

**IC 5-1.5**

**ARTICLE 1.5. INDIANA BOND BANK**

**IC 5-1.5-1**

**Chapter 1. Definitions**

**IC 5-1.5-1-1**

**Application**

Sec. 1. The definitions in this chapter apply throughout this article.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-1-2**

**"Bank"**

Sec. 2. "Bank" refers to the Indiana bond bank established under IC 5-1.5-2-1.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-1-3**

**"Board"**

Sec. 3. "Board" refers to the board of directors established under IC 5-1.5-2-2.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-1-4**

**"Bond"**

Sec. 4. "Bond" means a bond of the bank issued under this article.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-1-5**

**"Financial institution"**

Sec. 5. "Financial institution" means a financial institution as defined in IC 28-1-1.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-1-6**

**"Holder"**

Sec. 6. "Holder" means a person who is:

- (1) the bearer of any outstanding bond or note registered to bearer or not registered; or
- (2) the registered owner of any outstanding bond or note that is registered other than to bearer.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-1-7**

**"Note"**

Sec. 7. "Note" refers to a note of the bank issued under this article.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-1-8**

##### **"Qualified entity"**

Sec. 8. "Qualified entity" means:

- (1) a political subdivision (as defined in IC 36-1-2-13);
- (2) a state educational institution;
- (3) a leasing body (as defined in IC 5-1-1-1(a));
- (4) a not-for-profit utility (as defined in IC 8-1-2-125);
- (5) any rural electric membership corporation organized under IC 8-1-13;
- (6) any corporation that was organized in 1963 under Acts 1935, c. 157 and that engages in the generation and transmission of electric energy;
- (7) any telephone cooperative corporation formed under IC 8-1-17;
- (8) any commission, authority, or authorized body of any qualified entity;
- (9) any organization, association, or trust with members, participants, or beneficiaries that are all individually qualified entities;
- (10) any commission, authority, or instrumentality of the state;
- (11) any other participant (as defined in IC 13-11-2-151.1);
- (12) a charter school established under IC 20-5.5 (before its repeal) or IC 20-24 that is not a qualified entity under IC 5-1.4-1-10;
- (13) a volunteer fire department (as defined in IC 36-8-12-2); or
- (14) a development authority (as defined in IC 36-7.6-1-8).

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.1; P.L.46-1987, SEC.3; P.L.48-1989, SEC.1; P.L.37-1991, SEC.1; P.L.132-1999, SEC.1; P.L.179-2002, SEC.2; P.L.50-2003, SEC.1; P.L.2-2007, SEC.70; P.L.232-2007, SEC.1.*

#### **IC 5-1.5-1-9**

##### **"Reserve fund"**

Sec. 9. "Reserve fund" means a reserve fund established under IC 5-1.5-5-1.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.2.*

#### **IC 5-1.5-1-10**

##### **"Security"**

Sec. 10. "Security" means:

- (1) a bond, note, or evidence of indebtedness issued by a qualified entity;
- (2) a lease or certificate or other evidence of participation in the lessor's interest in and rights under a lease with a qualified entity;
- (3) an obligation of a qualified entity under an agreement

between the qualified entity and the bank; or

(4) an agreement executed by a qualified entity under IC 20-49-4.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.3; P.L.30-1986, SEC.1; P.L.46-1987, SEC.4; P.L.28-1992, SEC.1; P.L.2-2006, SEC.9.*

## **IC 5-1.5-2**

### **Chapter 2. Establishment and Organization**

#### **IC 5-1.5-2-1**

##### **Indiana bond bank; establishment; nature; purpose**

Sec. 1. There is established the Indiana bond bank, a separate body corporate and politic, constituting an instrumentality of the state for the public purposes set out in this article, but not a state agency. The bank is separate from the state in its corporate and sovereign capacity. The purpose of the bank as described in IC 5-1.5-4 is to buy and sell securities and to make loans to qualified entities.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.4.*

#### **IC 5-1.5-2-2**

##### **Board of directors; establishment; powers; membership; appointment; vacancy**

Sec. 2. (a) There is established a board of directors to govern the bank. The powers of the bank are vested in this board.

