and across any marshy ground, swamp, river, bay or water in the state, the bridges or tunnels and structures connected therewith, and the approaches thereto and approach roads.

(9) The term “waterworks system” shall mean and shall include water supply systems, water distribution systems and any integral part thereof, whether inside or outside the unit, and shall include but shall not be limited to reservoirs, wells, intakes, mains, laterals, aqueducts, pumping stations, standpipes, filter stations, purification plants, hydrants, meters, valves and equipment.

(10) The term “harbor and port facilities” shall include docks, wharves, piers, warehouses, terminals, refrigerating plants, channels, turning basins, connecting railroads, breakwaters, causeways and bridges, and bulkheads and equipment.

(11) The word “improvements” shall mean such repairs, replacements, additions, extensions and betterments of and to a project as are deemed necessary to place such project in proper condition for the safe, efficient and economic operation thereof, or necessary to preserve a project or to maintain adequate service to the public.

(12) The term “cost of improvements” shall mean the cost of construction or acquiring improvements as hereinabove defined and shall embrace the cost of all labor and materials, the cost of all lands, property, rights, easements and franchises acquired which are deemed necessary for such construction, the cost of all machinery and equipment, financing charges, cost of engineering and legal expenses, plans, specifications, surveys, and such other expenses as may be necessary or incident to such construction.

(13) The term “cost of a project” shall mean the cost of acquiring or constructing such project, and the cost of improvements, and shall include the cost of all labor and materials, the cost of all lands, property, rights, easements and franchises acquired, which are deemed necessary for such acquisition or construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction and for 1 year after the completion of construction, engineering and legal expenses, cost of plans, specifications, surveys, estimates of construction costs and of revenues, other expenses necessary or incident to determining the feasibility or practicability of such acquisition or construction, administrative expenses, and such other expenses as may be necessary or incident to the financing herein authorized and to such acquisition or construction and the placing of the project in operation.

(14) The term “sewer system” shall mean and include sewage disposal systems, including wastewater reuse systems, or sanitary sewer systems and any integral part thereof, whether inside or outside the unit, and shall include but shall not be limited to sewage disposal plants or facilities, sanitary sewers, pumping stations, intercepting or trunk or lateral sewers, and any other properties or works or equipment necessary for the collection, treatment, and disposal of sewage and waste matter, including wastewater reuse, and including industrial wastes.

(15) The term “gas system” shall mean and include works and structures necessary for the production, supply and distribution of gas, manufactured or natural, for lighting, heating, refrigeration or other domestic or industrial use, whether inside or outside the unit and shall include but shall not be limited to distribution mains, meters, plants, equipment, machinery and any other property necessary for the production, supply and distribution of either manufactured or natural gas, for domestic or industrial use.

(16) The term “utilities services taxes” shall mean taxes levied and collected on the purchase or sale of utilities services pursuant to ss. 167.431 and 167.45 or any other law.

(17) The term “cigarette taxes” shall mean taxes levied and collected on the purchase or sale of cigarettes under the provisions of chapter 210 or any other law.

(18) The term “franchise taxes” shall mean payments to a municipality pursuant to the provisions of a franchise granted to a person, firm or corporation for the furnishing of utilities or other services or facilities in such municipality.

(19) The term “mass transportation system” shall mean any system for the transportation of the public by bus, rail or any other means of conveyance serving the general public and moving over prescribed routes.

(20) The term “expressways” shall mean any limited access highway where tolls are charged for use thereof.

(21) The term “marinas” shall mean any facilities for the sale, repair, rental, storage, and servicing of boats.

(22) The term “civic auditorium” shall mean any building constructed for the purpose of serving public gatherings, including but not limited to, conventions, meetings, and concerts where admission may be charged.

(23) The term “sports arena” shall mean any building or enclosed area where fees may be charged for the admission to sporting events.

(24) The term “incinerator and solid waste disposal systems” shall include any system whereby solid wastes are burned, buried, composted or any system for such disposal approved by a state pollution control agency.

(25) The term “parking facilities” shall mean any facility constructed for the purpose of vehicular parking and the use, operation and occupancy of such parking facilities and for which charges are made.

History.—s. 2, ch. 28045, 1953; ss. 1, 2, ch. 67-550; s. 1, ch. 77-351; s. 4, ch. 93-51.

Note.—Repealed by s. 5, ch. 73-129.

159.03 General powers.—The governing body of any unit in the state is hereby authorized and empowered:

(1) To acquire by purchase or to construct, or partly acquire and partly construct, and to improve, repair, reconstruct, own, operate and maintain any self-liquidating project, or any combination of one or more projects as a single project, either inside or outside or partly inside and partly outside of the boundaries of the corporate limits of such unit; provided, however, that the consent of the adjoining governmental authority must be

first obtained before a project may be effected outside the boundaries of the corporate limits of such unit.

(2) To issue revenue bonds of such unit, payable from earnings and any other special funds pledged therefor as provided herein, to pay the cost of a project or improvement thereof.

(3) To fix and collect rates, fees, tolls, rentals or other charges for the services and facilities furnished by such project.

(4) To acquire in the name of the unit, either by purchase or the exercise of the right of eminent domain, such lands and rights and interests therein, including lands under water and riparian rights, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any project.

(5) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this part, and to employ such consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and other employees and agents as may, in the judgment of the governing body, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this part.

(6) To receive and accept from any federal agency grants for or in aid of the planning, construction, reconstruction or financing of any project, and to receive and accept 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 such grants and contributions may be made.

History.—s. 3, ch. 28045, 1953; s. 3, ch. 67-550; s. 1, ch. 77-174.

159.04 Neither credit nor taxing power pledged.

(1) Revenue bonds issued under the provisions of this part shall not be deemed to constitute a debt of the unit issuing the same or a pledge of the faith and credit of such unit, except as provided in s. 159.16, but such bonds shall be payable from the funds hereinafter provided therefor from revenues and any other special funds pledged for the payment of such bonds as provided herein. All such bonds shall contain a statement on their face to the effect that such unit is not obligated to pay the same or the interest thereon except from revenues and other special funds provided for in this part, and that the faith and credit of the unit are not pledged to the payment of the principal or interest of such bonds.

(2) The issuance of revenue bonds under the provisions of this part shall not directly or indirectly or contingently obligate the unit to levy or to pledge any form of ad valorem taxation whatever therefor. No holder of any such revenue bonds shall ever have the right to compel any exercise of the ad valorem taxing power on the part of such unit to pay any such bonds or the interest thereon or to enforce payment of such bonds or the interest thereon against any property of the unit, nor shall such bonds constitute a charge, lien or encumbrance, legal or equitable, upon any property of

such unit, except the revenues and other special funds pledged for the payment of such revenue bonds.

History.—s. 4, ch. 28045, 1953; s. 4, ch. 67-550.

159.05 Purchase of projects.—The governing body of any unit is hereby authorized to acquire by purchase, whenever it shall deem such purchase expedient, any self-liquidating project as hereinabove defined, or any such project, wholly or partly constructed, and any franchise, easements, permits and contracts for the construction of any such project, upon such terms and at such prices as may be reasonable and can be agreed upon between such governing body and the owner thereof, title to be taken in the name of the unit. The governing body may issue revenue bonds of the unit, as hereinafter provided, to pay the cost of the acquisition of such project.

History.—s. 5, ch. 28045, 1953.

159.06 Improvement of projects purchased.—It shall be the duty of the governing body at or before the time any such project shall be acquired by purchase, to determine what repairs, replacements, additions or betterments will be necessary to place the project in safe and efficient condition for use, and to cause an estimate of the cost of such improvements to be made. The governing body shall authorize such improvements before the sale of any revenue bonds for the acquisition of such project, and the cost of such improvements shall be paid for out of the proceeds of such bonds.

History.—s. 6, ch. 28045, 1953.

159.07 Construction of projects.—The governing body of any unit is hereby authorized and empowered to construct, whenever it shall deem such construction expedient, any self-liquidating project as hereinabove defined.

History.—s. 7, ch. 28045, 1953.

159.08 Revenue bonds.

(1) The governing body of any unit shall have the power and it is hereby authorized to provide by ordinance or resolution, at one time or from time to time, for the issuance of revenue bonds of the unit for the purpose of paying all or a part of the cost as hereinabove defined of any one or more self-liquidating projects of the same class, or any combination thereof as a single project, or of any improvements thereof. The principal and interest of such bonds shall be payable solely from the special funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates not exceeding 7.5 percent per annum, shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the governing body, and may be made redeemable before maturity, at the option of the unit, at such price or prices and under such terms and conditions as may be fixed by the governing body prior to the issuance of the bonds. The governing body shall determine the form of the bonds and the interest coupons to be attached thereto, the manner of executing the bonds and coupons, and shall fix the denomination or denominations of the bonds and the place or places of payment of the principal and interest, which

may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until such delivery. All revenue bonds issued under the provisions of this part shall have and are hereby declared to be and to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the state. Provision may be made for the registration of any of the bonds in the name of the owner as to principal alone and also as to both principal and interest, and for the reconversion of any of the bonds registered as to both principal and interest into coupon bonds. Such bonds may be issued without regard to any limitation on indebtedness prescribed by any other law and shall not be included in the amount of bonds which any unit may be authorized to issue under any statute or charter. The governing body may sell such bonds in such manner and for such price as it may determine to be for the best interests of the unit, but no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than 7.5 percent per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any premium to be paid on the redemption of any bonds prior to maturity. Prior to the preparation of definitive bonds, the governing body may, under like restrictions, issue interim receipts, interim certificates, or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The governing body may also provide for the replacement of any bonds which shall become mutilated, or be destroyed or lost. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this part.

(2) The proceeds of such bonds shall be used solely for the payment of the cost of the project, and shall be disbursed in such manner and under such restrictions, if any, as the governing body may provide. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than the cost of the project, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the ordinance or resolution or in the trust agreement hereinafter mentioned, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same project. If the proceeds of bonds issued for any project shall exceed the cost thereof, the surplus shall be paid into the fund hereinafter provided for the payment of the principal of and the interest on such bonds.

(3) In the event that a unit has heretofore acquired or constructed a project as hereinabove defined, and, to pay the cost of such acquisition or construction or of

improvements thereof, shall have issued revenue bonds or certificates of the unit payable from the revenues of such project or any other special funds provided for herein, and in the further event that such unit shall desire to construct additions, extensions, improvements or betterments to such project or to acquire by purchase or to construct an additional project and to combine such additional project with the project theretofore purchased or constructed, and to refund such outstanding revenue bonds or certificates, such unit may provide for the issuance of a single issue of revenue bonds under the provisions of this part for the combined purposes:

(a) Of refunding such revenue bonds or certificates then outstanding if they have matured or shall then be subject to redemption or will be subject to redemption within 10 years thereafter, or can be acquired for retirement, and

(b) Of constructing such additions, extensions, improvements or betterments or of acquiring by purchase or of constructing such additional project, and the principal of and interest on such revenue bonds shall be payable from the revenues derived from the operation of the combined projects as a single project, and any other special funds pledged therefor as provided herein.

(4) The ordinance or resolution providing for the issuance of the revenue bonds and the trust agreement hereinafter mentioned, may also contain such limitations upon the issuance of additional revenue bonds as the governing body may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such ordinance or resolution or by the trust agreement hereinafter mentioned. All moneys received from any bonds issued and sold under the provisions of this part shall be applied solely for the purposes for which the bonds shall be authorized or to the sinking fund created for the payment of such bonds.

(5) No revenue bonds shall be issued by a unit under the authority of this part unless the governing body of such unit shall have theretofore found and determined:

(a) The estimated cost of the project on account of which such bonds are to be issued,

(b) The estimated annual revenues of such project, and of any other special funds provided for in this part which are to be pledged as additional security for said bonds, and

(c) The estimated annual cost of maintaining, repairing and operating the project and the interest on such bonds and the principal thereof as such interest and principal shall become due.

History.—s. 8, ch. 28045, 1953; s. 1, ch. 67-484; s. 5, ch. 67-550; s. 10, ch. 73-302; s. 883, ch. 95-147.

159.09 Trust agreement.—In the discretion of the governing body, each or any issue of such bonds may be secured by a trust agreement by and between the unit and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the state. Such trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage any project or any part thereof.

Either the ordinance or resolution providing for the issuance of revenue bonds or such trust agreement may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the unit and the governing body thereof in relation to the acquisition, construction, improvement, maintenance, operation, repair, and insurance of the project, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of this state, or any other state or territory of the United States, that has a branch or principal place of business in this state as defined in s. 658.12, to act as such depository and to furnish such indemnifying bonds or to pledge such securities as may be required by the governing body. Such ordinance or resolution or such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of corporations. In addition to the foregoing, such ordinance or resolution or such trust agreement may contain such other provisions as the governing body may deem reasonable and proper for the security of bondholders. Except as in this part otherwise provided, the governing body may provide, by ordinance or resolution or by such trust agreement, for the payment of the proceeds of the sale of the bonds and the revenues of the project to such officer, board or depository as it may determine for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust agreement may be treated as a part of the cost of operation of the project affected by such trust agreement.

History.—s. 9, ch. 28045, 1953; s. 6, ch. 98-409.

159.10 Revenues of projects.—

(1) The governing body shall fix and revise from time to time rates, fees, rentals, tolls or other charges for the use of each project or for the services and facilities furnished thereby and charge and collect the same. Such rates, fees, rentals, tolls, or other charges shall be so fixed and adjusted, in respect of the aggregate of rates, fees, rentals, tolls, or other charges from the project or projects for which a single issue of bonds is issued, as to provide a fund sufficient, together with any other special funds pledged therefor as provided in this part, to pay the cost of maintaining, repairing and operating such project or projects and the principal of and interest on the revenue bonds as the same shall become due and reserves for such purposes and all such other payments required by the proceedings authorizing the issuance of such revenue bonds. Such rates, fees, rentals, tolls and other charges shall not be subject to supervision or regulation by any state commission, board, bureau or agency.

(2) All or a sufficient amount of the revenues derived from a project or projects for which revenue bonds have been issued shall be set aside at such regular intervals as may be provided in the ordinance or resolution

authorizing the issuance of the bonds or in the trust agreement securing the same, in a sinking fund which is hereby pledged to and charged with the payment of the principal and interest upon such bonds as the same shall become due, any premium upon bonds retired by call or purchase as herein provided, and for reserves therefor, and to pay the cost of maintaining, repairing and operating the project or projects and reserves therefor, all in the order of priority and manner as shall be provided in such ordinance or resolution or trust agreement. The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the ordinance or resolution authorizing the issuance of the bonds or in such trust agreement, but, except as may otherwise be provided in such ordinance or resolution or such trust agreement, such sinking fund shall be a fund for the benefit of all bonds without distinction or priority of one over another.

(3) If any county, city or town or any department, agency or instrumentality thereof elects to avail itself of the services and facilities afforded by a project financed by it under the provisions of this part, it shall pay for the same at the established rates as the charges therefor accrue, and the revenues so received shall be deemed to be a part of the revenues of such project.

History.—s. 10, ch. 28045, 1953; s. 6, ch. 67-550.

159.11 Trust funds.—All moneys received pursuant to the authority of this part, whether as proceeds from the sale of revenue bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this part. The governing body shall, in the ordinance or resolution authorizing the issuance of such bonds or in the trust agreement, provide for the payment of the proceeds of the sale of the bonds and the revenues to be received to any officer who, or to any agency, bank or trust company which, shall act as trustee of such funds, and hold and apply the same to the purposes hereof, subject to such regulations as this part and such ordinance or resolution or trust agreement may provide.

History.—s. 11, ch. 28045, 1953.

159.12 Remedies of bondholders and trustee.

Any holder of revenue bonds issued under the provisions of this part or any of the coupons attached thereto, and the trustee under the trust agreement, if any, except to the extent the rights herein given may be restricted by ordinance or resolution passed before the issuance of the bonds or by the trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such ordinance or resolution or trust agreement, and may enforce and compel the performance of all duties required by this part, or by such ordinance or resolution or trust agreement, to be performed by the unit or its governing body or by any officer thereof, including the fixing, charging and collecting of rates, fees, rentals, tolls and other charges for the use of the project or for the services and facilities furnished thereby.

History.—s. 12, ch. 28045, 1953.

159.13 Revenue refunding bonds.—

(1) The governing body of any unit is hereby authorized to provide by ordinance or resolution for the issuance of revenue refunding bonds of such unit for the purpose of refunding any revenue bonds then outstanding and which shall then have matured or are then redeemable or subject to redemption within 10 years thereafter or can be acquired for retirement and issued under the provisions of this part or any other law for the purpose of paying all or a part of the cost of a project as defined in this part. The governing body of any unit is further authorized to provide by ordinance or resolution for the issuance of revenue bonds of the unit for the combined purposes of:

(a) Paying the cost of any improvements of a project or of acquiring by purchase or of constructing an additional project or projects and of;

(b) Revenue refunding bonds of the unit which shall theretofore have been issued for such project and shall then be outstanding and which shall then have matured or are then redeemable or subject to redemption within 10 years thereafter or can be acquired for retirement.

The issuance of such revenue refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the governing body and of the unit in respect to the same, shall be governed by the foregoing provisions of this part insofar as the same may be applicable.

(2) If such outstanding revenue bonds to be refunded are not immediately redeemable the issuing unit shall have power to invest the proceeds of such revenue refunding bonds in direct obligations of the United States until the first date upon which such outstanding revenue bonds are redeemable prior to maturity, not in any event later than 10 years from the date of issuance of such revenue refunding bonds.

History.—s. 13, ch. 28045, 1953; s. 7, ch. 67-550.

159.14 Alternative method.—This part shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. This part, being necessary for the welfare of the inhabitants of the counties and municipalities of the state, shall be liberally construed to effect the purposes thereof.

History.—s. 14, ch. 28045, 1953.

159.15 Tax exemption and eligibility as investments.—

(1) It is hereby found and determined that all of the purposes for which revenue bonds are authorized to be issued by this part constitute essential governmental purposes, and all of the properties, revenues, moneys and other assets owned and used in the operation of such projects, and all revenue bonds issued hereunder and the interest thereon shall be exempt from all taxation by the state or by any county, municipality, political subdivision, agency, or instrumentality thereof. All notes, mortgages, security agreements, letters of credit, or other instruments which arise out of or are given to secure the repayment of bonds issued in

connection with a project financed under this part are also exempt from taxation. The exemption granted by this subsection shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

(2) Any revenue bonds issued hereunder shall be and constitute legal investments for all public bodies and for all banks, savings banks, guardians, insurance funds, trustees or other fiduciaries and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal or other public funds.

(3) Notwithstanding the provisions of s. 215.47, bonds, notes, or obligations of any municipality or political subdivision or any agency or authority of this state, collateralized as to principal and interest by any investment otherwise authorized by s. 215.47, in cases where such collateral is to be utilized to guarantee payment and performance bond obligations for maritime and other construction projects undertaken by employers in this state, where the employer could not receive a payment or performance bond absent such guarantee, and where the municipality or political subdivision is experiencing economic distress by reason of a high unemployment rate or other factors, shall constitute legal investments for state, county, municipal, and all other public funds. For purposes of s. 159.02(4), the word "project" shall also include any escrow fund pledged as collateral to be utilized for the purposes and under the circumstances described in this subsection.

History.—s. 8, ch. 67-550; s. 2, ch. 73-327; s. 19, ch. 86-152.

159.16 Additional pledge of faith and credit.—

(1) Notwithstanding any other provision of this part, any county or municipality issuing revenue bonds hereunder for any of the purposes provided in this part, shall have power to pledge the full faith and credit and ad valorem taxing power of such county or municipality for the payment of the principal of or interest on such revenue bonds if the issuance of such revenue bonds with such additional pledge shall have approval by the qualified electors who are freeholders residing in such county or municipality in an election called, conducted and held in the manner provided in the constitution and statutes of Florida for the holding of freeholder elections.

(2) In the event such additional pledge is made the county or municipality shall be obligated to levy ad valorem taxes without limit as to rate or amount for the payment of the principal of and interest on such revenue bonds, and the issuance of such revenue bonds with such additional pledge of the faith and credit of such county or municipality shall not be subject to any debt limitation contained in any other law, general, special or local.

History.—s. 8, ch. 67-550.

159.17 Lien of service charges.—Any municipality issuing revenue bonds hereunder shall have a lien on all lands or premises served by any water system, sewer system or gas system for all service charges for such facilities until paid, which liens shall be prior to all

other liens on such lands or premises except the lien of state, county and municipal taxes and shall be on a parity with the lien of such state, county and municipal taxes. Such liens, when delinquent for more than 30 days, may be foreclosed by such municipality in the manner provided by the laws of Florida for the foreclosure of mortgages on real property.

History.—s. 8, ch. 67-550.

159.18 Collection of charges.—

(1) Any municipality shall have power to discontinue and shut off the supplying of any or all water, gas and sewer services to any users of the facilities of a water system, gas system or sewer system of such municipality for nonpayment of service charges for any such water system, gas system or sewer system, and may covenant with the holders of any revenue bonds issued hereunder that it will not restore the supplying of any water, gas or sewer services to such delinquent users until all charges, with reasonable interest and penalties, for all water, gas and sewer services have been paid in full.

(2) Any municipality shall have power to enter into valid and legally binding contracts with any person, public or private corporation, board or other body supplying water to any premises served by the sewer system or facilities of the municipality for the shutting off and discontinuing of the supply of water to such premises as long as any charges for the sewer services or facilities of the municipality are unpaid, under such terms and conditions as shall be mutually agreed upon, including provisions for the billing and collecting of the sewer charges of the municipality by the owners of the water facilities at the same time water charges are billed and collected by such owners of the water facilities.

History.—s. 8, ch. 67-550.