(b) The board is composed of:

- (1) the treasurer of state, who shall be the chairman ex officio;
- (2) the public finance director appointed under IC 4-4-11-9, who shall be the director ex officio; and
- (3) five (5) directors appointed by the governor.

(c) Each of the five (5) directors appointed by the governor:

- (1) must be a resident of Indiana;
- (2) must have substantial expertise in the buying, selling, and trading of municipal securities, in municipal administration or in public facilities management;
- (3) serves for a term of three (3) years and until his successor is appointed and qualified;
- (4) is eligible for reappointment;
- (5) is entitled to receive the same minimum salary per diem as is provided in IC 4-10-11-2.1(b) while performing the director's duties. Such a director is also entitled to the same reimbursement for traveling expenses and other expenses, actually incurred in connection with the director's duties as is provided in the state travel policies and procedures, established by the department of administration and approved by the budget agency; and
- (6) may be removed by the governor for cause.

(d) Any vacancy on the board, other than by expiration of term, shall be filled by appointment of the governor for the unexpired term only.

*As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.5; P.L.235-2005, SEC.75.*

#### **IC 5-1.5-2-2.5**

**Repealed**

*(As added by P.L.38-1988, SEC.2. Repealed by P.L.134-2012, SEC.5.)*

**IC 5-1.5-2-3**

**Duties of board**

Sec. 3. The board shall:

- (1) elect one (1) of its members vice chairman;
- (2) appoint and fix the duties and compensation of an executive director, who shall serve as both secretary and treasurer; and
- (3) establish and maintain the office of the bank in Indianapolis.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-2-4**

**Quorum**

Sec. 4. Four (4) directors constitute a quorum at any meeting of the board.

*As added by P.L.25-1984, SEC.1. Amended by P.L.38-1988, SEC.3.*

**IC 5-1.5-2-5**

**Action by affirmative vote of three directors; effect of vacancy**

Sec. 5. Action may be taken by the board at a meeting by the affirmative vote of at least four (4) directors. A vacancy on the board does not impair the right of a quorum of directors to exercise the powers and perform the duties of the board.

*As added by P.L.25-1984, SEC.1. Amended by P.L.38-1988, SEC.4.*

**IC 5-1.5-2-6**

**Surety bonds; issuer; cost**

Sec. 6. (a) Each director and the executive director must execute a surety bond in an amount specified by the treasurer of state. Each surety bond shall be conditioned upon the faithful performance of the duties of the office of director and executive director, respectively. In lieu of these surety bonds, the bank may execute a blanket surety bond covering each director, the executive director, and any officers or employees of the bank.

(b) The surety bonds required by this section must be issued by a surety company authorized to transact business in Indiana.

(c) The cost of the surety bonds required by this section shall be paid by the bank.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.5.*

**IC 5-1.5-2-7**

**Disclosure of interest in contracts; abstention with respect to contract; validity of contract**

Sec. 7. (a) Notwithstanding any other law to the contrary, a director does not violate any law, civil or criminal, if he:

- (1) has, or to his knowledge, may have or may later acquire a

direct or indirect pecuniary interest in a contract with the bank;  
or  
(2) is an officer, member, manager, director, or employee of or  
has an ownership interest in any firm, limited liability company,  
or corporation that is or may be a party to the contract;  
if he discloses in writing to the bank the nature and extent of his  
interest as soon as he has knowledge of the interest and abstains from  
discussion, deliberation, action, and voting with respect to the  
contract.

(b) Notwithstanding any provision of this article or any other law,  
a contract or transaction shall not be void or voidable because of the  
existence of an interest described in subsection (a), if the provisions  
of subsection (a) have been satisfied.

*As added by P.L.25-1984, SEC.1. Amended by P.L.8-1993, SEC.51.*

#### **IC 5-1.5-2-8**

##### **Liability on bonds or notes**

Sec. 8. Neither a director nor a person executing bonds or notes  
issued under this article is liable personally on the bonds or notes.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-2-9**

##### **Executive director; duties**

Sec. 9. The executive director appointed under section 3 of this  
chapter shall, in addition to other duties fixed by the directors,  
administer, manage, and direct the employees of the bank. The  
executive director shall approve all amounts for salaries, allowable  
expenses of the bank or of any employee or consultant of the bank,  
and expenses incidental to the operation of the bank. The executive  
director shall attend the meetings of the board, keep a record of the  
proceedings of the board, and maintain all books, documents, and  
papers filed with the bank, the minutes of the board, and the bank's  
official seal. The executive director may cause copies to be made of  
all minutes and other records and documents of the bank and may  
give certificates under seal of the bank to the effect that those copies  
are true copies, and all persons dealing with the bank may rely upon  
those certificates.

*As added by P.L.25-1984, SEC.1. Amended by P.L.1-2010, SEC.10.*

#### **IC 5-1.5-2-10**

##### **Repealed**

*(As added by P.L.5-1996, SEC.5. Repealed by P.L.177-2011,  
SEC.5.)*

### **IC 5-1.5-3**

#### **Chapter 3. Powers and Duties**

### **IC 5-1.5-3-1**

#### **Powers**

Sec. 1. The bank is granted all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes, including, but not limited to, the following:

- (1) Have a perpetual existence as a body politic and corporate, and an independent instrumentality, but not a state agency, exercising essential public functions.
- (2) Sue and be sued.
- (3) Adopt and alter an official seal.
- (4) Make and enforce bylaws and rules for the conduct of its business and for the use of its services and facilities, which bylaws and rules may be adopted by the bank without complying with IC 4-22-2.
- (5) Acquire, hold, use, and dispose of its income, revenues, funds, and money.
- (6) Acquire, rent, lease, hold, use, and dispose of property for its purposes.
- (7) Make contracts and incur liabilities, borrow money, issue its negotiable bonds or notes, subject to provisions for registration of negotiable bonds and notes, and provide for and secure their payment and provide for the rights of their holders, and purchase and hold and dispose of any of its bonds or notes.
- (8) Fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities.
- (9) Accept gifts or grants of property, funds, money, materials, labor, supplies, or services from the United States, any governmental unit, or any person, carry out the terms or provisions or make agreements with respect to the gifts or grants, and do all things necessary, useful, desirable, or convenient in connection with procuring, accepting, or disposing of the gifts or grants.
- (10) Do anything authorized by this article, through its officers, agents, or employees or by contracts with a person.
- (11) Procure insurance against any losses in connection with its property, operations, or assets in amounts and from insurers as it considers desirable.
- (12) Cooperate with and exchange services, personnel, and information with any federal, state, or local government agency.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.6; P.L.46-1987, SEC.6.*

### **IC 5-1.5-3-2**

#### **Duties**

Sec. 2. The bank may:

- (1) make, enter into, and enforce all contracts necessary, convenient, or desirable for the purposes of the bank or pertaining to:
  - (A) a loan to or a lease or an agreement with a qualified entity;
  - (B) a purchase, acquisition, or sale of securities or other investments; or
  - (C) the performance of its duties and execution of any of its powers under this article;
- (2) purchase, acquire, or hold securities or other investments for the bank's own account or for a qualified entity at prices and in a manner the bank considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the bank considers advisable;
- (3) prescribe the form of application or procedure required of a qualified entity for a loan or purchase of its securities, fix the terms and conditions of the loan or purchase, and enter into agreements with qualified entities with respect to loans or purchases;
- (4) render services to a qualified entity in connection with a public or private sale of its securities, including advisory and other services, and charge for services rendered;
- (5) charge for its costs and services in review or consideration of a proposed loan to a qualified entity or purchase by the bank of securities, whether the loan is made or the securities purchased;
- (6) fix and establish terms and provisions with respect to:
  - (A) a purchase of securities by the bank, including date and maturities of the securities;
  - (B) redemption or payment before maturity; and
  - (C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the bank;
- (7) to the extent permitted under its contracts with the holders of bonds or notes of the bank, consent to modification of the rate of interest, time, and payment of installment of principal or interest, security, or any other term of a bond or note, contract, or agreement of any kind to which the bank is a party;
- (8) appoint and employ general or special counsel, accountants, financial advisors or experts, and all such other or different officers, agents, and employees as it requires and determine their qualifications, duties, and compensation, all in order to effectuate the purposes of this article;
- (9) in connection with the purchase of any securities, consider the need, desirability, or eligibility of the securities, the ability of the qualified entity to secure financing from other sources and the costs thereof, and the particular public improvement or purpose to be financed or refinanced with the proceeds of the