159.19 Additional pledge of excise taxes.—

(1) Any municipality may pledge the proceeds of utilities services taxes, cigarette taxes, or franchise taxes, as defined herein, or any other excise taxes or other funds which such municipality is authorized to levy and collect or will have available, as additional security for the payment of the principal of and interest on any revenue bonds issued hereunder, or for reserves for such debt service.

(2) In the event of the pledge of such utilities services taxes, cigarette taxes, franchise taxes, or other excise taxes as provided herein, such pledge shall be and constitute a valid and legally binding contract between the municipality and the holders of such revenue bonds as the case may be, and the municipality shall be obligated to continue the levy and collection of such utilities services taxes, cigarette taxes, franchise taxes, or other excise taxes in accordance with the proceedings which authorize the issuance of the revenue bonds for which such utilities services taxes, cigarette taxes, franchise taxes or other excise taxes are so pledged as additional security as long as any of said revenue bonds are outstanding and unpaid.

(3) It shall be the mandatory duty of the municipality, when it has so pledged any utilities services taxes,

cigarette taxes, franchise taxes or other excise taxes as additional security for such revenue bonds to continue the levy and collection of such utilities services taxes, cigarette taxes, franchise taxes or other excise taxes in the manner provided in the proceedings authorizing the issuance of the revenue bonds for which the same are pledged, and to raise the rates of such utilities services taxes, cigarette taxes, franchise taxes and other excise taxes to the maximum rates permitted by the statutes or franchises in effect at the time of the authorization of such bonds to the full extent necessary to comply with such proceedings authorizing the issuance of such revenue bonds.

(4) The state does hereby covenant with the holders of such revenue bonds that it will not repeal or impair, or amend in any manner which will materially and adversely affect the rights of such holders, the duty and obligation and power of the municipality to levy and collect such utilities services taxes, cigarette taxes, franchise taxes or other excise taxes in accordance with the proceedings authorizing the issuance of such revenue bonds.

History.—s. 8, ch. 67-550.

PART II

FLORIDA INDUSTRIAL DEVELOPMENT FINANCING ACT

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159.25 Short title.—This part shall be known and may be cited as the “Florida Industrial Development Financing Act.”

History.—s. 1, ch. 69-104.

159.26 Legislative findings and purposes.—The Legislature finds and declares that:

(1) The agriculture, tourism, urban development, historic preservation, education, and health care industries, among others, are vital to the economy of the state and to the welfare of the people and need to be enhanced and expanded to improve the competitive position of the state;

(2) There is a need to enhance other economic activity in the state by attracting manufacturing development, business enterprise management, and other activities conducive to economic promotion in order to provide a stronger, more balanced, and stable economy in the state, while providing through pollution control and otherwise for the health and safety of the people;

(3) In order to improve the prosperity and welfare of the state and its inhabitants; to improve education, living conditions, and health care; to promote the preservation of historic structures; to promote the rehabilitation of enterprise zones; to promote improved transportation; to promote effective and efficient pollution control throughout the state; to promote the advancement of education and science and research in and the economic development of the state; and to increase purchasing power and opportunities for gainful employment, it is necessary and in the public interest to facilitate the financing of the projects provided for in this part and to facilitate and encourage the planning and development of these projects without regard to the boundaries between counties, municipalities, special districts, and other local governmental bodies or agencies in order to more effectively and efficiently serve the interests of the greatest number of people in the widest area practicable; and

(4) The purposes to be achieved by such projects and the financing of them in compliance with the criteria and requirements of this part are predominantly the public purposes stated in this section, and such purposes implement the governmental purposes under the State Constitution of providing for the health, safety, and welfare of the people, including implementing the purpose of s. 10(c), Art. VII of the State Constitution.

History.—s. 2, ch. 69-104; s. 1, ch. 75-126; s. 2, ch. 79-101; s. 1, ch. 80-287; s. 7, ch. 82-119; s. 18, ch. 83-271; s. 1, ch. 84-308; s. 3, ch. 85-282.

159.27 Definitions.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) “Bonds” or “revenue bonds” means the bonds authorized to be issued by any local agency under this part, which may consist of a single bond. The term “bonds” or “revenue bonds” also includes a single bond, a promissory note or notes, or other debt obligations evidencing an obligation to repay borrowed money together with any security instruments or agreements securing repayment of such borrowed money and payable solely from the revenue derived from the sale, operation, or leasing of any project or other

payments received under financing agreements with respect thereto.

(2) “Cost,” as applied to any project, shall embrace:

(a) The cost of construction;

(b) The cost of acquisition of property, including rights in land and other property, both real and personal and improved and unimproved;

(c) The cost of demolishing, removing, or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated;

(d) The cost of all machinery and equipment, financing charges, interest prior to and during construction, and, for a reasonable period after completion of construction, the cost of engineering and architectural surveys, plans, and specifications; and

(e) The cost of consultant and legal services, other expenses necessary or incident to determining the feasibility or practicability of constructing such project, administrative and other expenses necessary or incident to the construction of such project, and the financing of the construction thereof, including reimbursement to any state or other governmental agency or any lessee of such project for such expenditures made with the approval of the local agency that would be costs of the project hereunder had they been made directly by the local agency.

(3) “Governing body” means the board, commission, or other governing body of any local agency in which the general legislative powers of such local agency are vested.

(4) “Local agency” means any county or municipality existing or hereafter created pursuant to the laws of the state or any special district or other local governmental body existing or hereafter created pursuant to the laws of the state, the purpose for the creation of which could reasonably be interpreted to be consistent with the issuance of revenue bonds to finance the cost of projects within the meaning of this part.

(5) “Project” means any capital project comprising an industrial or manufacturing plant, a research and development park, an agricultural processing or storage facility, a warehousing or distribution facility, a headquarters facility, a tourism facility, a convention or trade show facility, an urban parking facility, a trade center, a health care facility, an educational facility, a correctional or detention facility, a motion picture production facility, a preservation or rehabilitation of a certified historic structure, an airport or port facility, a commercial project in an enterprise zone, a pollution-control facility, a hazardous or solid waste facility, a social service center, or a mass commuting facility, including one or more buildings and other structures, whether or not on the same site or sites; any rehabilitation, improvement, renovation, or enlargement of, or any addition to, any buildings or structures for use as a factory, a mill, a processing plant, an assembly plant, a fabricating plant, an industrial distribution center, a repair, overhaul, or service facility, a test facility, an agricultural processing or storage facility, a warehousing or distribution facility, a headquarters facility, a tourism facility, a convention or trade show facility, an urban parking facility, a trade center, a health care facility, an educational facility, a

correctional or detention facility, a motion picture production facility, a preservation or rehabilitation of a certified historic structure, an airport or port facility, a commercial project in an enterprise zone, a pollution-control facility, a hazardous or solid waste facility, a social service center, or a mass commuting facility, and other facilities, including research and development facilities, for manufacturing, processing, assembling, repairing, overhauling, servicing, testing, or handling of any products or commodities embraced in any industrial or manufacturing plant, in connection with the purposes of a research and development park, or other facilities for or used in connection with an agricultural processing or storage facility, a warehousing or distribution facility, a headquarters facility, a tourism facility, a convention or trade show facility, an urban parking facility, a trade center, a health care facility, an educational facility, a correctional or detention facility, a motion picture production facility, a preservation or rehabilitation of a certified historic structure, an airport or port facility, or a commercial project in an enterprise zone or for controlling air or water pollution or for the disposal, processing, conversion, or reclamation of hazardous or solid waste, a social service center, or a mass commuting facility; and including also the sites thereof and other rights in land therefor whether improved or unimproved, machinery, equipment, site preparation and landscaping, and all appurtenances and facilities incidental thereto, such as warehouses, utilities, access roads, railroad sidings, truck docking and similar facilities, parking facilities, office or storage or training facilities, public lodging and restaurant facilities, dockage, wharfage, solar energy facilities, and other improvements necessary or convenient for any manufacturing or industrial plant, research and development park, agricultural processing or storage facility, warehousing or distribution facility, tourism facility, convention or trade show facility, urban parking facility, trade center, health care facility, educational facility, a correctional or detention facility, motion picture production facility, preservation or rehabilitation of a certified historic structure, airport or port facility, commercial project in an enterprise zone, pollution-control facility, hazardous or solid waste facility, social service center, or a mass commuting facility and any one or more combinations of the foregoing.

(6) "State" means the State of Florida.

(7) "Research and development park" means a center of research and development activity related to the research and development activities of one or more affiliated institutions of higher education, including scientifically oriented production or educational programs of postsecondary educational institutions, consisting of research and development facilities; scientifically oriented production or assembly facilities; research institutes; prototype, scientific, and product testing laboratories; related business and government installations; or similar related facilities, together with land, including all necessary appurtenances, rights, and franchises directly relating thereto, with related buildings, facilities, and personal properties, but only to the extent that such facilities are engaged in research and development, are necessary to encourage or complement the purposes of a research and development park,

or are in support of any facilities or improvements located or constructed at such a center or activities or operations conducted at such a center for purposes authorized by this subsection. For purposes of this subsection, the administering or taking of professional or occupational licensing examinations shall not constitute testing, nor shall any room, building, or facility in which such examinations are administered or taken constitute a testing laboratory.

(8) "Agricultural processing or storage facility" means property used or useful in the separation, cleaning, processing, converting, packaging, handling, storing, and other activities necessary for the preparation of crops, livestock, related products, and other products of agriculture, including nonfarm facilities for production of agricultural products in whole or in part through natural processes, animal husbandry, and aparies.

(9) "Warehousing or distribution facility" means property used or useful in the storage or centralized distribution of products of, resulting from, or used in manufacturing, agriculture, fishing, or mining, including, without limitation thereto, warehouses, distribution centers, freight terminals, and elevators, but excluding storage facilities serving a single retail outlet.

(10) "Headquarters facility" means property used for or useful in connection with an international, national, or regional headquarters office of a multinational or multi-state business enterprise or national trade association, whether separate from or connected with other facilities used by such business enterprise.

(11) "Tourism facility" means property used for or useful in connection with theme parks; zoological gardens; amusement parks; major art, historical, educational, or trade museums; cultural or performing arts centers; or spectator or participatory sports facilities generally available to the public, including, without limitation thereto, marinas, arenas, beaches, bathing facilities, golf courses, theaters, auditoriums, race-tracks, and frontons.

(12) "Public lodging or restaurant facility" means property used for any public lodging establishment as defined in s. 509.242 or public food service establishment as defined in s. 509.013(5) if it is part of the complex of, or necessary to, another facility qualifying under this part.

(13) "Convention or trade show facility" means property used for or useful in connection with conventions and trade shows, including special purpose buildings and structures, such as meeting halls and display areas, which are generally used and generally available to house conventions or trade shows.

(14) "Urban parking facilities" means property used or useful in connection with eliminating traffic congestion and urban blight, improving access and egress, and providing for development or redevelopment of central cities.

(15) "Trade center" means property used for or useful in connection with the providing of a centralized location for the promotion and conduct on a continuing basis of national or international trade or trade pertaining to particular segments of the national or international

economy, including, without limitation thereto, meeting and display areas, communication centers, and offices.

(16) "Health care facility" means property operated in the private sector, whether operated for profit or not, used for or useful in connection with the diagnosis, treatment, therapy, rehabilitation, housing, or care of or for aged, sick, ill, injured, infirm, impaired, disabled, or handicapped persons, without discrimination among such persons due to race, religion, or national origin; or for the prevention, detection, and control of disease, including, without limitation thereto, hospital, clinic, emergency, outpatient, and intermediate care, including, but not limited to, facilities for the elderly such as assisted living facilities, facilities defined in s. 154.205(8), day care and share-a-home facilities, nursing homes, and the following related property when used for or in connection with the foregoing: laboratory; research; pharmacy; laundry; health personnel training and lodging; patient, guest, and health personnel food service facilities; and offices and office buildings for persons engaged in health care professions or services; provided, if required by ss. 400.601-400.611 and ss. 408.031-408.045, a certificate of need therefor is obtained prior to the issuance of the bonds.

(17) "Airport or port facility" means any one or more facilities within the definition of "airport" in s. 330.27, or within the definitions of "harbor and port facilities" in s. 159.02 or "port facilities" in s. 315.02, including any property used by or useful for services to, or the convenience of, freight or passenger carriers, aircraft, vessels, passengers, or otherwise functionally related or subordinate to airport or port facilities as so defined.

(18) "Financing agreement" means a lease, lease-purchase agreement, lease with an option to purchase, sale or installment sale agreement, whether title passes in whole or in part at any time prior to, at, or after completion of the project, loan agreement, or other agreement forming the basis for the financing under this part, including any agreements, guarantees, or security instruments forming part of or related to providing assurance of payment of the obligations under such financing agreement.

(19) "Commercial project in an enterprise zone" means buildings, building additions or renovations, or other structures to be newly constructed and suitable for use by a commercial enterprise, and includes the site on which such buildings or structures are located, located in an area designated as an enterprise zone pursuant to s. 290.0065.

(20) "Motion picture production facility" means property used for or useful in connection with the preparation of motion picture or television productions produced for showing on screens or television for theatrical, commercial, advertising, or educational purposes utilizing live, animated, or a combination of live and animated actions, including, without limitation thereto, sound stages, editing facilities, facilities for production of background scenes, wardrobe facilities, recording and sound effects studios, and other facilities necessary or incidental thereto. This term does not include facilities or equipment purchased, leased, or used by television broadcasting or cable companies licensed by the Federal Communications Commission.

(21) "Preservation or rehabilitation of a certified historic structure" means any rehabilitation, restoration, or renovation of a "certified historic structure," as defined in s. 48(g)(3) of the Internal Revenue Code of 1954, as amended, or any rehabilitation, restoration, or renovation of any structure in a "registered historic district" defined in s. 48(g)(3)(B) of the Internal Revenue Code of 1954, as amended.

(22) "Educational facility" means:

(a) Property, limited to a structure suitable for use as a dormitory or other housing facility or a dining facility, that is operated in the public sector and used for or useful in connection with the operation of an institution for higher education, as defined in s. 243.20(8), which offers the baccalaureate or a higher degree and that is constructed in compliance with applicable codes as determined by appropriate state agencies.

(b) Property that comprises the buildings and equipment, structures, and special education use areas that are built, installed, or established to serve primarily the educational purposes of operating any nonprofit private preschool, kindergarten, elementary school, middle school, or high school that is established under chapter 617 or chapter 623, or that is owned or operated by an organization described in s. 501(c)(3) of the United States Internal Revenue Code, or operating any preschool, kindergarten, elementary school, middle school, or high school that is owned or operated as part of the state's system of public education, including, but not limited to, a charter school or a lab school operated under chapter 1002. The requirements of this part for the financing of projects through local agencies shall also apply to such schools. Bonds issued under the provisions of this part for such schools shall not be deemed to constitute a debt, liability, or obligation of the state or any political subdivision thereof, or a pledge of the faith and credit of the state or of any such political subdivision, but shall be payable solely from the revenues provided therefor.

(23) "Mass commuting facility" has the same meaning as in s. 103(b)(4) of the Internal Revenue Code of 1954, as amended, and the regulations issued thereunder.

(24) "Social service center" means a community or social service center constructed for an organization which holds current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

History.—s. 3, ch. 69-104; s. 2, ch. 75-126; s. 3, ch. 79-101; s. 2, ch. 80-287; s. 23, ch. 81-292; s. 8, ch. 82-119; s. 1, ch. 83-47; s. 6, ch. 83-55; s. 2, ch. 83-181; s. 19, ch. 83-271; s. 2, ch. 84-308; s. 23, ch. 84-356; s. 4, ch. 85-282; s. 4, ch. 86-181; s. 11, ch. 86-183; s. 39, ch. 87-92; s. 1, ch. 88-67; s. 18, ch. 88-294; s. 2, ch. 88-302; s. 1, ch. 88-409; s. 22, ch. 89-381; s. 59, ch. 94-136; s. 1, ch. 95-210; s. 56, ch. 95-280; s. 1, ch. 98-306; s. 11, ch. 2001-86; s. 903, ch. 2002-387; s. 5, ch. 2004-41.

159.28 General powers.—Every local agency shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including, but without limiting the generality of the foregoing, the powers, with respect to any project or projects:

(1) To prescribe rules, regulations, and policies in connection with the performance of its functions and duties under this part;

(2) To receive, administer, and comply with conditions and requirements respecting any gift, grant, or donation of any property or money from any source, whether federal, state, or private;

(3) To make and execute financing agreements, contracts, deeds, and other instruments necessary or convenient in the exercise of the powers and functions of the local agency under this part, including contracts with persons, firms, corporations, federal and state agencies, and other local agencies, which state agencies and other local agencies are hereby authorized to enter into contracts and otherwise cooperate with any local agency to facilitate the financing, construction, leasing, or sale of any project;

(4) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, for the construction, operation, or maintenance of any project;

(5) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to any real or personal property or interest therein;

(6) To pledge or assign any money, rents, charges, fees, or other revenues and any proceeds derived from sales of property, insurance, or condemnation awards or otherwise received under financing agreements;

(7) To issue revenue bonds of the local agency for the purpose of providing funds to pay all or any part of the cost of any project, and to issue revenue refunding bonds;

(8) To construct, acquire, own, repair, maintain, extend, improve, rehabilitate, renovate, furnish, and equip projects and to pay all or any part of the costs thereof from the proceeds of bonds of the local agency or from any contribution, gift, donation, or other funds made available to the local agency for such purpose;

(9) To fix, charge, and collect rents, fees, and charges for the use of any project; and

(10) To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the local agency, and to fix and pay their compensation from funds available to the local agency therefor.

History.—s. 4, ch. 69-104; s. 3, ch. 80-287.

159.285 Additional county powers.—

(1) A county shall have full power and authority to issue revenue bonds for the purpose of financing and providing funds to pay the cost of pollution-control facilities or devices, or to provide facilities for the furnishing of water or sewerage or solid-waste disposal incorporated as a part of any project whether or not the site or sites of the project are located wholly or in part outside the boundaries of the county issuing the revenue bonds. However, the ultimate owner or user of the project shall maintain the project or the owner's or user's principal place of business within the boundaries of the county issuing the revenue bonds, and the revenue bonds shall comply with the requirements of s. 10(c), Art. VII of the State Constitution.

(2) As a condition precedent to issuing revenue bonds for the purpose of financing and providing funds

to pay the cost of pollution-control facilities or devices or to provide facilities for the furnishing of water or sewerage or solid-waste disposal incorporated in a project located outside the boundaries of the county as authorized by subsection (1), the board of county commissioners or industrial development authority shall determine that the proposed facilities or devices are reasonably designed and intended to eliminate, mitigate, abate, control, or prevent air or water pollution or to provide facilities for the furnishing of water or sewerage or solid-waste disposal within the meaning of the rules and regulations of the Internal Revenue Service and that the ultimate owner or user of the project involved is financially responsible and fully capable and willing to fulfill its obligations under the contractual arrangements or lease with the county governing the project, including the obligation to pay rent or contract installments in the amounts and at the times required, to operate, repair, and maintain, at its own expense, the project leased or owned, and to serve the purposes of this part and such other responsibilities as may be imposed under the lease or contract.

(3) A county issuing revenue bonds pursuant to subsection (1) for the purpose of financing and providing funds for a project located wholly or in part outside the boundaries of the county issuing the revenue bonds may, in its discretion, request the board of county commissioners or the industrial development authority for the county or counties in which the site or sites of the project are located wholly or in part to make the determination required by s. 159.29 of the county issuing the bonds. The determination by such county or counties in which the project is located wholly or in part that the criteria and requirements of s. 159.29 are met shall be final and conclusive and shall constitute satisfaction of the requirements of s. 159.29.

History.—s. 3, ch. 75-126; s. 1, ch. 77-269; s. 1, ch. 78-120.

159.287 Special act development commissions, councils, boards, or authorities; approval required to issue bonds.—

(1) Notwithstanding any other provision of this part or of any special act, any commission, council, board, or authority created by special act with the authority to issue bonds for the purpose of promoting economic development throughout a county shall be deemed to have been created for the purpose of issuing bonds on behalf of the county in which jurisdiction or under or by the authority of which such commission, council, board, or authority is located or is acting; and any bonds issued by such commission, council, board, or authority are subject to the approval or disapproval of the county commission of such county pursuant to s. 125.01(1)(z).

(2) Notwithstanding any other provision of this part or of any special act, any commission, council, board, or authority created by special act with the authority to issue bonds for the purpose of promoting economic development within a municipality shall be deemed to have been created for the purpose of issuing bonds on behalf of the municipality in which which jurisdiction or under or by the authority of which such commission, council, board, or authority is located or is acting; and any bonds issued by such commission, council, board,

or authority are subject to the approval or disapproval of the governing authority of such municipality.

History.—s. 20, ch. 83-271.

159.29 Criteria and requirements.—In undertaking any project pursuant to this part, a local agency shall be guided by and shall observe the following criteria and requirements; however, the determination of the local agency as to compliance with such criteria and requirements shall be final and conclusive:

(1) The project, in the determination of the local agency, is appropriate to the needs and circumstances of, and shall make a significant contribution to the economic growth of, the local agency in which it is to be located; shall provide or preserve gainful employment; shall protect the environment; or shall serve a public purpose by advancing the economic prosperity, the public health, or the general welfare of the state and its people as stated in s. 159.26.

(2) No financing agreement for a project shall be entered into with a party that is not financially responsible and fully capable and willing to fulfill its obligations under the financing agreement, including the obligations to make payments in the amounts and at the times required; to operate, repair, and maintain at its own expense the project leased; and to serve the purposes of this part and such other responsibilities as may be imposed under the financing agreement. In determining the financial responsibility of such party, consideration shall be given to the party's ratio of current assets to current liabilities; net worth; earning trends; coverage of all fixed charges; the nature of the industry or activity involved; its inherent stability; any guarantee of the obligations by some other financially responsible corporation, firm, or person; and other factors determinative of the capability of the party, financially and otherwise, to fulfill its obligations consistently with the purposes of this part.