securities to be purchased by the bank; and  
(10) acquire, hold, and lease or sell property to a qualified entity. The lease or sale under this subdivision may be made under a financing lease, lease with option to purchase, conditional sales contract, or any other form of agreement, upon the terms and conditions that the board considers advisable in order to promote the purpose of this article.

The bank shall not be considered to have engaged in any acts prohibited by this chapter in performing any duty or exercising any power described in this section.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.7; P.L.46-1987, SEC.7; P.L.29-1992, SEC.1.*

### **IC 5-1.5-3-3**

#### **Investments**

Sec. 3. Money not being used to purchase securities may be temporarily invested and reinvested pending the disbursements of that money as provided in a resolution of the bank or in a trust agreement entered into by the bank under IC 5-1.5-4-8.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.8.*

### **IC 5-1.5-3-4**

#### **Prohibited acts**

Sec. 4. The bank may not:

- (1) lend money other than to a qualified entity;
- (2) purchase securities other than:
  - (A) a security to which a qualified entity is a party as issuer, borrower, or lessee; or
  - (B) an investment under section 3 of this chapter;
- (3) deal in securities within the meaning of or subject to any securities law, securities exchange law, or securities dealers law of the United States of America or of the state or of any other state or jurisdiction, domestic or foreign, except as authorized in this article;
- (4) emit bills of credit, or accept deposits of money for time or demand deposit, or administer trusts, or engage in any form or manner, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings association, or any other kind of financial institution; or
- (5) engage in any form of private or commercial banking business.

*As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.8; P.L.79-1998, SEC.6.*

### **IC 5-1.5-3-5**

#### **Audit of books and accounts; costs; copy; annual report to governor**

Sec. 5. (a) The bank shall have an audit of its books and accounts

made at least once in each year by a certified public accounting firm or the state board of accounts. If the audit is to be conducted by a certified public accounting firm, the firm may not be selected without a review of the firm's proposal and approval of the firm by the state board of accounts. The cost of the audit shall be considered an expense of the bank, and a copy of the audit shall be made available to the public.

(b) The bank shall submit a report of its activities for each fiscal year to the governor before November 1 of the calendar year in which the bank's fiscal year ends. Each report shall set forth a complete operating and financial statement covering its operations during that fiscal year.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.9; P.L.46-1987, SEC.9.*

### **IC 5-1.5-3-6**

#### **Annual budget**

Sec. 6. The board shall adopt, on either a calendar or fiscal year basis, an annual budget, which may be amended from time to time during the year.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.10.*

### **IC 5-1.5-3-7**

#### **Expenses**

Sec. 7. All expenses incurred in carrying out this article are payable solely from revenues of the bank or funds appropriated under this article and nothing in this article authorizes the bank to incur an indebtedness or liability on behalf of or payable by the state.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.11.*

### **IC 5-1.5-3-8**

#### **Public meetings; records**

Sec. 8. All meetings of the bank shall be open to the public in accordance with and subject to the limitations of IC 5-14-1.5. All records of the bank shall be subject to the requirements of IC 5-14-3.

*As added by P.L.25-1984, SEC.1.*

## IC 5-1.5-4

### Chapter 4. Issuance of Obligations

#### IC 5-1.5-4-1

#### **Purposes; bonds to be general obligations of bank payable out of revenues or funds of bank; limitation on amount outstanding; exception to limitation**

Sec. 1. (a) The bank may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this article, including:

- (1) the purchase or acquisition of securities;
- (2) the making of loans to or agreements with qualified entities through the purchase of securities;
- (3) the payment, funding, or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the bonds or notes or interest to be paid, funded, or refunded have or have not become due;
- (4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bank incident to and necessary or convenient to carry out its corporate purposes and powers; and
- (5) the acquisition of school buses to be leased or sold to school corporations (as defined in IC 36-1-2-17).