(3) The local agency in which the project is to be located will be able to cope satisfactorily with the impact of such project and will be able to provide, or cause to be provided when needed, the public facilities, including utilities and public services, that will be necessary for the construction, operation, repair, and maintenance of the project and on account of any increases in population or other circumstances resulting therefrom.

(4) Adequate provision shall be made for the operation, repair, and maintenance of the project at the expense of the lessee and for the payment of principal of and interest on the bonds.

(5) The costs to be paid from the proceeds of the bonds shall be costs of a project within the meaning of this part, or, when applicable, part III or part V of this chapter, except for payments included in the purposes for which revenue refunding bonds may be issued under this part.

History.—s. 5, ch. 69-104; s. 4, ch. 80-287.

159.30 Agreements of lease.—

(1) No project financed under the provisions of this part shall be operated by the local agency or any other governmental agency, except that the local agency may temporarily operate or cause to be operated all or any

part of a project to protect its interest therein pending any leasing or sale of such project in accordance with this part and, further, no institution for higher education, as defined in s. 243.20(8), which offers the baccalaureate or a higher degree shall be prevented from leasing or operating any dormitory or other housing facility or a dining facility for its own benefit to provide lodging or meals to students in furtherance of a lawful public purpose. A project acquired or constructed by a local agency, unless sold or contracted to be sold, shall be leased to one or more persons, firms, or private corporations for operation and maintenance in such a manner as will effectuate the purposes of this part, under an agreement of lease in form and substance not inconsistent herewith. Any such agreement of lease may provide, among other provisions, that:

(a) The lessee shall at its own expense operate, repair, and maintain the project or projects leased thereunder.

(b) The rent payable under the lease will in the aggregate be not less than an amount sufficient to pay all of the interest, principal, and redemption premiums, if any, on the bonds that will be issued by the local agency to pay the cost of the project or projects leased thereunder.

(c) The lessee shall pay all other costs incurred by the local agency in connection with the financing, construction, and administration of the project or projects leased, except as may be paid out of the proceeds of bonds or otherwise, including, but without being limited to, insurance costs, the cost of administering the bond resolution authorizing the bonds and any trust agreement securing the bonds, and the fees and expenses of trustees, paying agents, attorneys, consultants, and others.

(d) The term of the lease will terminate not earlier than the date on which all such bonds and all other obligations incurred by the local agency in connection with the project or projects leased thereunder are paid in full, including interest, principal, and redemption premiums, if any, or on which adequate funds for such payment are deposited in trust.

(e) The lessee's obligation to pay rent shall not be subject to cancellation, termination, or abatement by the lessee until such payment of the bonds, or provision for such payment, is made.

(2) Such agreement of lease may contain such additional provisions as in the determination of the local agency are necessary or convenient to effectuate the purposes of this part, including provisions for extensions of the term and renewals of the lease and vesting in the lessee an option to purchase the project leased thereunder pursuant to such terms and conditions consistent with this part as are prescribed in the lease; provided that, except as may otherwise be expressly stated in the agreement of lease to provide for any contingencies involving the damaging, destruction, or condemnation of the project leased or any substantial portion thereof, such option to purchase may not be exercised unless all bonds issued for such project, including all principal, interest, and redemption premiums, if any, and all other obligations incurred by the local agency in connection with such project have been paid in full or sufficient

funds have been deposited in trust for such payment; and provided further that the purchase price of such project shall not be less than an amount sufficient to pay in full all of the bonds, including all principal, interest, and redemption premium, if any, issued for the project then outstanding and all other obligations incurred by the local agency in connection with such project.

History.—s. 6, ch. 69-104; s. 5, ch. 80-287; s. 3, ch. 84-308.

159.31 Tax exemption.—The exercise of the powers granted by this part in all respects will be for the benefit of the people of the state, for the increase of their industry and prosperity, for the improvement of their health and living conditions, and for the provision of gainful employment and will constitute the performance of essential public functions. The local agency shall not be required to pay any taxes on any project or any other property owned by the local agency under the provisions of this part or upon the income therefrom. The bonds issued under the provisions of this part, their transfer, and the income therefrom (including any profit made on the sale thereof), and all notes, mortgages, security agreements, letters of credit, or other instruments which arise out of or are given to secure the repayment of bonds issued in connection with a project financed under this part, shall at all times be free from taxation by the state or any local unit, political subdivision, or other instrumentality of the state. Nothing in this section, however, shall be construed as exempting from taxation or assessments the leasehold interest of a lessee in any project or any other property or interest owned by the lessee. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 7, ch. 69-104; s. 3, ch. 73-327; s. 6, ch. 80-287; s. 20, ch. 86-152.

159.32 Construction contracts.—Contracts for the construction of the project may be awarded by the local agency in such manner as in its judgment will best promote free and open competition, including advertisement for competitive bids in a newspaper of general circulation within the boundaries of the local agency; however, if the local agency shall determine that the purposes of this part will be more effectively served, the local agency in its discretion may award or cause to be awarded contracts for the construction of any project, or any part thereof, upon a negotiated basis as determined by the local agency. The local agency shall prescribe bid security requirements and other procedures in connection with the award of such contracts as in its judgment shall protect the public interest. The local agency may by written contract engage the services of the lessee, purchaser, or prospective lessee or purchaser of any project in the construction of the project and may provide in the contract that the lessee, purchaser, or prospective lessee or purchaser may act as an agent of, or an independent contractor for, the local agency for the performance of the functions described therein, subject to such conditions and requirements consistent with the provisions of this part as shall be prescribed in the contract, including functions such as the acquisition of the site and other real property for the project; the

preparation of plans, specifications, and contract documents; the award of construction and other contracts upon a competitive or negotiated basis; the construction of the project, or any part thereof, directly by the lessee, purchaser, or prospective lessee or purchaser; the inspection and supervision of construction; the employment of engineers, architects, builders, and other contractors; and the provision of money to pay the cost thereof pending reimbursement by the local agency. Any such contract may provide that the local agency may, out of proceeds of bonds, make advances to or reimburse the lessee, purchaser, or prospective lessee or purchaser for its costs incurred in the performance of those functions, and shall set forth the supporting documents required to be submitted to the local agency and the reviews, examinations, and audits that shall be required in connection therewith to assure compliance with the provisions of this part and the contract.

History.—s. 8, ch. 69-104; s. 7, ch. 80-287.

159.33 Credit of state or political subdivision not pledged.—

(1) Bonds issued under the provisions of this part shall not be deemed to constitute a debt, liability, or obligation of the local agency or of the state or of any political subdivision thereof, or a pledge of the faith and credit of the local agency or of the state or of any such political subdivision, but shall be payable solely from the revenues provided therefor. Each bond issued under this part shall contain on the face thereof a statement to the effect that the local agency shall not be obligated to pay the same nor interest thereon except from the revenues and proceeds pledged therefor, and that neither the faith and credit nor the taxing power of the local agency or of the state or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds.

(2) Expenses incurred by the local agency in carrying out the provisions of this part may be made payable from funds provided pursuant to this part and no liability or obligation shall be incurred by the local agency hereunder beyond the extent to which moneys shall have been so provided. Any and all moneys advanced on behalf of any project, which are derived from any tax source of the local agency, shall be repaid from the bond proceeds or from the lessee to the governmental entity which advanced same.

History.—s. 9, ch. 69-104.

159.34 Bonds.—

(1) The local agency is authorized to provide for the issuance, at one time or from time to time, of industrial revenue bonds of the local agency for the purpose of paying all or any part of the cost of any project or projects. The bonds shall be designated, subject to such additions or changes as the local agency deems advisable, “_____ Industrial Development Revenue Bonds” (inserting in the blank space the name of the local agency which issues the bonds). The principal of, and the interest on, such bonds shall be payable solely from the funds herein provided for payment. The bonds of each issue shall be dated; shall bear interest at such

rate or rates, including variable rates, notwithstanding any limitation in other laws relating to the maximum interest rate permitted for bonds of any county, municipality, or of the state or any agency of the foregoing; and shall mature at such time or times from their date or dates as may be determined or provided for by the local agency; and may be made redeemable before maturity at the option of the local agency at such price or prices and under such terms and conditions as may be fixed by the local agency prior to the issuance of the bonds. The local agency shall determine the form and the manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature, or a facsimile of whose signature, shall appear on any bonds or coupons shall cease to be that officer before the delivery of the bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he or she had remained in office until delivery. The local agency may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon form or in registered form, or both, as the local agency may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest; and for the reconversion into coupon bonds of any bonds registered as to both principal and interest; and for the interchange of registered and coupon bonds. The local agency may sell the bonds in such manner, either at public or private sale, and for such price as it may determine will best effectuate the purpose of this part, notwithstanding any limitation in other laws relating to the maximum interest rate permitted for bonds of a county, a municipality, or the state or any agency of the foregoing.

(2) Revenue bonds may be issued only if they are payable solely from revenue derived from the sale, operation, or leasing of any project or projects or other payments received under financing agreements with respect thereto.

(3) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects, or portion or portions thereof, for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the local agency may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficiency, and unless otherwise provided in the bond resolution or in the trust agreement, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, such excess shall be deposited to the credit of the sinking fund for such bonds, or, if so provided in such resolution or trust

agreement, may be applied to the payment of the cost of any additional project or projects.

(4) Prior to the preparation of definitive bonds, the local agency may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The local agency may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(5) Bonds may be issued under the provisions of this part without obtaining, except as otherwise expressly provided in this part, the consent of any department, division, commission, board, body, bureau, or agency of the state, and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions, or things which are specifically required by this part and the provisions of the resolution authorizing the issuance of such bonds or the trust agreement securing the same.

(6) A local agency may provide in any bond resolution authorizing the issuance of bonds, or trust agreement securing the same, and in any agreement of lease or other contract respecting the project, that if at any time after such bonds have been sold and delivered it is ascertained by the local agency or its designee that the interest on the bonds is no longer exempt under federal income tax laws, or that operation of the project is no longer economically or legally feasible by reason of the condemnation, damaging, or destruction of all or any part of the project or by changes in the law, measures deemed necessary by the local agency may be taken to protect the interest of the holders of its bonds, including the acceleration of the date or dates for calling the bonds for redemption, increasing the redemption premium and the rates of interest on the bonds, or increasing the rent under any such agreement of lease. The local agency may also require financial guarantees by guarantors acceptable to the local agency that obligations of any lessee under any such agreement of lease or contract shall be performed or otherwise satisfied.

History.—s. 10, ch. 69-104; s. 8, ch. 80-287; s. 884, ch. 95-147.

159.345 Local agency reporting requirement.—

Any local agency which issues any revenue bonds pursuant to this part shall supply the Division of Bond Finance of the State Board of Administration with a copy of the report required in s. 103 of the Internal Revenue Code of 1954, as amended, at the times required pursuant to that section.

History.—s. 21, ch. 83-271; s. 5, ch. 86-181; s. 144, ch. 92-279; s. 55, ch. 92-326; s. 12, ch. 95-196; s. 13, ch. 2000-158.

159.35 Trust agreement.—In the discretion of the local agency, any bonds issued under the provisions of this part may be secured by a trust agreement by and between the local agency and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or resolution providing for the issuance of such bonds may pledge or assign the fees, rents, charges, proceeds from the sale of any project or part thereof, insurance proceeds, condemnation

awards, and other funds and revenues to be received therefor, and may provide for the mortgaging of any project or any part thereof as security for repayment of the bonds. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the local agency in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project or projects in connection with which such bonds shall have been authorized, the fees, rents, and other charges to be fixed and collected, the sale of any project, or part thereof, or other property, the terms and conditions for the issuance of additional bonds, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of bonds, revenues, or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the local agency. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the local agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the project or projects in connection with which bonds are issued or as an expense of administration of such project or projects, as the case may be.

History.—s. 11, ch. 69-104.

159.36 Revenues.—

(1) The local agency is authorized to fix and to collect fees, rents, and charges for the use of any project or projects, and any part or section thereof, and to contract with any person, partnership, association, or corporation respecting the use thereof. The local agency may require that the lessee or users of any project or any part thereof, shall operate, repair, and maintain the project and shall bear the cost thereof and other costs of the local agency in connection with the project or projects leased, as may be provided in the agreement of lease or other contract with the local agency, in addition to other obligations imposed under such agreement or contract.

(2) The fees, rents, and charges, or other payments under a financing agreement, shall be so fixed as to provide a fund sufficient to pay the principal of and the interest on such bonds as the same shall become due and payable and, if so provided in the bond resolution or trust agreement, to create reserves for such purposes. The fees, rents, and charges and all other revenues and proceeds derived from the project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary for such reserves or any expenditures as may be provided in the resolution authorizing the

issuance of the bonds or in the trust agreement securing the same, shall be set aside, at the time or times as may be specified in the resolution or trust agreement, in a sinking fund which is hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made. The fees, rents, charges, and other revenues and moneys so pledged and thereafter received by or on behalf of the local agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and 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 local agency, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded, except in the records of the local agency. The use and disposition of money to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or trust agreement, the sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

History.—s. 12, ch. 69-104; s. 9, ch. 80-287.

159.37 Trust funds.—Notwithstanding any other provisions of law to the contrary, all money received pursuant to the provisions of this part, whether as proceeds from the sale of bonds, sale of property, insurance, or condemnation awards, or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this part. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this part and such resolution or trust agreement may provide.

History.—s. 13, ch. 69-104.

159.38 Remedies.—Any holder of bonds issued under the provisions of this part or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus, or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or resolution authorizing the issuance of such bonds, or under any agreement of lease or other contract executed by the local agency pursuant to this part, and may enforce and compel the performance of all duties required by this part or by such trust agreement or resolution to be performed by any lessee or the local agency or by any

officer thereof, including the fixing, charging, and collecting of fees, rents, and charges.

History.—s. 14, ch. 69-104.

159.39 Negotiability of bonds.—All bonds issued under the provisions of this part, regardless of form or terms, are hereby declared to have all the qualities and incidents, including negotiability, of investment securities under the Uniform Commercial Code of the state. Compliance with the provisions of the code respecting the filing of a financing statement to perfect a security interest shall not be deemed necessary for perfecting any security interest granted by a local agency in connection with the issuance of any such bonds; nevertheless, and notwithstanding s. 679.1091(4)(n), financing statements with respect to such security interests may be filed pursuant to the applicable provisions of the code to further evidence the grant and perfection of such security interests.

History.—s. 15, ch. 69-104; s. 10, ch. 80-287; s. 23, ch. 2002-1.

159.40 Bonds eligible for investment.—Bonds issued by any local agency under the provisions of this part are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

History.—s. 16, ch. 69-104.

159.41 Revenue refunding bonds.—

(1) Any local agency is authorized to provide by resolution for the issuance of revenue refunding bonds of the local agency for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this part, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the local agency for either or both of the following additional purposes:

(a) Constructing improvements, additions, extensions or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued; and

(b) Paying all or any part of the cost of any additional project or projects.

The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the local agency in respect to the same shall be governed by the provisions of this part which relate to the issuance of revenue bonds, insofar as such provisions may be appropriate therefor.

(2) Revenue refunding bonds issued under this section may be sold or exchanged for outstanding

bonds issued under this part and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of such outstanding bonds. Revenue refunding bonds may be issued, in the determination of the local agency, at any time on or prior to the date of maturity or maturities or the date selected for the redemption of the bonds being refunded thereby. Pending the application of the proceeds of such refunding bonds, with any other available funds, to the payment of the principal, accrued interest, and any redemption premium on the bonds being refunded, and, if so provided or permitted in the resolution authorizing the issuance of such refunding bonds or in the trust agreement securing the same, to the payment of any interest on such refunding bonds and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States which shall mature, or which shall be subject to redemption by the holder thereof at the option of such holder, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

History.—s. 17, ch. 69-104; s. 2, ch. 77-269.

159.414 Authority to deal with financial institution which employs a board member.—

Notwithstanding any general or special law, rule, regulation, or ordinance to the contrary, including ss. 112.311-112.326, a board may sell its bonds to a financial institution, as defined in s. 655.005, which employs a member of the board as an officer, director, or employee and may appoint a financial institution to serve as trustee or cotrustee under a trust indenture relating to bonds issued under this part, notwithstanding the fact that an officer, director, or employee of the financial institution is a member of the board. However, no member of the board who is an officer, director, or employee of a financial institution which is interested in purchasing or serving as trustee or cotrustee for a proposed or outstanding bond issue shall vote on any matter related to such bond issue after the interest of the financial institution in such bond issue becomes known to the member.

History.—s. 2, ch. 81-321; s. 42, ch. 83-217; s. 196, ch. 92-303; s. 885, ch. 95-147.

159.415 Composite issues of bonds.—

Any local agency has the authority to issue, at one time or from time to time, a single issue of bonds to finance separate projects to be used by separate businesses and secured ratably by payments due under separate financing agreements between the local agency and each separate business, provided:

(1) The debt service payments due under all such separate financing agreements, in aggregate, are to be made in amounts and at the times required to pay in full the principal of the bonds and the premium, if any, and the interest on the bonds as the same become due and payable.

(2) Each separate business is financially responsible, fully capable, and willing to make the debt service payments it is required to make under the financing

agreement between it and the local agency; or one or more other financially responsible persons, partnerships, corporations, banks, or insurance companies assumes, guarantees, or secures, by way of a guaranty, letter of credit, insurance policy, or otherwise, the obligations of such business to make such debt service payments to the local agency or has guaranteed or insured the payment by the local agency of debt service on the bonds in an amount equal to the debt service payable by such business to the local agency under the financing agreement.

(3) Each business or other user of each project financed under each such financing agreement is financially responsible, fully capable, and willing to operate, maintain, and repair such project at its own expense; or the obligation to operate, repair, and maintain such project is assumed, guaranteed, or secured by one or more other financially responsible persons, partnerships, corporations, banks, or insurance companies.

History.—s. 22, ch. 83-271.

159.416 Pool financings.—

(1) Any local agency may issue, at one or more times, single issues of bonds to fund a pool financing program. For purposes of this chapter, the term “pool financing program” means a program under which bonds or other debt obligations are issued by a local agency, some or all of the proceeds of which are used to fund a loan fund to be used for the purpose of making loans to persons, some or all of whom have not been identified at the time the bonds are issued, to finance all or part of the cost of one or more projects described in s. 159.27(5), some or all of which have not been identified at the time the bonds are issued.

(2) Upon the issuance of such bonds the proceeds thereof shall constitute a pool of funds which may be used for the following purposes:

(a) To make loans to any person to pay the costs of any project described in s. 159.27(5);

(b) To provide a reserve fund for the bonds in any amount the local agency deems advisable;

(c) To pay costs of issuing the bonds;

(d) To pay costs of providing a credit enhancement facility for the bonds, including, but not limited to, bond insurance, letters of credit, surety bonds and guarantees;

(e) To pay costs of providing a liquidity facility for the bonds, including, but not limited to, letters of credit, surety bonds, and guarantees;

(f) To pay costs and liabilities incurred in providing any hedging facility for the bonds, including, but not limited to interest rate swap contracts and interest cap contracts;

(g) To pay costs of administering the bonds, the pool financing program, and the security therefor, including, but not limited to: compensation, fees, and expenses of any trustee, paying agent, registrar, authenticating agent, depository, escrow agent, remarketing agent, administrative personnel, and professional consultants, including, but not limited to, accountants, attorneys, and financial advisers; and

(h) To pay capitalized interest on the bonds for any period the local agency deems advisable.

(3) If the interest income on the bonds is not intended to be excludable from the gross income of the holder for federal income tax purposes, no allocation of any federal statewide volume limitation need be obtained under part VI of this chapter under any executive order or otherwise.

(4) Prior to the issuance of bonds under this section it shall not be necessary that any projects or the users thereof be identified or that any of the findings described in s. 159.29 be made; provided, however, that prior to the issuance of bonds to fund a loan pool program hereunder, the local agency shall by ordinance or resolution state:

(a) That it is the intention of the local agency to issue bonds under this section to fund a pool financing program which shall make loans to assist in the financing of projects meeting the criteria set forth in s. 159.29, which loans shall mature not later than the final maturity of the bonds; and

(b) That the amounts to be held in any reserve fund, amounts to be held in any loan fund, amounts to be received from the repayment of principal of and interest on loans and the income to be derived from the investment thereof and any other available moneys under the program are expected to be sufficient to pay debt service on the bonds.

(5) Prior to the making of any loan of proceeds of the bonds, the local agency shall make by resolution or ordinance the findings required by s. 159.29 with respect to the use contemplated for such loan. The local agency may charge an application fee to persons applying for loans under the pool financing program and may charge a fee or acquire the loan at a discount, and proceeds of the loan may be used to pay or reimburse the borrower for any such fees.

(6) Bond proceeds loaned to finance any project shall be used to pay costs of such project, including, but not limited to, the costs of making and administering such loan and obtaining credit enhancement for said loan.

(7) Upon the making of any loan, the person to whom the loan is made shall enter into a loan agreement or other financing agreement with the local agency providing for:

(a) The use of the proceeds of the loan in compliance with the provisions of parts II and III of this chapter;

(b) The operation, repair, and maintenance of the project without cost to the local agency; and

(c) The payment of principal, interest, and premium on the loan in an amount and at the times at least sufficient to pay debt service on an equal principal amount of such bonds and to pay all costs incurred by the local agency in connection with the financing of the project, except as may be paid out of loan proceeds or otherwise, including costs of administering the loan and such portion of the costs of administering the bonds and pooled financing program as the local agency shall prorate to the financing of such project.