(b) Except as otherwise provided in this article or by the board, every issue of bonds or notes shall be general obligations of the bank payable out of the revenues or funds of the bank, subject only to agreements with the holders of a particular series of bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States, a qualified entity, or a person or a pledge of income or revenues, funds, or money of the bank from any source.

(c) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except:

- (1) bonds or notes issued to fund or refund bonds or notes; and
- (2) bonds or notes issued for the purpose of purchasing an agreement executed by a qualified entity under IC 20-49-4;

may not exceed one billion dollars (\$1,000,000,000) for qualified entities described in IC 5-1.5-1-8(1) through IC 5-1.5-1-8(4), IC 5-1.5-1-8(8) through IC 5-1.5-1-8(11), and IC 5-1.5-1-8(14).

(d) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed two hundred million dollars (\$200,000,000) for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(6).

(e) Notwithstanding subsections (a) and (b), the total amount of bank bonds and notes outstanding at any one (1) time, except bonds or notes issued to fund or refund bonds or notes, may not exceed thirty million dollars (\$30,000,000) for qualified entities described

in IC 5-1.5-1-8(7).

(f) The limitations contained in subsections (c), (d), and (e) do not apply to bonds, notes, or other obligations of the bank if:

- (1) the bonds, notes, or other obligations are not secured by a reserve fund under IC 5-1.5-5; or
- (2) funds and investments, and the anticipated earned interest on those funds and investments, are irrevocably set aside in amounts sufficient to pay the principal, interest, and premium on the bonds, notes, or obligations at their respective maturities or on the date or dates fixed for redemption.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.12; P.L.30-1986, SEC.2; P.L.46-1987, SEC.10; P.L.37-1991, SEC.2; P.L.29-1992, SEC.2; P.L.28-1992, SEC.2; P.L.1-1993, SEC.22; P.L.132-1999, SEC.2; P.L.192-2006, SEC.1; P.L.2-2006, SEC.10; P.L.1-2007, SEC.21; P.L.232-2007, SEC.2.*

### **IC 5-1.5-4-2**

#### **Nature of bond or note; state pledge and agreement**

Sec. 2. (a) A bond or note of the bank:

- (1) is not a debt, liability, loan of the credit, or pledge of the faith and credit of the state or of any qualified entity;
- (2) is payable solely from the money pledged or available for its payment under this article, unless funded or refunded by bonds or notes of the bank; and
- (3) must contain on its face a statement that the bank is obligated to pay principal and interest, and redemption premiums if any, and that the faith, credit, and taxing power of the state are not pledged to the payment of the bond or note.

(b) The state pledges to and agrees with the holders of the bonds or notes issued under this article that the state will not:

- (1) limit or restrict the rights vested in the bank to fulfill the terms of any agreement made with the holders of its bonds or notes; or
- (2) in any way impair the rights or remedies of the holders of the bonds or notes;

until the bonds or notes, together with the interest on the bonds or notes, and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met, paid, and discharged.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.13; P.L.46-1987, SEC.11.*

### **IC 5-1.5-4-3**

#### **Negotiability of bonds and notes**

Sec. 3. The bonds and notes of the bank are negotiable instruments for all purposes of the Uniform Commercial Code, IC 26-1, subject only to the provisions of the bonds and notes for registration.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-4-4**

**Issuance; resolution; consent, proceedings, or conditions; rates of interest; redemption; prior approval**

Sec. 4. (a) Bonds or notes of the bank must be authorized by resolution of the board, may be issued in one (1) or more series, and must:

- (1) bear the date;
- (2) mature at the time or times;
- (3) be in the denomination;
- (4) be in the form;
- (5) carry the conversion or registration privileges;
- (6) have the rank or priority;
- (7) be executed in the manner;
- (8) be payable from the sources in the medium of payment at the place inside or outside the state; and
- (9) be subject to the terms of redemption;

as the resolution of the board or the trust agreement securing the bonds or notes provides.