(8) The principal of, premium, if any, and interest on the bonds issued as provided by this section,

administrative expenses of the bonds, and other costs and expenses of the pooled financing program shall be payable solely from the following sources:

- (a) The proceeds of the bonds;
- (b) Payments made by or in behalf of persons to whom moneys are loaned as herein provided;
- (c) Any investment income derived from the investments of amounts described in paragraphs (a) and (b) or from the reinvestment of such investment income;
- (d) Any deposits or investments made with amounts described in paragraphs (a), (b), and (c); and
- (e) Payments made by any provider of any credit enhancement facility for the bonds or loans or by any provider of a liquidity facility for the bonds or hedging facility for the bonds; provided, however, that the obligation to repay or reimburse such provider shall be limited to sources specified in this subsection.

(9) Proceeds of bonds and moneys held for the payment of debt service on bonds, including, but not limited to, amounts held in the loan fund, any reserve fund, or debt service fund for the bonds, may be invested in investments authorized by or pursuant to an ordinance or resolution providing for the issuance of the bonds or any trust agreement or trust indenture or other instrument approved by such ordinance or resolution, including, but not limited to, investments described in s. 218.415. The acquisition of any debt obligation or investment contract or investment agreement of any bank, savings and loan association, insurance company, registered broker-dealer, or other financial institution shall be deemed to be an investment and not a loan and therefore need not meet the criteria of subsections (5), (6), and (7).

(10) Bonds issued hereunder shall have such maturities, not in excess of 40 years, and shall bear interest at such rate or rates, not to exceed the maximum interest rate allowed by law, and shall have such other terms as the local agency shall determine.

History.—s. 2, ch. 87-237; s. 5, ch. 88-326; s. 8, ch. 2000-264.

159.42 Cooperation of state.—The state, its officers, departments, divisions, and other state entities are authorized to cooperate with and provide assistance to local agencies in carrying out the purposes of this part and thereby promote the industry and economy of the state. Personnel, facilities, and property under the jurisdiction of such state officers and entities and such appropriated and other funds as from time to time may be available therefor may be used and applied pursuant to this section except to the extent prohibited by law.

History.—s. 18, ch. 69-104.

159.43 Liberal construction.—Part II of this chapter, being necessary for the prosperity and welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof; shall be, and be deemed, authority in addition to, and shall provide alternative methods for, any other authority provided by law for the same or similar purposes; and is supplemental to and not in derogation of any powers of any local agency otherwise conferred. The criteria and requirements of this part are applicable only to projects financed under

authority of this part, except as otherwise expressly incorporated by references in other provisions of law.

History.—s. 19, ch. 69-104; s. 11, ch. 80-287.

159.431 Applicability of ch. 80-287.—Chapter 80-287, Laws of Florida, shall not apply to any bonds for which a local agency has, prior to July 1, 1980, adopted a resolution or engaged in negotiations. Such bonds shall be governed by the provisions of chapter 159, as it existed immediately prior to July 1, 1980.

History.—s. 18, ch. 80-287.

PART III

INDUSTRIAL DEVELOPMENT AUTHORITIES

- 159.44 Definitions; industrial development authorities.
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159.44 Definitions; industrial development authorities.—The following words and terms, unless the context clearly indicates a different meaning, shall have the following meaning:

(1) “Bonds” or “revenue bonds” means the bonds authorized to be issued by any authority under this act, which may consist of a single bond. The term “bonds” or “revenue bonds” shall also include a single bond, a promissory note or notes, or other debt obligations evidencing an obligation to repay borrowed money.

(2) “Project” means any project as defined in the Florida Industrial Development Financing Act.

(3) “Authority,” “authorities,” or “industrial development authority” means any of the public corporations created pursuant to ss. 159.44-159.53.

(4) “Commission” means the board of county commissioners or other body charged with governing the county.

(5) “Cost” as applied to a project shall embrace the cost of construction; land or rights in land; other property, both real and personal; machinery and equipment; financing charges, including interest; and all other costs necessary for placing the project in operation as defined in the Florida Industrial Development Financing Act. “Cost” shall also include the cost of financial consultants, accountants, legal services, engineering and architectural services, feasibility studies; and services by other consultants and such experts as may be selected by the lessee of any such project if the cost

thereof shall be paid by the lessee or be included as a cost of the project and reimbursed from proceeds of any bonds issued to finance the cost of such project.

(6) "Florida Industrial Development Financing Act" means ss. 159.25-159.43 and any amendments thereto, and the definitions contained therein shall also be applicable to ss. 159.44-159.53 and to any bonds issued pursuant thereto.

History.—s. 3, ch. 70-229; s. 12, ch. 80-287.

159.45 Creation of industrial development authorities.—

(1) In each county, there is hereby created a local governmental body as a public body corporate and politic to be known as the "____ County Industrial Development Authority," hereafter referred to as "authority" or "authorities." Each of the authorities is constituted as a public instrumentality for the purposes of industrial development, and the exercise by an authority of the powers conferred by ss. 159.44-159.53 shall be deemed and held to be the performance of an essential public purpose and function. No authority shall transact any business or exercise any power hereunder until and unless the county commission by proper resolution shall declare that there is a need for an authority to function in such county. The determination as to whether there is such need for an authority to function:

(a) May be made by the commission on its own motion; or

(b) Shall be made by the commission upon the filing of a petition signed by 25 residents of the county asserting that there is need for an authority to function in such county and requesting that the commission so declare.

(2) The commission may adopt the resolution declaring that there is need for an industrial development authority in the county if it shall find that there exists a need for the development and financing of industry or projects in the county. The resolution shall be sufficient if it declares that there is such a need for an authority in the county. A copy of the resolution, duly certified by the clerk, shall be admissible in any suit, action, or proceeding.

(3) The aforementioned resolution shall designate not less than five persons who are residents and electors of the county as members of the authority created for said county. Of the members first appointed, one shall serve for 1 year, one for 2 years, one for 3 years, and the remainder for 4 years and in each case until his or her successor is appointed and has qualified. Thereafter, the commission shall appoint for terms of 4 years each a member or members to succeed those whose terms expire. The commission shall fill any vacancy for an unexpired term. A member of the authority shall be eligible for reappointment. Any member of the authority may be removed by the commission for misfeasance, malfeasance, or willful neglect of duty. Each member of the authority, before entering upon his or her duties, shall take and subscribe the oath or affirmation required by the State Constitution. A record of each such oath shall be filed with the Department of State and with the clerk.

(4) The authority shall annually elect one of its members as chair and one as vice chair and may also appoint a secretary who shall serve at the pleasure of the authority and receive such compensation as shall be fixed by the authority.

(5) The secretary shall keep a record of the proceedings of the authority and shall be custodian of all books and records of the authority and of its official seal.

(6) A majority of the members of the authority shall constitute a quorum, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the authority. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken by the authority under the provisions of ss. 159.44-159.53 may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted.

(7) The members of the authority shall receive no compensation for the performance of their duties hereunder, but each such member shall be paid necessary expenses incurred while engaged in the performance of such duties.

(8) The authority may also appoint such other officers as it may deem necessary.

History.—s. 1, ch. 70-229; s. 1, ch. 70-439; s. 13, ch. 80-287; s. 1, ch. 86-214; s. 886, ch. 95-147.

159.46 Purposes.—Industrial development authorities, as authorized by ss. 159.44-159.53, are created for the purpose of financing and refinancing projects for the public purposes described in, and in the manner provided by, the Florida Industrial Development Financing Act and by ss. 159.44-159.53 and for the purpose of fostering the economic development of a county. Each industrial development authority shall study the advantages, facilities, resources, products, attractions, and conditions concerning the county with relation to the encouragement of economic development in that county, and shall use such means and media as the authority deems advisable to publicize and to make known such facts and material to such persons, firms, corporations, agencies, and institutions which, in the discretion of the authority, would reasonably result in encouraging desirable economic development in the county. In carrying out this purpose, industrial development authorities are encouraged to cooperate and work with industrial development agencies, chambers of commerce, and other local, state, and federal agencies having responsibilities in the field of industrial development.

History.—s. 2, ch. 70-229; s. 14, ch. 80-287.

159.47 Powers of the authority.—

(1) The authority is authorized and empowered:

(a) To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) To adopt an official seal and alter the same at pleasure;

(c) To maintain an office at such place or places in the county as it may designate;

(d) To sue and be sued in its own name and to plead and be impleaded;

(e) To enter into contracts for any of the purposes enumerated in ss. 159.44-159.53 and in the Florida Industrial Development Financing Act;

(f) To issue revenue bonds or other debt obligations repayable solely from revenues derived from the sale, operation, or leasing of projects or other payments received under financing agreements with respect thereto, subject to the approval or disapproval of the commission pursuant to s. 125.01(1)(z).

(g) To exercise all the powers in connection with the authorization, issuance, and sale of revenue bonds to finance the cost of projects conferred on counties, municipalities, special districts, and other local governmental bodies by the Florida Industrial Development Financing Act. All of the privileges, benefits, powers, and terms of that act shall be fully applicable to authorities created pursuant to s. 159.45. Industrial development revenue bonds may be authorized, issued, and sold by authorities in compliance with the criteria and requirements set forth in the Florida Industrial Development Financing Act. The bonds of each issue shall be dated; bear interest at such rate or rates, including variable rates; mature at such time or times; be redeemable prior to maturity at such price or prices; be in such denominations; contain such recitals; and be sold for such price or prices and in such manner as provided in the Florida Industrial Development Financing Act. Projects may be acquired, constructed, leased, operated, or sold in the manner provided in the Florida Industrial Development Financing Act, and the items of cost as enumerated therein may be included as project costs. The repayment of bonds issued by the authorities may be secured by trust agreements or security agreements as set forth in that act; and fees, rents, and charges for the use of any project or any part of any project may be collected and fixed by the authority in the manner provided in that act. All moneys received pursuant to the provisions of ss. 159.44-159.53 shall constitute trust funds as provided in the Florida Industrial Development Financing Act. The remedies provided by the Florida Industrial Development Financing Act shall also be applicable to bonds issued pursuant to ss. 159.44-159.53, and bonds of the authority may be refunded in the manner provided therein and shall be eligible for investment as provided in that act.

(h) To acquire by lease, purchase, or option real and personal property for use as sites for the location of projects as defined in the Florida Industrial Development Financing Act. Authorities shall have the power to prepare sites for industrial use, including industrial parks to be used in connection with one or more projects, and may construct thereon access roads, drainage facilities, utilities, and other improvements necessary for ultimate use by industrial projects. The acquisition, development, and financing of such sites may be in the manner provided in ss. 159.44-159.53 and the Florida Industrial Development Financing Act. Authorities may also use such current funds as are available to acquire and prepare property as sites for industrial development purposes.

(i) To secure the issuance and repayment of industrial development bonds by a lease, mortgage, or other security instrument encumbering only the capital improvements which are financed by the authority in any case in which an addition to a project is financed or in which less than the entire project is financed or refinanced by industrial development bonds, subject to the approval or disapproval of the commission pursuant to s. 125.01(1)(z). The lease, mortgage, or other security instrument may include a security interest in both the land and personal property or may include a lease, mortgage, or other security instrument sufficient for the purpose encumbering only the personal property, including machinery and equipment, which is being financed. In financing projects, authorities may enter into financing agreements of such types as they may approve with such security instruments or trust agreements as the authority shall deem adequate.

(j) To provide, arrange, and make expenditures for transportation, lodging, meals, and other reasonable and necessary items and services for such necessary persons as determined by the chair of the authority, in connection with the performance of promotional and other duties of the authority. However, entertainment expenses shall be authorized only when meeting with business prospects, as defined in paragraph (l), potential prospects, purchasers of Florida exports, potential purchasers of Florida exports, and foreign governmental dignitaries. All travel and entertainment-related expenditures in excess of \$10 made pursuant to this section shall be substantiated by paid bills therefor. Complete and detailed justification for all travel and entertainment-related expenditures made pursuant to this section shall be shown on the travel expense voucher or attached thereto. Transportation and other incidental expenses, other than those provided in s. 112.061, shall only be authorized for members and employees of the authority, other authorized persons, and business prospects when traveling pursuant to paragraph (l). All other transportation and incidental expenses pursuant to this section shall be as provided in s. 112.061. Operational or promotional advances, as defined in s. 288.35(4), obtained pursuant to this section, shall not be commingled with any other funds. Any unused operational, promotional, or other funds advanced pursuant to this section shall be refunded.

(k) To pay by advancement or reimbursement, or a combination thereof, the costs of per diem of members or employees of the authority and other authorized persons, for foreign travel at the current rates as specified in the federal publication "Standardized Regulations (Government Civilians, Foreign Areas)," and incidental expenses as provided in s. 112.061. The provisions of this paragraph shall apply for any member or employee of the authority traveling in foreign countries for the purpose of promoting economic or industrial development of the county, if such travel expenses are approved and certified by the agency head from whose funds the traveler is paid. As used in this paragraph, the term "authorized person" has the same meaning as provided in s. 112.061(2)(e). With the exception of provisions concerning rates of payment for

per diem, the provisions of s. 112.061 are applicable to the travel described in this subsection. As used in this paragraph, "foreign travel" means all travel outside the United States. Persons traveling in foreign countries pursuant to this section shall not be entitled to reimbursements or advancements pursuant to s. 112.061(6)(a)2.

(l) To pay by advancement or reimbursement, or a combination thereof, the actual reasonable and necessary costs of meals, lodging, and incidental expenses of members and employees of the authority and other authorized persons when meeting with a business prospect of the state, purchaser of Florida exports, or foreign governmental dignitaries. Furthermore, when actually traveling with a business prospect or purchaser of Florida exports or foreign governmental dignitaries, the actual cost of transportation is allowable. As used in this paragraph, "business prospect" means any person or representative of a firm actively considering the location of a business within the county. With the exception of the provisions concerning rates of payment, the provisions of s. 112.061 are applicable to the travel described in this paragraph.

(2) The provisions of paragraphs (j), (k), and (l) of subsection (1) are applicable to any county agency which was created by special act for the purpose of attracting industry; and the chair, members, or employees of such agency shall be considered to be the chair, members, or employees of an authority under this section for purposes of those paragraphs.

History.—s. 4, ch. 70-229; ss. 5, 6, ch. 80-209; s. 15, ch. 80-287; s. 23, ch. 83-271; s. 887, ch. 95-147.

159.475 Authority reporting requirement.—Any authority which issues any revenue bonds pursuant to this part shall supply the Division of Bond Finance of the State Board of Administration with a copy of the report required pursuant to s. 103 of the Internal Revenue Code of 1954, as amended, at the times required pursuant to that section.

History.—s. 24, ch. 83-271; s. 6, ch. 86-181; s. 145, ch. 92-279; s. 55, ch. 92-326; s. 13, ch. 95-196; s. 13, ch. 2000-158.

159.48 Levy of ad valorem taxes by board of county commissioners.—The exercise of the powers granted industrial development authorities is declared to be a public and county purpose. The board of county commissioners is authorized to, and may, levy ad valorem taxes in an amount not to exceed 1 mill annually for the purposes of ss. 159.44-159.53. The proceeds of such ad valorem tax shall be used to aid each industrial development authority in fostering, developing, and locating industry in the county and to pay the reasonable operating expenses of the authority to the extent that the board of county commissioners finds necessary. No ad valorem taxes shall ever be used for the purpose of paying the interest or principal on any bonds issued to finance or refinance an industrial or manufacturing project as prohibited by the State Constitution.

History.—s. 5, ch. 70-229.

159.49 Credit of state or political subdivision not pledge.—

(1) The revenue bonds issued by the authority shall not be deemed to constitute a debt, liability, or obligation of any authority or county or of the state or any political subdivision, and such revenue bonds or debt obligations shall be payable solely from revenues derived from the sale, operation, or leasing of a project or projects or other payments received under financing agreements with respect thereto.

(2) All bonds issued under the provisions of ss. 159.44-159.53, regardless of form or terms, are declared to have all the qualities and incidents, including negotiability, of investment securities under the Uniform Commercial Code.

(3) Bonds may be issued under the provisions of ss. 159.44-159.53 without obtaining, except as otherwise provided in said sections, the consent of any department, commission, board, bureau, or agency of the state and without any other proceedings or the happening of any conditions except those which are specifically required by the provisions of the resolution authorizing the issuance of such bonds or the trust agreement securing the same.

History.—s. 6, ch. 70-229; s. 16, ch. 80-287.

159.494 Authority to deal with financial institution which employs a member of the authority.—

Notwithstanding any general or special law, rule, regulation, or ordinance to the contrary, including ss. 112.311-112.326, an authority may sell its bonds to a financial institution, as defined in s. 655.005, which employs a member of the authority as an officer, director, or employee and may appoint a financial institution to serve as trustee or cotrustee under a trust indenture relating to bonds issued under this part, notwithstanding the fact that an officer, director, or employee of the financial institution is a member of the authority. However, no member of the authority who is an officer, director, or employee of a financial institution which is interested in purchasing or serving as trustee or cotrustee for a proposed or outstanding bond issue shall vote on any matter related to such bond issue after the interest of the financial institution in such bond issue becomes known to the member.

History.—s. 3, ch. 81-321; s. 43, ch. 83-217; s. 197, ch. 92-303; s. 888, ch. 95-147.

159.50 Tax exemption.—The exercise of the powers granted by ss. 159.44-159.53 in all respects will be for the benefit of the people of the state, for the increase of their industry and prosperity and the improvement of their health and living conditions, and for the provision of gainful employment and will constitute the performance of essential public functions, and the authority shall not be required to pay any taxes on any project or any other property owned by the authority under the provisions of ss. 159.44-159.53 or upon the income therefrom. The bonds issued under the provisions of ss. 159.44-159.53, their transfer, and the income therefrom (including any profit made on the sale thereof), and all notes, mortgages, security agreements, letters of credit, or other instruments which arise out of or are given to secure the repayment of bonds issued in connection with any project financed under this part, shall at all times be free from taxation by

the state or any local unit or political subdivision or other instrumentality of the state. Nothing in this section, however, shall be construed as exempting from taxation or assessments the leasehold interest of any lessee in any project or any other property or interest owned by any lessee. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 7, ch. 70-229; s. 4, ch. 73-327; s. 21, ch. 86-152.

159.51 Powers of chapter supplemental.—The powers conferred by ss. 159.44-159.53 shall be in addition and supplementary to existing powers and statutes, and said sections shall not be construed as repealing any of the provisions of any other law, general or local.

History.—s. 8, ch. 70-229.

159.52 Issuance of bonds.—The bonds issued under ss. 159.44-159.53 may be validated in the manner prescribed by chapter 75.

History.—s. 9, ch. 70-229.

159.53 Construction.—Sections 159.44-159.53, being necessary for the prosperity and welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

History.—s. 10, ch. 70-229.

PART IV

HOUSING FINANCE AUTHORITIES

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159.601 Short title.—This act shall be known and may be cited as the “Florida Housing Finance Authority Law.”

History.—s. 1, ch. 78-89.

159.602 Finding and declaration of necessity. It is found and declared that:

(1) Within this state there is a shortage of housing available at prices or rentals which many persons and families can afford, and a shortage of capital for investment in such housing. This shortage constitutes a threat to the health, safety, morals, and welfare of the residents of the state, deprives the state of an adequate tax base, and causes the state to make excessive expenditures for crime prevention and control, public health, welfare, and safety, fire and accident protection, and other public services and facilities.

(2) Such shortage cannot be relieved except through the encouragement of investment by private enterprise and the stimulation of construction and rehabilitation of housing through the use of public financing and the provision of low-cost loans to purchase affordable housing.

(3) The financing, acquisition, construction, reconstruction, and rehabilitation of housing and of the real and personal property and other facilities necessary, incidental, and appurtenant thereto are exclusively public uses and purposes for which public money may be spent, advanced, loaned, or granted and are governmental functions of public concern.

(4) The Congress of the United States has, by the enactment of amendments to the Internal Revenue Code of 1954, found and determined that housing may be financed by means of obligations issued by any state or local governmental unit, the interest on which obligations is exempt from federal income taxation, and has thereby provided a method to aid state and local governmental units to provide assistance to meet the need for housing.

(5) The provisions of this act are found and declared to be necessary and in the public interest as a matter of legislative determination.

History.—s. 2, ch. 78-89; s. 4, ch. 92-303.

159.603 Definitions.—As used in this part, the following words and terms have the following meanings unless the context indicates another or different meaning or intent.

(1) “Area of operation” means the area within the territorial boundaries of the county for which the housing finance authority is created, and any area outside the territorial boundaries of such county if the governing body of the county within which such outside area is located approves. The approval may be a general approval or an approval only for specified qualifying housing developments or only for a specified number of qualifying housing developments.

(2) “Bonds” means any bonds, notes, debentures, interim certificates, or other evidences of financial indebtedness issued by a housing finance authority under and pursuant to this act.

(3) “Housing finance authority” means a housing finance authority created pursuant to s. 159.604.

(4) "Housing development" means any residential building, land, equipment, facility, or other real or personal property which may be necessary, convenient, or desirable in connection therewith, including streets, sewers, water and utility services, parks, gardening, administrative, community, health, recreational, and educational facilities, and other facilities related and subordinate to moderate, middle, or lesser income housing, and also includes site preparation, the planning of housing and improvements, the acquisition of property, the removal or demolition of existing structures, the acquisition, construction, reconstruction, and rehabilitation of housing and improvements, and all other work in connection therewith, and all costs of financing, including without limitation the cost of consultant and legal services, other expenses necessary or incident to determining the feasibility of the housing development, administrative and other expenses necessary or incident to the housing development and the financing thereof (including reimbursement to any municipality, county, or entity for expenditures made with the approval of the housing finance authority for the housing development), and interest accrued during construction and for a reasonable period thereafter.

(5) "Lending institution" means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, or other financial institution authorized to transact business in this state and which customarily provides service or otherwise aids in the financing of mortgages located in the state.

(6) "Qualifying housing development" means any work or improvement located or to be located in this state, including real property, buildings, and any other real and personal property, designed or intended for the primary purpose of providing decent, safe, and sanitary residential housing for four or more families, at least 60 percent of whom are eligible persons, whether new construction, the acquisition of existing residential housing, or the remodeling, improvement, rehabilitation, or reconstruction of existing housing, together with such related nonhousing facilities as the authority determines to be necessary, convenient, or desirable.

(a) The term includes a housing development that meets the definition of a "qualified low-income housing project" under s. 42(g) of the Internal Revenue Code, regardless of whether such development meets the 60-percent eligible persons requirement under this subsection.

(b) The exception provided under paragraph (a) applies to all housing developments meeting the federal definition for "qualified low-income housing project" as well as all developments that previously qualified under the state definition for "qualifying housing development." Housing finance authorities may enter into regulatory agreement amendments as necessary to accommodate housing developments that qualify under paragraph (a).

(7) "Eligible persons" means one or more natural persons or a family, irrespective of race, creed, national origin, or sex, determined by the housing finance authority to be of low, moderate, or middle income. Such determination does not preclude any person or

family earning up to 150 percent of the state or county median family income from participating in programs. Persons 65 years of age or older shall be defined as eligible persons regardless of their incomes. In determining the income standards of eligible persons for its various programs, the housing finance authority may consider the following factors:

(a) Requirements mandated by federal law.
(b) Variations in circumstances in different areas of the state.

(c) Whether the determination is for rental housing or homeownership purposes.

(d) The need for family-size adjustments to accomplish the purposes set forth in this act.

History.—s. 3, ch. 78-89; s. 4, ch. 87-106; s. 1, ch. 2013-83.

159.604 Creation of housing finance authorities.

(1) Each county in this state may create by ordinance a separate public body corporate and politic, to be known as the "Housing Finance Authority" of the county for which it is created, to carry out only the powers granted in this act. A housing finance authority shall not transact any business or exercise any powers under this act until the governing body of the county for which such housing finance authority is created passes a resolution declaring the need for a housing finance authority to function to alleviate a shortage of housing and capital for investment in housing in its area of operation.

(2) In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of a housing finance authority, the housing finance authority shall be conclusively deemed to have been established and authorized to transact business and exercise its powers under this act upon proof of the adoption of an ordinance by the appropriate governing body declaring the need for the housing finance authority. The ordinance shall be sufficient if it declares the need for such a housing finance authority and finds that there is a shortage of housing and capital for investment in housing within its area of operation. A copy of the ordinance certified by the clerk of the circuit court shall be admissible in evidence in any suit, action, or proceeding.

(3) The county for which the housing finance authority is created may, at its sole discretion, and at any time, alter or change the structure, organization, programs, or activities of any housing finance authority, including the power to terminate such authority, subject to any limitation on the impairment of contracts entered into by such authority and subject to the limitations or requirements of this act.

History.—s. 4, ch. 78-89.

159.605 Members; employees; duties and compensation.—

(1) Each housing finance authority shall be composed of not less than five members appointed by the governing body of the county for which the housing finance authority is created, one of whom shall be designated chair. Not less than a majority of the members shall be knowledgeable in one of the following fields: labor, finance, or commerce. The terms of the

members shall be 4 years each, except that the terms of the initial members shall be as follows: Two members shall serve a term of 1 year; one member shall serve a term of 2 years; one member shall serve a term of 3 years; and the remainder shall serve a term of 4 years. A member of the housing finance authority shall hold office until his or her successor has been appointed and has qualified. Each vacancy shall be filled for the remainder of the unexpired term. A certificate of the appointment or reappointment of any member of the housing finance authority shall be filed with the clerk of the circuit court of the county, and the certificate shall be conclusive evidence of the due and proper appointment of the member. A member shall receive no compensation for his or her services, but shall be entitled to necessary expenses, including travel expenses, incurred in the discharge of duties.

(2)(a) The powers of each housing finance authority granted by this act shall be vested in the members of the housing finance authority in office from time to time. A majority of the members constitutes a quorum, and action may be taken by the housing finance authority upon a vote of a majority of the members present.

(b) A housing finance authority may:

1. Employ such agents and employees, permanent or temporary, as it requires and shall determine the qualifications, duties, and compensation of those agents and employees.

2. Delegate to an agent or employee such powers or duties as it considers proper.

3. Employ its own legal counsel.

4. Create or assist in creating corporations that qualify as not-for-profit corporations under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and under the laws of this state, and that are engaged in acquiring, constructing, reconstructing, or rehabilitating qualifying housing developments.

(3) Until the members of the housing finance authority are appointed, the governing body of the county for which the housing finance authority is created and the chair of the housing finance authority shall have full authority to carry out the powers of a housing finance authority under this act; however, the governing body shall not delegate its authority to the chair under this provision. Except as provided in this section, no member of the housing finance authority may be an officer or employee of the county for which the housing finance authority is created.

History.—s. 5, ch. 78-89; s. 2, ch. 86-214; s. 1, ch. 93-221; s. 889, ch. 95-147.

159.606 Conflicts of interest; disclosure.—No member or employee of a housing finance authority shall acquire any interest, direct or indirect, in any qualifying housing development or in any property included or planned to be included in such a development, nor shall a member or employee have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any qualifying housing development. If any member or employee of a housing finance authority owns or controls an interest, direct or indirect, in any property included or planned to be included in any qualifying housing project, the member or employee

shall immediately disclose the same in writing to the housing finance authority. Such disclosure shall be entered upon the minutes of the housing finance authority. Failure so to disclose such interest shall constitute misconduct in office.

History.—s. 6, ch. 78-89; s. 890, ch. 95-147.

159.607 Removal of members.—A member of a housing finance authority may be removed without cause by a three-fifths vote of the governing body of the county, or for neglect of duty or misconduct in office by a majority vote of the governing body of the county. A member may be removed only after he or she has been given a copy of the charges at least 10 days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel. If a member is removed, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk where the certificate of appointment for such member is filed.

History.—s. 7, ch. 78-89; s. 891, ch. 95-147.

159.608 Powers of housing finance authorities.

A housing finance authority shall constitute a public body corporate and politic, exercising the public and essential governmental functions set forth in this act, and shall exercise its power to borrow only for the purpose as provided herein:

(1) To sue and be sued, to have a seal and to alter the same at pleasure, to have perpetual succession, to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the housing finance authority, and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with this act, to carry into effect the powers and purposes of the housing finance authority.

(2) To own real and personal property acquired through the use of surplus funds or through public and private partnerships provided that the obligations of the authority are limited to project revenues and that no less than 50 percent of the units owned by a housing finance authority shall benefit very-low-income families or low-income families. For the purposes of this subsection, a “very-low-income family” means a family whose income does not exceed 50 percent of the median family income for the area, and the term “low-income family” means a family whose income does not exceed 80 percent of the median family income for the area. Family income levels shall be adjusted for family size. Notwithstanding the other provisions of this subsection, a housing finance authority may acquire real and personal property to house and equip its facilities and staff.

(3) To purchase or make commitments to purchase or to make loans for such purpose, and to take assignments of, from lending institutions acting as a principal or as an agent of the housing finance authority, mortgage loans and promissory notes accompanying such mortgage loans, including federally insured mortgage loans or participations with lending institutions in such promissory notes and mortgage loans for the construction, purchase, reconstruction, or rehabilitation of the qualifying housing development or portion

thereof; provided, that the proceeds of sale or equivalent moneys shall be reinvested in mortgage loans.

(4) To borrow money through the issuance of bonds for single-family housing and qualified housing developments, to provide for and secure the payment thereof, and to provide for the rights of the holders thereof.

(5) To make loans to lending institutions under terms and conditions requiring the proceeds thereof to be used by such lending institutions for the making of new mortgages for any qualifying housing development, or portion thereof, located wholly or partially within the area of operation of such housing finance authority. Prior to making a loan to a lending institution which makes such loans or provides such financing, the lending institution must agree to use the proceeds of such loan within a reasonable period of time to make loans or to otherwise provide financing for the acquisition, construction, reconstruction, or rehabilitation of a housing development or portion thereof, and the housing finance authority must find that such loan will assist in alleviating the shortage of housing and of capital for investment in housing within its area of operation.

(6) To deposit funds into an account with a lending institution to provide security for the lending institution to make loans to eligible persons for the purchase, construction, reconstruction, or rehabilitation of single-family homes or to developers for the construction, reconstruction, or rehabilitation of qualifying housing developments or portions thereof. No funds may be deposited with a lending institution in which any depositing housing finance authority member, officer, or employee has an ownership interest. The sale price on new or existing single-family homes shall not exceed 90 percent of the median area purchase price in the area wherein the single-family home is located, as established by the United States Department of Treasury in accordance with 15 U.S.C. 3(b)(2) of the United States Housing Act of 1937.

(7) To invest, at the direction of the lending institution, any fund held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which lending institutions may legally invest funds subject to their control.

(8) To make loans directly to eligible persons who otherwise cannot borrow from conventional lending sources. Such loans must be secured by first mortgages or subordinated mortgages and must be used to purchase, construct, rehabilitate, or refinance single-family residences that have purchase prices that do not exceed the purchase price limits of the county where the borrower's residence is to be located, as mandated by federal law for tax-exempt single-family bond programs.

(9) To own, maintain, operate, control, and capitalize a limited-purpose savings and loan association to provide low-cost loans and related services to eligible persons to obtain affordable housing pursuant to this part. The bank may acquire deposits, which must be federally insured, sell mortgages in the secondary market, and issue mortgage-backed securities. The proceeds from loans and the sale of mortgages or mortgage-backed securities must be reinvested in mortgage loans. However, this subsection does not prohibit the temporary reinvestment of such proceeds in

other securities and investments. The bank must have a minimum of \$10 million in capital and must comply with all applicable state and federal banking and regulatory requirements and any other requirements imposed by the county.

(10)(a) To make loans or grant surplus funds to corporations that qualify as not-for-profit corporations under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and under the laws of this state, for the development of affordable housing; and

(b) To do anything necessary or appropriate to further the purpose for which a housing finance authority is established, pursuant to s. 159.602, including, as further described in s. 159.8075, the power to issue mortgage credit certificates to the extent allocation is available for that purpose to qualifying individuals in lieu of issuing qualified mortgage bonds pursuant to ss. 25, 143, and 146 of the Internal Revenue Code of 1986, as amended, or a combination of the two. Mortgage credit certificates may not be issued on December 30 or December 31 of any year.

(11) To invest and reinvest surplus funds of the housing finance authority in accordance with s. 218.415. However, in addition to the investments expressly authorized in s. 218.415(16)(a)-(g) and (17)(a)-(d), a housing finance authority may invest surplus funds in interest-bearing time deposits or savings accounts that are fully insured by the Federal Deposit Insurance Corporation regardless of whether the bank or financial institution in which the deposit or investment is made is a qualified public depository as defined in s. 280.02. This subsection is supplementary to and may not be construed as limiting any powers of a housing finance authority or providing or implying a limiting construction of any other statutory provision.

History.—s. 8, ch. 78-89; s. 1, ch. 88-136; s. 14, ch. 89-121; s. 5, ch. 92-303; s. 2, ch. 93-221; s. 1, ch. 96-210; s. 2, ch. 2011-189; s. 2, ch. 2013-83.

Note.—The reference is apparently erroneous.

159.609 Limitation.—No housing finance authority shall finance the acquisition, construction, reconstruction, or rehabilitation of any qualifying housing development for its own profit or as a source of revenue to the state or any local governmental unit, except when it is for the housing finance authorities' offices and affordable housing.

History.—s. 9, ch. 78-89; s. 3, ch. 93-221.

159.61 No power of eminent domain.—No housing finance authority shall have the power to acquire any real property by the exercise of the power of eminent domain to accomplish any of the purposes specified in this act.

History.—s. 10, ch. 78-89.

159.611 Planning, zoning, and building laws.—Each qualifying housing development shall be subject to the planning, zoning, health, and building laws, ordinances, and regulations applicable to the place in which such qualifying housing development is situated.

History.—s. 11, ch. 78-89.

159.612 Bonds.—

(1) A housing finance authority may issue revenue bonds from time to time in the discretion of the housing

finance authority for the purposes of this act. A housing finance authority may also issue refunding bonds for the purpose of paying, retiring, or refunding any bonds previously issued by such housing finance authority. A housing finance authority may also issue refunding bonds for the purpose of paying, retiring, or refunding any bonds previously issued by another housing finance authority if such other housing finance authority consents to the issuance of such refunding bonds. A housing finance authority may issue such types of bonds as it may determine; provided that the principal and interest on such bonds are payable solely and only from:

(a) The repayment of any loans made by the housing finance authority pursuant to the provisions of s. 159.608 or purchased by the housing finance authority pursuant to s. 159.608; or

(b) The sale of any housing loans or commitments to purchase housing loans which are purchased pursuant to s. 159.608.

(2) Any bonds issued pursuant to the provisions of this act shall be secured by a mortgage or other security device.

(3) In no event shall any bonds issued pursuant to the provisions of this act be payable from the general revenues of the housing finance authority.

(4) Neither the members of a housing finance authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds issued pursuant to the provisions hereof, and the bonds shall so state on their face, shall not be a debt of the county or the state, or any political subdivision thereof; and neither the county, nor any state or political subdivision thereof, shall be liable thereon; nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of the housing finance authority.

History.—s. 12, ch. 78-89; s. 1, ch. 99-178.

159.613 Form and sale of bonds.—

(1) Bonds of a housing finance authority issued pursuant to this act shall be authorized by a resolution of the housing finance authority and may be issued in one or more series and shall bear such dates, mature at such times, bear interest at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed by such members of the housing finance authority and in such manner, be payable in such means of payment at such places, and be subject to such terms of redemption, with or without premium, as such resolution or any trust indenture entered into pursuant to such resolution may provide. However, the provisions of s. 215.84 shall apply.

(2)(a) The bonds issued by the authority shall be sold by the authority at public sale substantially in the manner provided by s. 215.68(5)(b) and (c), unless otherwise approved by the State Board of Administration; but such requirement shall be deemed waived if the State Board of Administration has not responded in writing within 30 days from the date of application, or if the bonds are rated by at least one nationally

recognized rating service in any one of the three highest classifications approved by the Comptroller of the Currency for the investment of funds of national banks, an appropriate certification and opinion of counsel pursuant to the applicable arbitrage regulations under s. 103(c) of the Internal Revenue Code are delivered simultaneously with the delivery of the bonds, and the official statement issued in connection with the sale of the bonds has been filed with the State Board of Administration prior to the closing.

(b) In the event an offer of an issue of bonds at public sale produces no bid, or in the event all bids received are rejected, the authority is authorized to negotiate for the sale of such bonds under such rates and terms as are acceptable; however, no such bonds shall be so sold or delivered on terms less favorable than the terms contained in any bids rejected at the public sale thereof, or the terms contained in the notice of public sale if no bids were received at such public sale.

(3) In case any member of the housing finance authority whose signature appears on the bonds or coupons ceases to be a member before the delivery of the bonds or coupons, such bonds shall, nevertheless, be valid and sufficient for all purposes, the same as if such member had remained in office until such delivery. Any provision of law to the contrary notwithstanding, any bonds issued pursuant to this act shall be fully negotiable.

(4) In any suit, action, or proceeding involving the validity or enforceability of any bond of a housing finance authority or the security therefor issued pursuant hereto, any such bond reciting in substance that it has been issued by the housing finance authority to assist in providing financing of a qualifying housing development to alleviate the shortage of housing in its area of operation shall be conclusively deemed to have been issued for a qualifying housing development of such character.

History.—s. 13, ch. 78-89; s. 8, ch. 83-215.

159.614 Provisions of bonds and trust indentures.—In connection with the issuance of bonds and in order to secure the payment of such bonds, a housing finance authority, in addition to the other powers granted pursuant to this act, shall have power:

(1) To pledge all or any part of any payment made to the housing finance authority pursuant to any loan agreement or pursuant to a sale of any loan or loan commitment.

(2) To covenant against pledging or assigning all or any part of any payments made pursuant to any loan agreement or pursuant to the sale of any loan or loan commitment or against permitting or suffering any lien on such payments; and to covenant as to what other, or additional, debts or obligations may be incurred by the housing finance authority with respect to any qualifying housing development.

(3) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise and as to the use and disposition of the proceeds thereof; and to provide for the replacement of lost, destroyed, or mutilated bonds; to covenant against

extending the time for the payment of its bonds or interest thereon; and to redeem the other bonds, covenant for their redemption, and provide the terms and conditions thereof.

(4) To create or to authorize the creation of special funds for moneys held for construction costs, debt service, reserves, or other purposes; and to covenant as to the construction and disposition of the moneys held in such special funds.

(5) To prescribe the procedure, if any, by which the terms of any contract with the holder of any bonds may be amended or abrogated, the amount of the bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(6) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by the housing finance authority of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity and as to the terms and conditions upon which such declaration and its consequences may be waived.

(7) To vest in a trustee or trustees or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said housing finance authority, to collect the payments made pursuant to any loan agreement or pursuant to the sale of any loan or loan commitment and to dispose of such rights in accordance with the agreement of the housing finance authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees of the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

History.—s. 14, ch. 78-89.

159.615 Validation of bonds and proceedings.

A housing finance authority shall determine its authority to issue any of its bonds and the legality of all proceedings had or taken in connection therewith, in the same manner and to the same extent as provided in chapter 75 for the determination by a county, municipality, taxing district, or other political subdivision of its authority to incur bonded debt or to issue certificates of indebtedness and of the legality of all proceedings had or taken in connection therewith.

History.—s. 15, ch. 78-89.

159.616 Actions to contest validity of bonds.—

An action or proceeding to contest the validity of any bond issued under this act, other than a proceeding pursuant to s. 159.615, must be commenced within 30 days after notification in a newspaper of general circulation within the area of the passage by the housing finance authority of the resolution authorizing the issuance of such bond.

History.—s. 16, ch. 78-89.

159.617 Remedies of an obligee of a housing finance authority.—An obligee of a housing finance

authority shall have the right, in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action, or proceeding at law or in equity, to compel the housing finance authority and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of the housing finance authority with or for the benefit of such obligee and to require the carrying out of any or all of the covenants and agreements of the housing finance authority and the fulfillment of all duties imposed upon the housing finance authority by this act.

(2) By suit, action, or proceeding in equity, to enjoin any acts or things which may be unlawful or the violation of any of the rights of the obligee by the housing finance authority.

History.—s. 17, ch. 78-89.

159.618 Additional remedies conferrable by a housing finance authority.—A housing finance authority shall have power by resolution, trust indenture, or other contract to confer upon any obligee holding or representing a specified amount in bonds, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instrument, by suit, action, or proceeding in any court of competent jurisdiction:

(1) To obtain the appointment of a receiver of any payments made pursuant to any loan agreement or sale of any loan. If such receiver is appointed, he or she may collect and receive all payments made pursuant to any such loan agreement or sale of any loan or loan commitment and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said housing finance authority as the court shall direct.

(2) To require the housing finance authority and the members thereof to account as if it and they were the trustees of an express trust.

History.—s. 18, ch. 78-89; s. 892, ch. 95-147.

159.619 Availability of financing.—As long as a shortage of housing exists, a housing finance authority shall not unreasonably refuse to participate in the financing of any qualifying housing development upon request.

History.—s. 19, ch. 78-89.

159.62 Liabilities of a housing finance authority. In no event shall the liabilities, whether ex contractu or ex delicto, of a housing finance authority arising from the financing of any qualifying housing development be payable from any funds other than the revenues or receipts of such qualifying housing development.

History.—s. 20, ch. 78-89.

159.621 Housing bonds exempted from taxation.—The bonds of a housing finance authority issued under this act, together with all notes, mortgages, security agreements, letters of credit, or other instruments which arise out of or are given to secure the repayment of bonds issued in connection with the

financing of any housing development under this part, as well as the interest thereon and income therefrom, shall be exempt from all taxes. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 21, ch. 78-89; s. 22, ch. 86-152.

159.622 Limitation on rates.—The intent of this legislation is that consumers receive maximum possible benefits; therefore, no lending institution receiving proceeds of bond issues pursuant to this act may loan any of the proceeds of such bond issue at the rate violative of federal arbitrage regulations.

History.—s. 24, ch. 78-89.

159.623 Construction of law.—The provisions of this act shall be liberally construed in order to effectively carry out the purposes of this act.

History.—s. 22, ch. 78-89.

PART V

RESEARCH AND DEVELOPMENT AUTHORITIES

159.701	Purposes.
159.702	Definitions.
159.703	Creation of research and development authorities.
159.704	Designation by Board of Governors of the State University System; procedure.
159.705	Powers of the authority.
159.7055	Authority reporting requirement.
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159.707	Credit of state or political subdivision not pledged.
159.708	Tax exemption.
159.709	Powers of ss. 159.701-159.7095 supplemental.
159.7095	Issuance of bonds.

159.701 Purposes.—Research and development authorities, as authorized by ss. 159.701-159.7095, are created for the purpose of promoting scientific research and development in affiliation with and related to the research and development activities of one or more state-based, accredited, public or private institutions of higher education; for the purpose of financing and refinancing capital projects related to establishment of a research and development park in affiliation with one or more institutions of higher education, including facilities that complement or encourage the complete operation thereof as defined by, and in the manner provided by, the Florida Industrial Development Financing Act and by ss. 159.701-159.7095; and for the purpose of fostering the economic development and broadening the economic base of a county in affiliation with one or more institutions of higher education.

History.—s. 4, ch. 79-101; s. 1, ch. 85-313; s. 2, ch. 88-409; s. 23, ch. 89-381.

159.702 Definitions.—

(1) The following words and terms, unless the context clearly indicates a different meaning, shall have the following meaning:

(a) “Bonds” or “revenue bonds” means the bonds authorized to be issued by any authority under ss. 159.701-159.7095, which may consist of a single bond. The term “bonds” or “revenue bonds” shall also include a single bond, a promissory note or notes, or other debt obligations evidencing an obligation to repay borrowed money.