(b) Except as provided in subsection (e), bonds or notes may be issued under this article without obtaining the consent of any agency of the state and without any other proceeding or condition other than the proceedings or conditions specified in this article.

(c) The rate or rates of interest on the bonds or notes may be fixed or variable. Variable rates shall be determined in the manner and in accordance with the procedures set forth in the resolution authorizing the issuance of the bonds or notes. Bonds or notes bearing a variable rate of interest may be converted to bonds or notes bearing a fixed rate or rates of interest, and bonds or notes bearing a fixed rate or rates of interest may be converted to bonds or notes bearing a variable rate of interest, to the extent and in the manner set forth in the resolution pursuant to which the bonds or notes are issued. The interest on bonds or notes may be payable semiannually or annually or at any other interval or intervals as may be provided in the resolution, or the interest may be compounded and paid at maturity or at any other times as may be specified in the resolution.

(d) The bonds or notes may be made subject, at the option of the holders, to mandatory redemption by the bank at the times and under the circumstances set forth in the authorizing resolution.

(e) The bank may not issue bonds for qualified entities described in IC 5-1.5-1-8(5) through IC 5-1.5-1-8(7) or IC 5-1.5-1-8(11) that are subject to the volume cap (as defined in IC 4-4-11.5-14) without obtaining the prior approval of the Indiana finance authority.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.14; P.L.46-1987, SEC.12; P.L.37-1991, SEC.3; P.L.10-1996, SEC.16; P.L.132-1999, SEC.3; P.L.235-2005, SEC.76.*

#### **IC 5-1.5-4-5**

##### **Resolution authorizing issuance; adoption; publication of notice; action to set aside resolution**

Sec. 5. (a) Upon the adoption of a resolution authorizing the issuance of bonds or notes, the bank may publish notice of the adoption once each week for two (2) weeks in two (2) newspapers published and of general circulation in the city of Indianapolis.

(b) If notice is published as provided in subsection (a), any action or proceeding in any court to set aside the resolution authorizing the issuance of bonds or notes of the bank under this article or to obtain any relief upon the ground that the resolution is invalid must be filed within thirty (30) days following the first publication of notice of the adoption of the resolution. After the expiration of this thirty (30) day period, no right of action shall be asserted nor shall the validity of the resolution or any of its provisions be open to question in any court or agency upon any grounds whatsoever.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-4-6**

##### **Public or private sale; notice**

Sec. 6. Bonds or notes of the bank may be sold at public or private sale at the price the board determines. If bonds or notes of the bank are to be sold at public sale, the bank shall follow the provisions of IC 5-1-11 and shall publish notice of the sale in accordance with IC 5-3-1-2 in two (2) newspapers published and of general circulation in the city of Indianapolis.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.15.*

#### **IC 5-1.5-4-7**

##### **Issuance of notes; payment of principal or interest thereon; funding or refunding**

Sec. 7. The bank may from time to time issue its notes under this article and pay and retire the principal of the notes or pay the interest due thereon or fund or refund the notes from proceeds of bonds or of other notes, or from other funds or money of the bank available for that purpose in accordance with a contract between the bank and the holders of the notes.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-4-8**

##### **Trust agreement or resolution; provisions; expenses**

Sec. 8. (a) In the discretion of the board, any bonds or notes issued under this chapter may be secured by a trust agreement by and between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or outside the state.

(b) The trust agreement or the resolution providing for the issuance of the bonds or notes may contain provisions for protecting

and enforcing the rights and remedies of the holders of any such bonds or notes as may be reasonable and proper and not in violation of law.

(c) The trust agreement or resolution may set forth the rights and remedies of the holders of any bonds or notes and of the trustee and may restrict the individual right of action by the holders.

(d) In addition to the provisions of subsections (a), (b), and (c), any trust agreement or resolution may contain such other provisions as the board may deem reasonable and proper for the security of the holders of any bonds or notes.