(b) “Project” means any capital project comprising a research and development park, or any part thereof, and including one or more buildings and other structures, machinery, fixtures, equipment, and any rehabilitation or addition to any building or structure and machinery and equipment, as defined in the Florida Industrial Development Financing Act.

(c) “Authority” or “research and development authority” means any of the public corporations created pursuant to ss. 159.701-159.7095.

(d) “Board” means the board of county commissioners or other body charged with governing the county.

(e) “Cost” as applied to a project shall embrace the cost of construction; land or rights in land; other property, both real and personal; machinery and equipment; financing charges, including interest; and all other costs necessary for placing the project in operation as defined in the Florida Industrial Development Financing Act. “Cost” shall also include the cost of financial consultants, accountants, legal services, engineering and architectural services, feasibility studies, and services by other consultants and such experts as may be selected by the lessee of any such project if the cost thereof shall be paid by the lessee or shall be included as a cost of the project and reimbursed from proceeds of any bonds issued to finance the cost of such project.

(f) “Florida Industrial Development Financing Act” means part II of this chapter and any amendments thereto, and the definitions contained therein shall also be applicable to ss. 159.701-159.7095 and to any bonds issued pursuant thereto.

(g) “Contiguous counties” means counties with common borders.

(2) Wherever the singular term “research and development park” appears in this part, it shall be construed to include the plural term “research and development parks.”

History.—s. 4, ch. 79-101; s. 2, ch. 85-313; s. 3, ch. 88-409.

159.703 Creation of research and development authorities.—

(1) Subject to the provisions of this part, each county or group of counties may create by ordinance a local governmental body as a public body corporate and politic to be known as “____ Research and Development Authority,” hereafter referred to as “authority” or “authorities.” Each of the authorities is constituted as a public instrumentality for the purposes of development, operation, management, and financing of a research and development park, and the exercise by an authority of the powers conferred by ss. 159.701-

159.7095 shall be deemed and held to be the performance of an essential public purpose and function. However, no authority created on or after July 1, 2007, shall transact any business or exercise any power hereunder until and unless the Board of Governors of the State University System has designated the authority pursuant to the requirements of s. 159.704.

(2) The governing board of the county may adopt a resolution declaring that there is need for a research and development authority in the county if it finds that there exists a need for the development and financing of a research and development park.

(3) The resolution shall designate not less than five persons who are residents and electors of, or have their principal place of employment in, the county as members of the authority created for said county. Of the members first appointed, one shall serve for 1 year, one for 2 years, one for 3 years, and the remainder for 4 years and in each case until his or her successor is appointed and has qualified. Thereafter, the board shall appoint for terms of 4 years each a member or members to succeed those whose terms expire. In addition to the other members, the president of each affiliated institution of higher education, or the president's designee, shall be a member of the authority and shall serve ex officio. Except as to members who serve ex officio, the board shall fill any vacancy for an unexpired term. A member of the authority shall be eligible for reappointment. Any member of the authority may be removed by the board for misfeasance, malfeasance, or willful neglect of duty. Each member of the authority before entering upon his or her duties shall take and subscribe the oath or affirmation required by the State Constitution. A record of each such oath shall be filed with the Department of State and with the clerk of the circuit court.

(4) The authority shall annually elect one of its members as chair and one as vice chair and may also appoint a secretary who shall serve at the pleasure of the authority and receive such compensation as shall be fixed by the authority.

(5) The secretary shall keep a record of the proceedings of the authority and shall be custodian of all books and records of the authority and of its official seal.

(6) A majority of the members of the authority shall constitute a quorum, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the authority, provided that the president of each affiliated institution of higher education or that president's designee shall be present and vote on any action taken by the authority involving the issuance of bonds or the transfer, development, lease or encumbrance of any lands owned by the Trustees of the Internal Improvement Trust Fund and leased to the authority; and provided, further, that the president of each affiliated institution of higher education or such president's designee shall be present and vote in the affirmative on any action taken by the authority involving the lease of any park lands to a state agency. No vacancy in the membership of the authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Any action taken

by the authority under the provisions of ss. 159.701-159.7095 may be authorized by resolution at any regular or special meeting, and each such resolution shall take effect immediately and need not be published or posted. Notice of meetings of the authority shall be published in the Florida Administrative Register.

(7) The members of the authority shall receive no compensation for the performance of their duties hereunder, but each such member shall be paid necessary expenses incurred while engaged in the performance of such duties.

(8) The authority may also appoint such other officers as it may deem necessary.

(9) If two or more contiguous counties wish to create jointly a research and development authority, the governing boards of each county shall adopt a resolution declaring that there is a need for a research and development authority for said counties, which shall be constituted in the manner prescribed by subsections (2)-(7), except that the resolution shall designate not less than seven persons as members of the authority. Each county shall be equally represented on the authority except that the county in which the research and development park is located or in which a substantial portion is located shall be entitled to one additional member.

History.—s. 4, ch. 79-101; s. 3, ch. 85-313; s. 3, ch. 86-214; s. 4, ch. 88-409; s. 24, ch. 89-381; s. 32, ch. 91-55; s. 893, ch. 95-147; s. 1, ch. 2000-216; s. 17, ch. 2007-217; s. 15, ch. 2013-14.

159.704 Designation by Board of Governors of the State University System; procedure.—

(1) The authority shall prepare and submit to the Board of Governors of the State University System a petition requesting that the authority be designated a research and development authority.

(2) The petition shall contain, but not be limited to:

(a) The resolution of the governing board of the county constituting the authority.

(b) A concept of operation of the proposed research and development park consistent with s. 159.27(7) and the purposes of ss. 159.701-159.7095.

(c) A statement of affiliation with one or more state-based, accredited, public or private institutions of higher learning with research and development capabilities.

(d) Evidence of availability of a site suitable for the projected scope of operations.

(e) Evidence of the economic feasibility of the proposed research and development park.

(f) A plan for funding the development of the proposed research and development park, including a minimum financial commitment by the authority of \$50,000 in liquid assets for development purposes.

(3) Upon approval of the petition and designation as a research and development authority by the Board of Governors of the State University System, the authority shall be empowered to transact any business and exercise any power authorized by ss. 159.701-159.7095 for the purposes set out in such sections.

History.—s. 4, ch. 79-101; s. 4, ch. 85-313; s. 5, ch. 88-409; s. 18, ch. 2007-217.

159.705 Powers of the authority.—The authority is authorized and empowered:

(1) To have perpetual succession as a body politic and corporate and to adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) To adopt an official seal and alter the same at pleasure.

(3) To maintain an office at such place or places in the county as it may designate.

(4) To sue and be sued in its own name and to plead and be impleaded.

(5) To enter into contracts for any of the purposes enumerated in ss. 159.701-159.7095 and in the Florida Industrial Development Financing Act.

(6) To issue revenue bonds or other debt obligations repayable solely from revenues derived from the sale, operation, or leasing of such capital projects in the manner prescribed in subsection (7), subject to the approval of the board pursuant to s. 125.01(1)(z).

(7) To exercise all the powers in connection with the authorization, issuance, and sale of revenue bonds to finance the cost of capital projects conferred on counties, municipalities, special districts, and other local governmental bodies by the Florida Industrial Development Financing Act. All of the privileges, benefits, powers, and terms of that act shall be fully applicable to authorities created pursuant to ss. 159.701-159.7095. Industrial development revenue bonds may be authorized, issued, and sold by authorities in compliance with the criteria and requirements set forth in the Florida Industrial Development Financing Act. The bonds of each issue shall be dated, bear interest at such rate or rates, mature at such time or times, be redeemable prior to maturity at such price or prices, be in such denominations, contain such recitals, and be sold for such price or prices and in such manner as provided in that act. Projects may be acquired, constructed, leased, operated, or sold in the manner provided in that act, and the items of cost as enumerated therein may be included as project costs. The repayment of bonds issued by the authorities may be secured by trust agreements or security agreements as set forth in that act; and fees, rents, and charges for the use of any project or any part of any project may be collected and fixed by the authority in the manner provided in that act. All moneys received pursuant to the provisions of ss. 159.701-159.7095 shall constitute trust funds as provided in the Florida Industrial Development Financing Act. The remedies provided by that act shall also be applicable to bonds issued pursuant to ss. 159.701-159.7095, and bonds of the authority may be refunded in the manner provided therein and shall be eligible for investment as provided in that act.

(8) To acquire by lease, purchase, or option real and personal property for use as a site for the location of a research and development park project as defined in the Florida Industrial Development Financing Act. Authorities shall have the power to prepare sites for use as the location of a research and development park and may construct thereon access roads, drainage facilities, utilities, and other improvements necessary for ultimate use by research and development projects. The acquisition, development, and financing of such sites may be in the manner provided in ss. 159.701-159.7095 and the Florida Industrial Development Financing Act.

(9) In any case in which an addition to a project is financed or in which less than the entire project is financed or refinanced by industrial development bonds, to secure the issuance and repayment of such bonds by a lease, mortgage, or other security instrument encumbering only the capital improvements which are financed by the authority. Such lease, mortgage, or other security instrument may include a security interest in both the land and personal property or may include a lease, mortgage, or other security instrument sufficient for the purpose encumbering only the personal property, including machinery and equipment, which is being financed. In financing projects, authorities may lease such projects to the industry which is the ultimate user until the debt obligations issued for such purpose are retired, or it may sell such capital projects to the industry using the project on an installment purchase contract or other type of purchase contract with such security instruments or trust agreements as the authority shall deem adequate, in which case the transaction shall be deemed to be a sale and not a lease of such project.

(10) Other provisions of law to the contrary notwithstanding, to acquire by lease, without consideration, purchase, or option any lands owned, administered, managed, controlled, supervised, or otherwise protected by the state or any of its agencies, departments, boards, or commissions for the purpose of establishing a research and development park, subject to being first designated a research and development authority under the provisions of ss. 159.701-159.7095. The authority may cooperate with state and local political subdivisions and with private profit and nonprofit entities to implement the public purposes set out in s. 159.701. Such cooperation may include agreements for the use of the resources of state and local political subdivisions, agencies, or entities on a fee-for-service basis or on a cost-recovery basis. Notwithstanding any other provision of this chapter, a project that is located in a research and development park and is financed under the provisions of the Florida Industrial Development Financing Act may be operated by a research and development authority, a state university, a Florida community college, or a governmental agency if the purpose and operation of the project is consistent with the purposes and policies specified in ss. 159.701-159.7095.

(11) Notwithstanding the provisions of s. 253.034, to be granted leases for lands owned by the Board of Trustees of the Internal Improvement Trust Fund for periods not to exceed 99 years, and to grant subleases for land which is owned by the Board of Trustees of the Internal Improvement Trust Fund if the board of trustees has approved the master lease agreement, the concept of the operation of the park, the master sublease provisions for use in such subleases, and changes, if any, to the master sublease. The terms of such subleases may run concurrently with the term of the lease granted by the Board of Trustees of the Internal Improvement Trust Fund, and subsequent to execution, copies of the subleases shall be filed with the Division of State Lands of the Department of Environmental Protection.

History.—s. 4, ch. 79-101; s. 2, ch. 83-47; s. 25, ch. 83-271; s. 5, ch. 85-313; s. 3, ch. 86-216; s. 6, ch. 88-409; s. 16, ch. 94-356; s. 3, ch. 2002-265.

159.7055 Authority reporting requirement.—Any authority which issues any revenue bonds pursuant to this part shall supply the Division of Bond Finance of the State Board of Administration with a copy of the report required pursuant to s. 103 of the Internal Revenue Code of 1954, as amended, at the times required pursuant to that section.

History.—s. 26, ch. 83-271; s. 7, ch. 86-181; s. 146, ch. 92-279; s. 55, ch. 92-326; s. 14, ch. 95-196; s. 13, ch. 2000-158.

159.706 Grandfather clause.—Each county designated as a research and development authority on June 30, 1979, or designated by the Board of Regents as a research and development authority prior to July 1, 2001, shall be entitled to continue to be designated and shall be accorded all powers conferred to designated authorities by ss. 159.701-159.7095, except that any authority not constituted and designated under the provisions of ss. 159.701-159.7095 shall be prohibited from exercising any power to issue revenue bonds or other debt obligations pursuant to s. 159.705(6) and (7).

History.—s. 4, ch. 79-101; s. 19, ch. 2007-217.

159.707 Credit of state or political subdivision not pledged.—

(1) The revenue bonds issued by the authority shall not be deemed to constitute a debt, liability, or obligation of any authority or county or of the state or any political subdivision, and such revenue bonds or debt obligations shall be payable solely from revenues derived from the sale, operation, or leasing of a project or projects.

(2) All bonds issued under the provisions of ss. 159.701-159.7095 shall have, and are declared to have, all the qualities and incidents, including negotiability, of investment securities under the Uniform Commercial Code.

(3) Bonds may be issued under the provisions of ss. 159.701-159.7095 without obtaining, except as otherwise provided in ss. 159.701-159.7095, the consent of any department, commission, board, bureau, or agency of the state and without any other proceedings or the happening of any conditions, except those which are specifically required by the provisions of the resolution authorizing the issuance of such bonds or the trust agreement securing the same.

History.—s. 4, ch. 79-101.

159.708 Tax exemption.—The exercise of all powers granted by ss. 159.701-159.7095 in all respects will be for the benefit of the people of the state, for the increase of their industry and prosperity and the improvement of their health and living conditions, and for the provision of gainful employment and will constitute the performance of essential public functions. The authority shall not be required to pay any taxes on any project or any other property owned by the authority under the provisions of ss. 159.701-159.7095 or upon the income therefrom. The bonds issued under the provisions of ss. 159.701-159.7095, their transfer, and the income therefrom (including any profit made on the sale thereof), and all notes, mortgages, security agreements, letters of credit, or other instruments which arise out of or are given to secure the repayment of bonds issued in connection with a project financed under this

part, shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state. Nothing in this section, however, shall be construed as exempting from taxation or assessments the leasehold interest of any lessee in any project or any other property or interest owned by any lessee. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 4, ch. 79-101; s. 23, ch. 86-152.

159.709 Powers of ss. 159.701-159.7095 supplemental.—The powers conferred by ss. 159.701-159.7095 shall be in addition and supplementary to existing powers and statutes, and these sections shall not be construed as repealing any of the provisions of any other law, general or local.

History.—s. 4, ch. 79-101.

159.7095 Issuance of bonds.—The bonds issued under ss. 159.701-159.7095 may be validated in the manner prescribed by chapter 75.

History.—s. 4, ch. 79-101.

PART VI

PRIVATE ACTIVITY BONDS

159.801	Short title.
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159.803	Definitions.
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159.812	Grandfather clause.
159.813	Future federal amendments.
159.814	Form of applications for allocations; requirements.
159.815	Rules.
159.816	Certificate as to state volume limitation.

159.801 Short title.—This part may be cited as the “Florida Private Activity Bond Allocation Act.”

History.—s. 1, ch. 85-282.

159.802 Purpose.—The purpose of this part is to allocate the state volume limitation imposed on private activity bonds under s. 146 of the Code. No private activity bond subject to the limitation in s. 146 of the Code shall be issued in this state unless a written confirmation therefor is issued pursuant to this part.

History.—s. 1, ch. 85-282; s. 1, ch. 87-222.

159.803 Definitions.—As used in this part, the term:

(1) “County” means the geographic boundaries of each county as established by law.

(2) “Private activity bond” or “bond” means any bond which requires an allocation pursuant to s. 146 of the Code.

(3) “Director” means the director of the Division of Bond Finance of the State Board of Administration or his or her designee.

(4) “Agency” means the State of Florida, any unit of local government, industrial development authority, or other entity in this state authorized to issue private activity bonds.

(5) “Priority project” means a solid waste disposal facility or a sewage facility, as such terms are defined in s. 142 of the Code, or a water facility, as defined in s. 142 of the Code, which is operated by a member-owned, not-for-profit utility, or any project which is to be located in an area which is an enterprise zone designated pursuant to s. 290.0065.

(6) “Division” means the Division of Bond Finance of the State Board of Administration.

(7) “Issued” or “issuance” has the same meaning as in the Code.

(8) “Code” means the Internal Revenue Code of 1986, as amended, and the regulations and rulings issued thereunder.

(9) “Housing bonds” means bonds issued pursuant to s. 142(d) of the Code to finance qualified residential units or mortgage revenue bonds issued pursuant to s. 143 of the Code which require an allocation under s. 146 of the Code.

(10) “Manufacturing facility” means a facility described in s. 144(a)(12)(C) of the Code.

(11) “Florida First Business project” means any project which is certified by the Department of Economic Opportunity as eligible to receive an allocation from the Florida First Business allocation pool established pursuant to s. 159.8083. The Department of Economic Opportunity may certify those projects meeting the criteria set forth in s. 288.106(4)(b) or any project providing a substantial economic benefit to this state.

(12) “Mortgage credit certificate” means those certificates issued pursuant to s. 25 of the Code.

History.—s. 1, ch. 85-282; s. 8, ch. 86-181; s. 2, ch. 87-222; s. 1, ch. 92-127; s. 147, ch. 92-279; s. 55, ch. 92-326; s. 60, ch. 94-136; s. 1436, ch. 95-147; s. 6, ch. 95-416; s. 2, ch. 96-210; s. 7, ch. 96-320; s. 39, ch. 2000-210; s. 7, ch. 2004-381; s. 2, ch. 2010-136; s. 52, ch. 2011-142.

159.804 Allocation of state volume limitation.

The division shall annually determine the amount of private activity bonds permitted to be issued in this state under the Code and shall make such information available upon request to any person or agency. The total amount of private activity bonds authorized to be issued in this state pursuant to the Code shall be initially allocated as follows on January 1 of each year:

(1)(a) On January 1, 1993, the first \$75 million of the state volume limitation shall be allocated to the manufacturing facility pool established pursuant to s. 159.8081. This allocation shall be increased in subsequent years in increments of \$7.5 million as follows: On January 1 of each year, if at least 75 percent of the

preceding year’s allocation under this subsection was used to issue bonds by November 15 of that year, the allocation to the pool for the current year must equal the sum of the amount that was allocated to the pool in the preceding year plus an additional \$7.5 million. If, however, 75 percent of the preceding year’s allocation was not used to issue bonds by November 15, the allocation to the pool for the current year must be the same amount as that allocated to the pool in the preceding year.

(b) If on January 1 of any year, under federal law, bonds for manufacturing facilities no longer require or are eligible for an allocation pursuant to s. 146 of the Code, the allocation of the state volume limitation in the manufacturing facility pool shall be divided among the remaining pools in the following manner: 50 percent to be shared by the 17 regions for use in the manner prescribed in subsection (2); 25 percent for use by the Florida Housing Finance Corporation in the manner prescribed in subsection (3); 5 percent for use in the state allocation pool in the manner prescribed in subsection (4); and 20 percent for use in the Florida First Business allocation pool in the manner prescribed in subsection (5).

(c) If the state volume limitation imposed on private activity bonds under s. 146 of the Code is decreased, the amount allocated to the manufacturing facility pool shall be decreased in proportion to the percentage the state volume limitation is decreased.

(2)(a) Fifty percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated among the regions established in paragraph (b) for use by all agencies whose boundaries are coterminous with or contained within each region. The volume limitation for each regional allocation pool must be an amount that bears the same ratio to 50 percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) for such calendar year as the population of the region bears to the population of the entire state.

(b) The following regions are established for the purposes of this allocation:

1. Region 1 consisting of Bay, Escambia, Holmes, Okaloosa, Santa Rosa, Walton, and Washington Counties.

2. Region 2 consisting of Calhoun, Franklin, Gadsden, Gulf, Jackson, Jefferson, Leon, Liberty, and Wakulla Counties.

3. Region 3 consisting of Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Lafayette, Madison, Suwannee, Taylor, and Union Counties.

4. Region 4 consisting of Baker, Clay, Flagler, Nassau, Putnam, and St. Johns Counties.

5. Region 5 consisting of Citrus, Hernando, Levy, Marion, Pasco, and Sumter Counties.

6. Region 6 consisting of Lake, Osceola, and Seminole Counties.

7. Region 7 consisting of DeSoto, Hardee, Highlands, Manatee, Okeechobee, and Polk Counties.

8. Region 8 consisting of Charlotte, Collier, Glades, Hendry, Lee, Monroe, and Sarasota Counties.

9. Region 9 consisting of Indian River, Martin, and St. Lucie Counties.

10. Region 10 consisting of Broward County.

11. Region 11 consisting of Miami-Dade County.

12. Region 12 consisting of Duval County.

13. Region 13 consisting of Hillsborough County.

14. Region 14 consisting of Orange County.

15. Region 15 consisting of Palm Beach County.

16. Region 16 consisting of Pinellas County.

17. Region 17 consisting of Brevard and Volusia Counties.

(3)(a) Twenty-five percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated to the Florida Housing Finance Corporation for use in connection with the issuance of housing bonds of that corporation or its assigns.

(b) The Florida Housing Finance Corporation need not apply to the division for an allocation of its volume limitation granted under paragraph (a) for bonds it issues prior to July 1 of any year and is not subject to the fee required under s. 159.811. However, for bonds it intends to issue between July 1 and September 29 of any year, utilizing the allocation granted under paragraph (a), the Florida Housing Finance Corporation must submit a notice of intent to issue to the division not later than June 30 of such year, and a written confirmation of allocation shall be granted if a sufficient amount of that allocation is available.

(c) The Florida Housing Finance Corporation, in its discretion, may, prior to July 1 of each year, assign any portion of the Florida Housing Finance Corporation allocation to any agency for the issuance of housing bonds, taking into consideration the ability of the agency to timely issue such bonds, the need and public purpose to be served by the issue, and the ability of the agency to comply with the requirements of federal and state law. Such assignment is not effective until receipt by the division of notification of the assignment. A separate allocation from the division is not needed for bonds issued prior to July 1 utilizing such an assignment. An agency that intends to utilize such an assignment to issue housing bonds between July 1 and September 29 of any year must submit a notice of intent to issue to the division for the amount of such assignment not later than June 30, and a written confirmation of allocation shall be granted if a sufficient amount of the allocation under paragraph (a) is available. Any amounts representing assignments of which the division had been notified by the Florida Housing Finance Corporation but for which an issuance report or notice of intent to issue pursuant to this subsection has not been received by the division by June 30 of any year shall be reallocated to the state allocation pool on July 1 of that year.

(4) Five percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated to the state allocation pool, for use as provided in s. 159.807.

(5) Twenty percent of the state volume limitation remaining after the allocation made pursuant to subsection (1) shall be allocated to the Florida First

Business allocation pool, to be used as provided in s. 159.8083.

History.—s. 1, ch. 85-282; s. 9, ch. 86-181; s. 3, ch. 87-222; s. 2, ch. 92-127; s. 7, ch. 95-416; s. 1, ch. 97-20; s. 1, ch. 99-173; s. 22, ch. 2000-151; s. 25, ch. 2008-4.

159.805 Procedures for obtaining allocations; requirements; limitations on allocations; issuance reports.—

(1) Except for bonds issued prior to July 1 of each year utilizing an allocation pursuant to s. 159.804(3), prior to the issuance of any private activity bond by or on behalf of any agency, a notice of intent to issue such bonds must be filed in writing by or on behalf of such agency with the division to obtain a written confirmation of an allocation for such issue. The notice of intent to issue shall not be filed until elected official or voter approval, if any, required pursuant to s. 147(f) of the Code has been obtained. A notice of intent to issue shall be filed only by either the agency proposing to issue private activity bonds or any agency required to give elected official or voter approval for such bonds pursuant to s. 147(f) of the Code. Each such notice of intent to issue a private activity bond filed with the division must include a certification that approval, if needed, has been obtained, a statement of the amount of private activity bonds proposed to be issued, the fee required by s. 159.811, an opinion or statement of counsel that the project to be financed may be financed with private activity bonds and that allocation is required to issue such bonds, and such additional information as the division considers appropriate. At 12 noon Tallahassee time each business day, the division shall compute the aggregate amount of private activity bonds in each pool for which notices of intent to issue have been received since noon on the previous business day. Except for priority projects, written confirmations of allocations shall be issued by the director for private activity bonds, subject to the availability of a sufficient amount of state volume limitation of private activity bonds permitted to be issued in this state. Each confirmation must state the amount of the allocation made for such bonds. The amount of each such confirmation must, if sufficient allocation is available in the appropriate pool, be the amount of the allocation requested in the notice of intent to issue. A written confirmation for a private activity bond may be issued based on one or more of the initial allocations provided by s. 159.804. The director shall maintain continuous and cumulative records of the amounts of private activity bonds for which written confirmations of an allocation have been issued.

(2) Any written confirmation issued by the director pursuant to subsection (1) ceases to be effective unless the bonds to which that confirmation applies have been issued by the agency and written notice of such issuance has been provided to the director within 155 calendar days after the date the confirmation was issued or December 29, whichever occurs first.

(3) Upon the expiration of the confirmation or at any time the agency decides the allocation is no longer necessary, but, in any event, not later than the 160th calendar day after the date the confirmation was issued, the agency shall notify the division, by overnight common carrier delivery service, of its failure to issue

any bonds pursuant to the written confirmation. Such notice of failure to issue shall be filed with the division and the allocation provided in the expired confirmation shall be made available for reallocation pursuant to this part. Upon determining that it will not be using allocation for mortgage credit certificates, the issuer will notify the division in writing within 5 business days that such allocation for mortgage credit certificates, referencing the dollar amount, will not be used, thereby allowing the division to reallocate such amounts.

(4) The time limits established by this section are tolled during the pendency of a validation proceeding pursuant to chapter 75, if written notice of the pendency of such proceedings is provided to the director prior to the expiration of the time limit set forth in the written confirmation issued by the director for such bonds. The time limits established by this section do not apply to any written confirmation for a priority project or for any project in an amount of \$50 million or more. If a written confirmation expires, the agency may file a new notice of intent to issue with the division. The new notice of intent to issue shall be considered pursuant to subsection (1), and the allocation provided in the expired confirmation shall be made available for reallocation pursuant to this part.

(5)(a) When bonds with a written confirmation of an allocation are issued, the agency issuing such bonds, or its designee, shall provide the division with same-day telephonic notice of such issuance, the principal amount of bonds issued, and the availability of any excess unissued allocation. On the day of issuance of the bonds, the agency, or its designee, shall send a written issuance report to the division to arrive no later than the following business day containing the information described in paragraph (b). At issuance, any excess allocation unissued, except in the case of a project that received an allocation of \$50 million or more, immediately reverts to the pool from which the allocation was made, except that, after June 30 of such year, it reverts to the state allocation pool and shall be made available for reallocation. Except for allocations for which an election has been made to issue mortgage credit certificates, any allocation made under this part is contingent upon the filing of the issuance report with the division no later than the following business day.

(b) The issuance report shall be made on a form adopted by the division and must provide such information as the division considers necessary, but must provide at least the name and amount of bonds issued; the date of issuance; the name of the agency issuing such bonds; the purpose for which the bonds were issued, and, for bonds for manufacturing facilities, the product manufactured; the rating on the bonds, if one was obtained; the name, address, phone number, and contact person for any project sponsor or private borrower of bond proceeds; the address of any project and, in addition, the number of residential units if the bonds are for multifamily housing; the name and address of bond counsel, bond underwriter, if any, bond purchaser, if not an underwriter, or placement agency, if any; and, except with respect to housing bonds issued by the Florida Housing Finance

Corporation pursuant to s. 159.81, the amount of bond proceeds disbursed at the time of issuance.

(6) If the division determines that the aggregate amount of private activity bonds for which notices of intent to issue have been received since noon of the previous business day exceeds the volume limitation in the appropriate pool then available to the division for written confirmations of an allocation, the division shall assign a consecutive number to each such notice, shall draw such numbers randomly to establish the priority of each notice, and shall issue written confirmation of allocations in the order of priority until the available volume limitation is exhausted. Any notices of intent to issue for which insufficient volume limitation is available shall, to the extent of the volume limitation which is unused prior to December 30 of that year, receive priority from the next available volume limitation for that year and prior to additional notices received by the division after that day's random selection.

(7) A written confirmation of an allocation assures an allocation only of such amount of private activity bonds as set forth in the confirmation, but does not preclude issuance of an amount of private activity bonds in an amount in excess of that amount. To issue an amount of private activity bonds in excess of the amount set forth in the written confirmation, a supplementary notice of intent to issue must be filed with the division prior to such issuance and shall be considered pursuant to subsection (1). A supplementary notice of intent to issue may not be for any amount that exceeds 10 percent of the amount of the prior written confirmation. A supplementary notice of intent to issue must specify the prior written confirmation to which it applies. The amount of a supplementary written confirmation may be added to a prior written confirmation for the same project to provide an allocation for the issuance of a private activity bond for that project.

(8) A written confirmation for a private activity bond is effective as to such bonds issued in lesser amounts provided the aggregate amount issued pursuant to the allocation is not less than 90 percent of the amount set forth in the original confirmation and any supplemental confirmation after subtracting the amount of any allocation which the issuer has elected to convert for the issuance of mortgage credit certificates.

History.—s. 1, ch. 85-282; s. 10, ch. 86-181; s. 4, ch. 87-222; s. 3, ch. 92-127; s. 5, ch. 92-173; s. 8, ch. 95-416; s. 3, ch. 96-210; s. 23, ch. 2000-151; s. 3, ch. 2000-353.

159.806 Regional allocation pools.—

(1) Each region listed in s. 159.804(2) has an allocation pool for issuing written confirmations of allocation for private activity bonds. In issuing such written confirmations, the division must first use the allocation pool for the region in which the agency issuing such bonds or on whose behalf such bonds are being issued is located, except prior to June 1, when the state allocation pool or the Florida First Business allocation pool must be used to finance priority projects until such allocation is exhausted. Unless otherwise agreed to by the affected agencies, when such bonds are to be issued by an agency whose boundaries include more than one region, the division must first issue an

allocation from the allocation pool for the region in which the project is to be located.

(2) Except as provided in subsection (1), no portion of a regional allocation pool may be used by an agency in another region.

History.—s. 1, ch. 85-282; s. 5, ch. 87-222; s. 4, ch. 92-127; s. 4, ch. 2000-353.

159.807 State allocation pool.—

(1) The state allocation pool shall, at all times, first be available to provide allocations for those portions of a bond requiring an allocation under s. 146(m) of the Code.

(2) Except as provided in subsection (1), prior to June 1 of each year, the state allocation pool shall be available solely to provide written confirmations for private activity bonds to finance priority projects except manufacturing facilities. To obtain a written allocation for private activity bonds to finance a priority project from the state allocation pool prior to June 1 of each year, the notice of intent to issue must be filed with the division no later than May 1. If the total amount requested in notices of intent to issue for priority projects does not exceed the total amount of the state allocation pool, the director shall issue written confirmation for each notice of intent to issue by May 15. If the total amount requested in notices of intent to issue private activity bonds for priority projects exceeds the total amount of the state allocation pool, the director shall forward all timely notices of intent to issue received by the division for those projects to the Governor who shall render a decision by June 1 as to which notices of intent to issue are to receive written confirmations. If additional portions of the state volume limitation of private activity bonds permitted to be issued in the state are subsequently placed into the state allocation pool, the remainder of the timely notices of intent to issue for priority projects shall be provided written confirmations in the order established by the Governor prior to any other notices of intent to issue filed with the division.

(3) After November 16 of each year, all written confirmations for issues of private activity bonds by agencies in a region or for manufacturing facility projects must be issued based on available portions of the state allocation pool.

(4)(a) The state allocation pool shall also be used to provide written confirmations for private activity bonds that are to be issued by state agencies, which bonds, notwithstanding any other provisions of this part, shall receive priority in the use of the pool available at the time the notice of intent to issue such bonds is filed with the division.

(b) Notwithstanding the provisions of paragraph (a), on or before November 15 of each year, the Florida Housing Finance Corporation's access to the state allocation pool is limited to the amount of the corporation's initial allocation under s. 159.804. Thereafter, the corporation may not receive more than 80 percent of the amount in the state allocation pool on November 16 of each year, and may not receive more than 80 percent of any additional amounts that become available during each year. The limitations of this paragraph do not apply to the distribution of the unused allocation of the state

volume limitation to the Florida Housing Finance Corporation under s. 159.81(2)(b), (c), and (d).

History.—s. 1, ch. 85-282; s. 6, ch. 87-222; s. 5, ch. 92-127; s. 1, ch. 92-301; s. 9, ch. 95-416; s. 24, ch. 2000-151; s. 5, ch. 2000-353; s. 15, ch. 2009-96; s. 1, ch. 2011-15.

159.8075 Qualified mortgage credit certificates.

(1) On or before December 29 of each year, a housing finance authority may elect, in writing to the division, to convert all or a portion of its private activity bond allocation obtained for qualified mortgage bonds under this part to the issuance of mortgage credit certificates. The election is irrevocable. A housing finance authority shall provide written notice of any election made under this section to the governing body of the county for which the housing finance authority was created.

(a) Except as provided in paragraphs (b) and (c), with respect to allocation granted prior to July 1, a housing finance authority located in region 1, 2, 3, 4, 5, 6, 7, 8, 9, or 17 may make the election only in an amount not greater than the amount that bears the same ratio to its region's initial allocation as the population of its county bears to the population of its region, based on population figures provided by the division.

(b) If, at any time commencing on the 5th business day before July 1 and ending on the last business day before July 1, no notices of intent to issue private activity bonds have been filed with the division for other issuers in its region which remain unfilled:

1. A housing finance authority that seeks to make an election to issue mortgage credit certificates, whether or not it has previously made such an election, may disregard the limitation set forth in paragraph (a) with respect to allocations it has already received;

2. A housing finance authority that has not yet applied for and received all of its region's allocation may apply for and receive, to the extent available, additional allocation from its regional pool, in an amount greater than 10 percent of its initial allocation, for the purpose of issuing qualified mortgage bonds, notwithstanding s. 159.805(7), so long as it simultaneously elects to convert that portion of such additional allocation to the issuance of mortgage credit certificates as will cause the unconverted portion, if any, to be equal to no more than 10 percent of the amount of its initial allocation remaining unconverted immediately before the receipt by the division of its additional application.

(c) If, at any time commencing on the 5th business day before July 1 and ending on the last business day before July 1, one or more notices of intent to issue private activity bonds are pending for other issuers in its region, a housing finance authority may, if it has enough unconverted qualified mortgage bond allocation, relinquish that amount of such allocation to the division in order to fully satisfy such pending notices, and may subsequently proceed, pursuant to subparagraph (b)1., to elect to convert any remaining unconverted allocation.

(2) All mortgage credit certificates must be issued under a certification program that is designed to ensure that the requirements of s. 25 of the Code, specifically s. 25(f)(4), are complied with and that meets all requirements adopted by the United States Secretary of

Treasury as set out in applicable regulations. Any potential issuer of mortgage credit certificates must certify in writing to the division that the mortgage credit certification program is certified under s. 25 of the Code, and specifically s. 25(f)(4). The director of the division is the state official designated to make the certification required by Temporary Regulation 1.25-4T (d) under the Code.

(3) For that portion of the allocation that the issuer has elected to use for mortgage credit certificates, the issuer need not comply with s. 159.805(2).

(4) Each qualified issuer of mortgage credit certificates shall, for each year in which it issues mortgage credit certificates, or for each year in which it had the ability to issue mortgage credit certificates under the Code and this part, file with the division annual activity reports by December 29 stating the face amount of mortgage credit certificates issued during the then-current calendar year and such other information as the division reasonably requests.

(5) The election referenced in subsection (1), the certification referenced in subsection (2), and the annual activity report referenced in subsection (4) may be submitted to the division by hand delivery, regular mail, overnight delivery service, or electronic transmission.

History.—s. 4, ch. 96-210; s. 2, ch. 99-173.

159.8081 Manufacturing facility bond pool.—

(1) There is established the manufacturing facility bond pool. The manufacturing facility bond pool shall be available solely to provide written confirmations for private activity bonds to finance manufacturing facility projects. Allocations from this pool shall be awarded statewide, except as provided in this section, pursuant to the procedures specified in s. 159.805, except that the provisions of s. 159.805(2) and (3) do not apply. In issuing written confirmations of allocations for manufacturing facility projects, the division shall use the manufacturing facility bond pool. If allocation is not available from the manufacturing facility bond pool, the division shall issue written confirmations of allocations for manufacturing facility projects pursuant to s. 159.806 or s. 159.807, in that order. For the purpose of determining priority within a regional allocation pool or the state allocation pool, notices of intent to issue bonds for manufacturing facility projects to be issued from a regional allocation pool or the state allocation pool shall be considered to have been received by the division at the time it is determined by the division that the manufacturing facility bond pool is unavailable to issue confirmation for such manufacturing facility project.

(2)(a) The first 75 percent of this pool shall be available on a first come, first served basis, except that 15 percent of the state volume limitation allocated to this pool shall be available as provided in paragraph (b). Before issuing any written confirmations for the remaining 25 percent of this pool, the executive director shall forward all notices of intent to issue which are received by the division for manufacturing facility projects to the Department of Economic Opportunity. The Department of Economic Opportunity shall decide, after receipt of

the notices of intent to issue, which notices will receive written confirmations. Such decision shall be communicated in writing by the Department of Economic Opportunity to the executive director within 10 days of receipt of such notices of intent to issue.

(b) For the first 6 months of each year, 15 percent of such pool shall be available only for manufacturing facility projects located within a county that has a population of less than 75,000 residents, or within any county that has a population of less than 125,000 residents and is contiguous with a county that has a population of less than 75,000 residents, as determined by the most current decennial census, residing in incorporated and unincorporated areas of the county. Any portion of such allocation for which a written confirmation has not been issued by the director or for which an issuance report for bonds using such an allocation has not been received by the division before the end of the first 6 months of each year must be allocated pursuant to paragraph (a).

(3) Any written confirmation issued by the director pursuant to this section has no effect unless the bonds to which such confirmation applies have been issued by the agency and written notice of such issuance has been provided to the director within 90 calendar days after the date the confirmation was issued or November 15, whichever occurs earlier.

History.—s. 7, ch. 92-127; s. 2, ch. 92-301; s. 10, ch. 95-416; s. 8, ch. 96-320; s. 2, ch. 97-20; s. 26, ch. 97-95; s. 53, ch. 2011-142; s. 42, ch. 2012-116.

159.8083 Florida First Business allocation pool.

The Florida First Business allocation pool is hereby established. The Florida First Business allocation pool shall be available solely to provide written confirmation for private activity bonds to finance Florida First Business projects certified by the Department of Economic Opportunity as eligible to receive a written confirmation. Allocations from such pool shall be awarded statewide pursuant to procedures specified in s. 159.805, except that the provisions of s. 159.805(2), (3), and (6) do not apply. Florida First Business projects that are eligible for a carryforward do not lose their allocation pursuant to s. 159.809(3) on October 1, or pursuant to s. 159.809(4) on November 16, if they have applied for and have been granted a carryforward by the division pursuant to s. 159.81(1). In issuing written confirmations of allocations for Florida First Business projects, the division shall use the Florida First Business allocation pool. If allocation is not available from the Florida First Business allocation pool, the division shall issue written confirmations of allocations for Florida First Business projects pursuant to s. 159.806 or s. 159.807, in such order. For the purpose of determining priority within a regional allocation pool or the state allocation pool, notices of intent to issue bonds for Florida First Business projects to be issued from a regional allocation pool or the state allocation pool shall be considered to have been received by the division at the time it is determined by the division that the Florida First Business allocation pool is unavailable to issue confirmation for such Florida First Business project. If the total amount requested in notices of intent to issue private activity bonds for Florida First Business projects exceeds the total amount of the Florida First Business allocation pool, the director

shall forward all timely notices of intent to issue, which are received by the division for such projects, to the Department of Economic Opportunity, which shall render a decision as to which notices of intent to issue are to receive written confirmations.

History.—s. 11, ch. 95-416; s. 9, ch. 96-320; s. 8, ch. 2000-353; s. 54, ch. 2011-142; s. 43, ch. 2012-116.

159.809 Recapture of unused amounts.—

(1) On June 1 of each year, any portion of each allocation made pursuant to s. 159.804(4) for which the division has not issued a written confirmation shall be added to the Florida First Business allocation pool.

(2) On July 1 of each year, any portion of each allocation made pursuant to s. 159.804(2) for which the division has not issued a written confirmation shall be added to the Florida First Business allocation pool. On July 1 of each year, any portion of each allocation made pursuant to s. 159.804(3) for which the division has not issued a written confirmation or has not received an issuance report shall be added to the Florida First Business allocation pool. On and after July 2 of each year, any portion of such allocations for which a written confirmation has been issued and which confirmation expires or is relinquished by the agency receiving the allocation, shall be added to the state allocation pool.

(3) On October 1 of each year, any portion of the allocation made to the Florida First Business allocation pool pursuant to s. 159.804(5), subsection (1), or subsection (2), which is eligible for carryforward pursuant to s. 146(f) of the Code but which has not been certified for carryforward by the Department of Economic Opportunity, shall be returned to the Florida First Business allocation pool.

(4) On November 16 of each year, any portion of the allocation, made pursuant to s. 159.804(1), s. 159.804(5), or subsection (1), subsection (2), or subsection (3), other than as provided in s. 159.8083, for which an issuance report for bonds utilizing such an allocation has not been received by the division prior to that date shall be added to the state allocation pool.

History.—s. 1, ch. 85-282; s. 7, ch. 87-222; s. 8, ch. 92-127; s. 12, ch. 95-416; s. 6, ch. 96-210; s. 6, ch. 2000-353; s. 55, ch. 2011-142.

159.81 Unused allocations; carryforwards.—

(1) The division shall, when requested, provide carryforwards pursuant to s. 146(f) of the Code for written confirmations for priority projects which qualify for a carryforward pursuant to s. 146(f) of the Code, if such request is accompanied by an opinion of bond counsel to that effect. In addition, in the case of Florida First Business projects, the division shall, when requested, grant requests for carryforward only after receipt of a certification from the Department of Economic Opportunity that the project has been approved by the department to receive carryforward.

(2) On December 30 of any year, any amount of the state volume limitation not used prior to December 30 to issue bonds as evidenced by receipt by the division of the issuance report, except for that amount of the state volume limitation utilized pursuant to subsection (1) above, shall be applied in the following order of priority:

(a) If bonds to finance a project for which a notice of intent to issue was filed prior to December 30 are

entitled under federal law to a carryforward of state volume limitation past the end of the calendar year, and the request for a carryforward is accompanied by an opinion of bond counsel to that effect, then:

1. If such bonds have a valid allocation on December 30, such allocation shall not lapse and will be carried forward for issuance of bonds as permitted by applicable federal law; or

2. If no written confirmation was issued for the bonds prior to December 30, then notices of intent to issue meeting the requirements of this section and s. 159.805(1) shall be granted carryforward allocations in the order provided for in s. 159.805 until the total amount of unused state volume limitation is exhausted. Notices of intent to issue in excess of remaining state volume limitation shall not receive any priority in the following calendar year.

(b) Thereafter, the Florida Housing Finance Corporation shall use any remaining state volume limitation to issue bonds or carryforward allocation for the issuance of housing bonds.

(c) Then, any remaining state volume limitation not used as provided in paragraph (b) above shall be carried forward to the next calendar year to the extent permitted by the Code.

(d) Then, any amounts not allocated or carried forward shall be reserved for use by the Florida Housing Finance Corporation for mortgage credit certificates, as defined in s. 25 of the Code, to be used in subsequent years as provided by the Code.

(3) If, during the year, the division receives an annual activity report regarding the issuance or non-issuance of mortgage credit certificates under s. 159.8075(4), or if the election to issue mortgage credit certificates is received by the division on December 29, the private activity bond allocation for any unissued mortgage credit certificates allocated to such issuer must be given an automatic carryforward by the division.

History.—s. 1, ch. 85-282; s. 8, ch. 87-222; s. 5, ch. 96-210; s. 25, ch. 2000-151; s. 7, ch. 2000-353; s. 4, ch. 2012-96.

159.811 Fees; trust fund.—

(1) There shall be imposed a nonrefundable fee on each notice of intent to issue a private activity bond filed with the division pursuant to s. 159.805(1). No notice of intent to issue a private activity bond shall be accepted by the division unless and until the fee has been paid. The division shall establish a fee which shall be an amount sufficient to cover all expenses of maintaining the allocation system in this part. In calculating the fee, any unexpended trust fund balance remaining unexpended prior to setting the fee shall be deducted from the amount appropriated. The amount of the fee shall not exceed \$500 and may be adjusted no more than once every 6 months.

(2) This section shall take effect July 1, 1985, and shall apply to any notice of intent to issue received by the division on or after said date.

History.—s. 1, ch. 85-282; s. 1, ch. 93-162; s. 15, ch. 94-265; s. 1, ch. 97-94.

159.812 Grandfather clause.—

(1) Any written confirmation or carryforward issued by the division pursuant to Executive Orders 84-181,

84-244, or 85-20 concerning the total yearly allocation of private activity bonds for 1984 and 1985, or any successors to such orders issued prior to or after the effective date of this part, shall not be affected in any way by this part.

(2) Any written confirmation or carryforward issued by the division pursuant to Executive Orders 86-176, 86-211, 86-235, or 86-242 concerning the total yearly allocation of private activity bonds for 1986 and 1987, or any successors to such orders issued prior to or after the January 1, 1988, amendments contained in chapter 87-222, Laws of Florida, to this part, shall not be affected in any way by said amendments to this part.

History.—s. 1, ch. 85-282; s. 9, ch. 87-222.

159.813 Future federal amendments.—In the event that the Code is amended or replaced, or amendments or successor provisions to the Code are proposed which are or would be inconsistent with this part or which would have the effect of impeding the purposes of this part or the purposes for which bonds are authorized to be issued under the laws of this state, the Governor may issue an executive order that shall revise the allocation system provided in this part to be consistent with the Code as amended or as proposed to be amended or replaced. The authority granted to the Governor under this section may be exercised for allocation of any volume limitation imposed by any enacted or proposed federal law or regulation upon bonds authorized to be issued in this state. If such executive order is issued, the division shall notify the President of the Senate and Minority Leader of the Senate and the Speaker of the House of Representatives and Minority Leader of the House of Representatives in writing of such an order and the reasons such order was issued, within 10 days of the issuance of the order. Any such order shall remain effective until this part is amended to be consistent with federal law or the regulations issued thereunder. If any such order is issued based upon proposed amendments or successor provisions to the Code, the allocation system provided in this part and the system provided under any such order shall be administered concurrent with one another, to the extent feasible, as long as may be required due to the pendency of any proposed amendments or successor provisions to the Code.

History.—s. 1, ch. 85-282; s. 11, ch. 86-181; s. 10, ch. 87-222.

159.814 Form of applications for allocations; requirements.—All notices of intent to issue for an allocation and applications for a carryforward shall be made in such form as may be prescribed by the division. No notices of intent to issue for allocations of the private activity bond volume limitation for any calendar year shall be accepted prior to January 1 of that calendar year. All notices of intent to issue or application for a carryforward shall be mailed by certified mail return receipt requested or by overnight common carrier delivery service. No notice of intent to issue or application for carryforward shall be accepted by hand delivery from the issuing authority, attorneys, or other parties. All notices of intent to issue or applications for a carryforward shall be received in a standard business size

envelope devoid of markings, colors, or other attention gathering devices except for the return address.

History.—s. 1, ch. 85-282.

159.815 Rules.—The division shall prescribe any rules necessary to ensure the orderly implementation and administration of this act.

History.—s. 1, ch. 85-282.

159.816 Certificate as to state volume limitation. The director shall sign the certificate required pursuant to s. 149(e)(2)(F) of the Code.

History.—s. 11, ch. 87-222.

PART VII

TAXABLE BONDS

159.821	Short title.
159.822	Legislative findings; purpose.
159.823	Definitions.
159.824	Conflicts.
159.825	Terms of bonds.
159.826	Sale of bonds.
159.827	Pledging credit.
159.828	Use of proceeds of bonds.
159.829	Refunding bonds.
159.8291	Construction of law.

159.821 Short title.—This act shall be known and may be cited as the “Taxable Bond Act of 1987.”

History.—s. 1, ch. 87-237.

159.822 Legislative findings; purpose.—

(1) The ability of governmental units to issue bonds is essential to their ability to finance public improvements and other projects and programs that serve important public purposes and benefit the social and economic well-being of the people of the state.

(2) The exemption of interest on such bonds from federal income taxation has been a major feature of bonds issued by governmental units, by reducing interest costs to governmental units and enhancing the marketability of the bonds.

(3) The Internal Revenue Code of 1986, as amended, substantially curtails the purposes for, and conditions under which, bonds may be issued with interest exempt from federal income taxation, with the result that in order to provide financing for those purposes or under those conditions governmental units must in some instances, and in other instances may find it in their best interest to, issue bonds which bear interest not exempt from federal income taxation.

(4) Under the constitution and laws of the state, governmental units have the power to issue bonds that bear interest subject to federal income taxation, but currently lack procedures and other guidelines by which they may structure such financings for the applicable market or otherwise achieve the lowest effective borrowing cost or terms most suitable to the governmental unit, the project, or the financing program.

(5) The purpose to be achieved by taxable bonds in compliance with the provisions of this act are predominantly designed to serve the public purposes stated in

this section, to supplement and complement the purposes established in other statutes authorizing the issuance to bonds, and such purposes under the State Constitution of providing for the health, safety, and welfare of the people.

History.—s. 1, ch. 87-237.

159.823 Definitions.—As used in this act, the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

(1) “Act” means the “Taxable Bond Act of 1987.”

(2) “Bonds” means any bonds, debentures, notes, warrants, bond anticipation notes, tax anticipation notes, commercial paper, or other evidence of indebtedness or lease, installment purchase contracts, or other agreements or certificates of participation therein issued by or on behalf of a governmental unit.

(3) “Foreign currency” means currency, Eurodollars, or money other than the legal tender of the United States.

(4) “Governing body” means the governing body or board of the governmental unit.

(5) “Governmental unit” means the state, any department, board, commission, or other agency of the state, or any county, municipality, special district, or other political subdivision of the state, heretofore or hereafter created, or any board, commission, authority, or other public agency or instrumentality which is now or hereafter authorized by law to issue bonds. Nothing herein shall be deemed to give any department, board, commission, or other agency of the state any additional authority to issue bonds or take any action independently and without acting by or through the Division of Bond Finance if the participation of the Division of Bond Finance is otherwise required by the statutes under authority of which the bonds are issued.

(6) “State” means the State of Florida.

(7) “State Board of Administration” means the State Board of Administration created by and referred to in s. 4, Art. IV, of the State Constitution.

(8) “Taxable bonds” means bonds the interest on which is not, in any manner, exempt from federal income taxation or excludable from gross income for federal income tax purposes.

History.—s. 1, ch. 87-237; s. 18, ch. 2013-15.

159.824 Conflicts.—Any provision of law, whether special or general, which imposes limitations or restrictions on the issuance of taxable bonds or is otherwise in conflict with this act with respect to the issuance of taxable bonds is expressly superseded by this act to the extent of such conflict. This act is supplemental to all other provisions of state law governing the issuance of bonds by any governmental unit and, except as otherwise provided in this act, the provisions of state law governing the issuance of bonds by any governmental unit shall continue to apply to the issuance by such governmental unit of taxable bonds. Nothing herein shall be deemed to broaden or otherwise alter any provisions of state law as they relate to the issuance of bonds the interest on which is, in some manner, exempt from federal income taxation. Furthermore, any bonds

subject to the state volume limitation in s. 146 of the Internal Revenue Code of 1986, as amended, shall continue to be so subject notwithstanding the provisions of this act.

History.—s. 1, ch. 87-237.

159.825 Terms of bonds.—

(1) The ordinance, resolution, indenture, agreement, or other instrument providing for the issuance of taxable bonds may provide for any of the following:

(a) The bonds shall be in such denominations, in such form, either bearer or registered, and payable at such place or places, either within or without the United States, at such time or times, as, in each case, the governing body shall determine subject to any limitations on the maturity of bonds set forth in the statutes under authority of which the bonds are issued.

(b) The bonds shall be payable in legal tender of the United States, in a foreign currency, in commodities, or in precious metals, as the governing body shall determine.

(c) The governing body may appoint, in connection with the bond issue, a cotrustee located outside of the boundaries of the United States or its territories or possessions so long as it shall also appoint a trustee otherwise meeting the requirements of the statutes under authority of which the bonds are issued. The governing body may appoint, in connection with the bond issue, a paying agent or a copaying agent located outside the boundaries of the United States or its territories or possessions.

(d) Bonds shall bear interest at a rate not to exceed an average net interest cost rate, which shall be computed by adding 500 basis points to the 30-year Treasury Bond yield published in The Bond Buyer immediately preceding the first day of the calendar month in which the bonds are sold. If the interest rate on bonds bearing a floating or variable rate of interest as calculated on the date of the initial sale thereof does not exceed the limitation provided by this paragraph, so long as the basis, method, or formula for computing the floating or variable rate does not change during the life of the bonds, subsequent increases in the interest rate in accordance with said basis, method, or formula shall not cause the interest rate on the bonds to violate the limitation provided by this paragraph. A certificate by the issuer of the bonds as to the computation of the interest rate in compliance with this requirement shall be deemed conclusive evidence of compliance with the provisions of this paragraph. Such maximum rate does not apply to bonds rated by a nationally recognized rating service in any one of the three highest classifications, which rating services and classifications are determined pursuant to rules adopted by the State Board of Administration.

(e) Upon the request of and application by a governmental unit, the State Board of Administration may authorize, for a specific issue or reissue of bonds, a rate of interest in excess of the maximum rate prescribed in paragraph (d). The governmental unit shall provide in its application:

1. Relevant supporting data which shall include, but not be limited to:

a. The official statement or prospectus, if available, or similar information relating to the sale of the bonds;

b. The resolution or ordinance authorizing the issuance of the bonds;

c. Financial data relating to anticipated revenue, debt service, and coverage; and

d. The most recent financial statement of the governmental unit.

2. Information relating to sale of the bonds, including the amount of the discount, if any. In making the determination to exceed the maximum interest rate, the State Board of Administration shall consider, but not be limited to considering, comparable sales of other taxable bonds of other governmental units and evidence that the objectives and intent of the issuing of such bonds will be realized. This subparagraph does not apply to:

a. Bonds which have been sold prior to June 30, 1987, and which are delivered pursuant to said sale on or after June 30, 1987.

b. Bonds issued to finance projects under part II, part III, or part V of this chapter or health facilities under part III of chapter 154.

c. Limit or restrict the rate of interest on bonds or other obligations of municipal utilities or agencies thereof issued or made pursuant to authority provided in part II of chapter 166 and s. 215.431.

(f) In connection with, or incidental to, the sale and issuance of bonds, the governmental unit may enter into any contracts which the governing body determines to be necessary or appropriate to achieve a desirable effective interest rate in connection with the bonds by means of, but not limited to, contracts commonly known as investment contracts, funding agreements, interest rate swap agreements, currency swap agreements, forward payment conversion agreements, futures, or contracts providing for payments based on levels of or changes in interest rates, or contracts to exchange cash flows or a series of payments, or contracts, including, without limitation, options, puts, or calls to hedge payment, rate, spread, or similar exposure. Such contracts or arrangements may also be entered into by governmental units in connection with, or incidental to, entering into any agreement which secures bonds or provides liquidity therefor. Such contracts and arrangements shall be made upon the terms and conditions established by the governing body, after giving due consideration for the credit worthiness of the counterparties, where applicable, including any rating by a nationally recognized rating service or any other criteria as may be appropriate.

(g) In connection with, or incidental to, the sale and issuance of the bonds, or entering into any of the contracts or arrangements referred to in paragraph (f), the governmental unit may enter into such credit enhancement or liquidity agreements, with such payment, interest rate, security, default, remedy, and other terms and conditions as the governing body shall determine.

(h) Notwithstanding any provisions of state law relating to the investment or reinvestment of surplus funds of any governmental unit, proceeds of the bonds and any moneys set aside or pledged to secure

payment of the principal of, premium, if any, and interest on the bonds, or any of the contracts entered into pursuant to paragraph (f), may be invested in securities or obligations described in the ordinance or resolution providing for the issuance of the bonds.

(2) The State Board of Administration may adopt rules as it deems necessary to carry out the provisions of this section relating to interest rate waivers for the sale of taxable bonds.

History.—s. 1, ch. 87-237; s. 7, ch. 98-47; s. 2, ch. 98-124; s. 44, ch. 2012-116.

159.826 Sale of bonds.—If the governing body shall by resolution or ordinance adopted at a public meeting determine that a negotiated sale of the taxable bonds is in the best interest of the governmental unit, the governmental unit may negotiate for the sale of the taxable bonds. In the resolution or ordinance authorizing the negotiated sale, the governmental unit shall provide specific findings as to the reasons for the negotiated sale. Nothing herein shall be deemed to give any department, board, commission, or other agency of the state any additional authority to negotiate for the sale of the taxable bonds independently and without acting by or through the Division of Bond Finance, if the participation of the Division of Bond Finance in such negotiated sale is otherwise required by the statutes under authority of which the bonds are issued.

History.—s. 1, ch. 87-237.

159.827 Pledging credit.—

(1) The issuance of taxable bonds by a governmental unit for any purpose permitted under the statutes under authority of which such taxable bonds are issued is declared to constitute a lawful and public purpose. So long as the payment of such taxable bonds is not secured by a pledge of any ad valorem taxing power of the governmental unit issuing such taxable bonds or by any revenues of such governmental unit derived other than from the sale, operation, or leasing of the project financed with such taxable bonds or from the investment or reinvestment of proceeds of such taxable bonds, such taxable bonds shall not constitute on the part of any such governmental unit a lending or using of its taxing power or credit to or for the benefit of any corporation, association, partnership, or person.

(2) When the governing body of the governmental unit issuing the bonds finds and determines that the issuance of the bonds serves a public purpose, the issuance of the bonds shall be deemed to be for a paramount public purpose and the investment of bond proceeds, moneys from which such bonds are payable, and moneys pledged as security therefor in securities and obligations of any corporation, association, partnership, or person shall be deemed to be merely incidental to the paramount public purpose of the borrowing.

History.—s. 1, ch. 87-237.

159.828 Use of proceeds of bonds.—The proceeds of an issue of taxable bonds and the investment earnings thereon shall be used, in the manner, and to the extent specified in the ordinance or resolution providing for the issuance of the bonds, by the governmental unit issuing the bonds for a purpose specified for

the issuance of bonds in the statutes under authority of which the bonds are issued. Notwithstanding the preceding sentence, invested or reinvested proceeds of an issue of taxable bonds shall be deemed to have been expended for a purpose specified for the issuance of bonds in the statutes under authority of which the bonds are issued if the earnings thereon and proceeds of liquidation of the investments acquired with such proceeds, to the extent received by the governmental unit and not applied to pay debt service on the bonds, are applied toward such purpose.

History.—s. 1, ch. 87-237.

159.829 Refunding bonds.—Notwithstanding any provisions of state law relating to the investment or reinvestment of surplus funds of any governmental unit or any more restrictive provisions of the statutes under authority of which the bonds are issued, the proceeds of taxable bonds issued to refund or advance refund a prior issue or issues of taxable bonds may be invested in securities or obligations described in the ordinance or resolution providing for the issuance of such taxable bonds.

History.—s. 1, ch. 87-237.

159.8291 Construction of law.—The provisions of this act shall be liberally construed in order to effectively carry out the purposes of this act.

History.—s. 1, ch. 87-237.

PART VIII

QUALIFIED PUBLIC EDUCATIONAL FACILITIES PRIVATE ACTIVITY BONDS

- 159.831 Short title.
- 159.832 Purpose.
- 159.833 Definitions.
- 159.834 Allocation of state volume limitation.
- 159.835 Rules.

159.831 Short title.—This part may be cited as the “Florida Qualified Public Educational Facilities Private Activity Bond Allocation Act.”

History.—s. 49, ch. 2003-391.

159.832 Purpose.—The purpose of this part is to allocate the state volume limitation imposed by s. 142(k)(5)(A) of the code on private activity bonds to finance qualified public educational facilities. No private activity bond subject to the limitation in s. 142(k)(5)(A) of the code shall be issued in this state unless a written confirmation therefor is issued pursuant to this part.

History.—s. 49, ch. 2003-391.

159.833 Definitions.—As used in this part, the term:

(1) “Board” means the State Board of Education, created pursuant to s. 2, Art. IX of the State Constitution.

(2) “Code” means the Internal Revenue Code of 1986, as amended, and the regulations and rulings issued thereunder.

(3) “Commissioner” means the Commissioner of Education.

(4) “Department” means the Department of Education, created pursuant to s. 20.15.

(5) “Issued” has the same meaning as in the code.

(6) “Private activity bond” means any bond described in s. 141 of the code.

(7) “Qualified Public Educational Facility” means a facility described in s. 142(k)(1) of the code.

History.—s. 49, ch. 2003-391.

159.834 Allocation of state volume limitation.

(1) By February 1, 2004, the board shall establish a program for allocating the state volume limitation imposed by s. 142(k)(5)(A) of the code on private activity bonds to finance qualified public educational facilities. Such program shall include objective criteria to be considered in determining whether to grant a request for such volume limitation, including, but not limited to, the need for a qualified public educational facility in the area proposed in the application, the number of students to be served by such facility, and the cost-effectiveness of the proposed facility. The program shall be administered by the department.

(2) The department shall annually determine the amount of private activity bonds for qualified public educational facilities permitted to be issued in this state under s. 142(k)(5) of the code and shall make such information available upon request to any person or agency.

(3) The department shall ensure that any volume limitation unused at the end of each calendar year is carried forward pursuant to s. 142(k)(5)(B)(ii) of the code.

(4) The commissioner shall sign any certificate required by the code relating to the allocation of the state volume limitation on private activity bonds to finance qualified public educational facilities.

History.—s. 49, ch. 2003-391.

159.835 Rules.—The board and the department shall adopt any rules necessary to ensure the orderly implementation and administration of this act.

History.—s. 49, ch. 2003-391.

PART IX

QUALIFIED SCHOOL CONSTRUCTION BONDS

- 159.841 Short title.
- 159.842 Purpose.
- 159.843 Definitions.
- 159.844 Allocation of state volume limitation.
- 159.845 Rules.

159.841 Short title.—This part may be cited as the “Florida Qualified School Construction Bond Allocation Act.”

History.—s. 1, ch. 2009-59.

159.842 Purpose.—The purpose of this part is to allocate the state volume limitation imposed by s. 54F(d) of the code on qualified school construction bonds to finance qualified school construction facilities.

Any bond issued which uses a portion of the limitation imposed by s. 54F(d)(1) of the code, or uses a portion of the limitation reallocated to the state pursuant to s. 54F(d)(2)(D) of the code, may not be issued in this state unless a written confirmation therefor is issued pursuant to this part.

History.—s. 1, ch. 2009-59.

159.843 Definitions.—As used in this part, the term:

(1) “Board” means the State Board of Education, created pursuant to s. 2, Art. IX of the State Constitution.

(2) “Code” means the Internal Revenue Code of 1986, as amended, and the regulations and rulings issued thereunder.

(3) “Commissioner” means the Commissioner of Education.

(4) “Department” means the Department of Education, created pursuant to s. 20.15.

(5) “Issued” has the same meaning as in the code.

(6) “Qualified school construction bond” means a bond described in s. 54F(a) of the code.

(7) “Qualified school construction facility” means a facility permitted to be financed with qualified school construction bonds pursuant to s. 54F(a) of the code.

History.—s. 1, ch. 2009-59.

159.844 Allocation of state volume limitation.

(1) The board shall establish a program for allocating the state volume limitation imposed by s. 54F(d)(1) of the code, or reallocated to the state pursuant to s.

54F(d)(2)(D) of the code, on qualified school construction bonds to finance qualified school construction facilities. The Department of Education shall administer the program for allocation of the state volume limitation pursuant to an application and issuance reporting process. Such program must include objective criteria to be considered in determining whether to grant a request for the volume limitation, including, but not limited to, the need for a qualified school construction facility in the area proposed in the application, the number of students to be served by such facility, and the cost-effectiveness of the proposed facility.

(2) The department shall annually determine the amount of qualified school construction bonds permitted to be issued in this state under s. 54F(d)(1) of the code and shall make such information available upon request to any person or agency.

(3) The department shall ensure that any volume limitation that is unused at the end of each calendar year is carried forward pursuant to s. 54F(e) of the code.

(4) The commissioner shall sign any certificate required by the code which relates to the allocation of the state volume limitation on qualified school construction bonds to finance qualified school construction facilities.

History.—s. 1, ch. 2009-59.

159.845 Rules.—The board and the department shall adopt any rules necessary to ensure the orderly implementation of this part.

History.—s. 1, ch. 2009-59.