(e) All expenses incurred in carrying out the provisions of the trust agreement or resolution may be paid from revenues or assets pledged or assigned to the payment of the principal of and the interest on bonds and notes or from any other funds available to the board.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-4-9**

##### **Purchase of bonds or notes of bank; disposition; bonds or notes held considered held for resale or transfer**

Sec. 9. The bank may purchase bonds or notes of the bank out of its funds or money available for the purchase of its own bonds and notes. The bank may hold, cancel, or resell the bonds or notes subject to, and in accordance with, agreements with holders of its bonds or notes. Unless cancelled, bonds or notes so held shall be deemed to be held for resale or transfer and the obligation evidenced by the bonds or notes shall not be deemed to be extinguished.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.16.*

#### **IC 5-1.5-4-10**

##### **Purchase of securities; documentation**

Sec. 10. Subject to IC 5-1.5-8-2, all securities purchased, held, or owned by the bank, upon delivery to the bank, must be accompanied by all documentation required by the board.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.17.*

## **IC 5-1.5-5**

### **Chapter 5. Reserve Fund**

#### **IC 5-1.5-5-1**

##### **Establishment; application of funds; required debt service reserve; excess money**

Sec. 1. (a) The board may establish and maintain a reserve fund for each issue of bonds or notes in which there shall be deposited or transferred:

- (1) all money appropriated by the general assembly for the purpose of the fund in accordance with section 4(a) of this chapter;
- (2) all proceeds of bonds or notes required to be deposited in the fund by terms of a contract between the bank and its holders or a resolution of the bank with respect to the proceeds of bonds or notes;
- (3) all other money appropriated by the general assembly to a reserve fund; and
- (4) any other money or funds of the bank that it decides to deposit in the fund.

(b) Subject to section 4(b) of this chapter, money in any reserve fund shall be held and applied solely to the payment of the interest on and principal of bonds or notes of the bank as the interest and principal become due and payable and for the retirement of bonds or notes. The money may not be withdrawn if a withdrawal would reduce the amount in the reserve fund to an amount less than the required debt service reserve, except for payment of interest then due and payable on bonds or notes and the principal of bonds or notes then maturing and payable, whether by reason of maturity or mandatory redemption, for which payments other money of the bank is not then available. As used in this chapter, "required debt service reserve" means, as of the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution or trust agreement of the bank.

(c) Money in any reserve fund in excess of the required debt service reserve, whether by reason of investment or otherwise, may be withdrawn at any time by the bank and transferred to another fund or account of the bank, subject to the provisions of any agreement with the holders of any bonds or notes.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.18; P.L.46-1987, SEC.13.*

#### **IC 5-1.5-5-2**

##### **Investment of funds**

Sec. 2. Money in any reserve fund may be invested in the manner provided in IC 5-1.5-3-3.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.19.*

### **IC 5-1.5-5-3**

#### **Valuation of investments**

Sec. 3. For purposes of valuation, investments in the reserve fund shall be valued at par, or if purchased at less than par, at cost unless otherwise provided by resolution or trust agreement of the bank. Valuation on a particular date shall include the amount of interest then earned or accrued to that date on the money or investments in the reserve fund.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.20.*

### **IC 5-1.5-5-4**

#### **Required debt service reserve; resolution concerning appropriations; excess funds; budget committee review**

Sec. 4. (a) Except as provided in subsection (c), and in order to assure the maintenance of the required debt service reserve in any reserve fund, a resolution authorizing the bank to issue bonds or notes may include a provision stating that:

- (1) the general assembly may annually appropriate to the bank for deposit in one (1) or more of the funds the sum, certified by the chairman of the board to the general assembly, that is necessary to restore one (1) or more of the funds to an amount equal to the required debt service reserve; and
- (2) the chairman annually, before December 1, shall make and deliver to the general assembly a certificate stating the sum required to restore the funds to that amount.

Nothing in this subsection creates a debt or liability of the state to make any appropriation.

(b) All amounts received on account of money appropriated by the state to any reserve fund shall be held and applied in accordance with section 1(b) of this chapter. However, at the end of each fiscal year, if the amount in any reserve fund exceeds the required debt service reserve, any amount representing earnings or income received on account of any money appropriated to the reserve fund that exceeds the expenses of the bank for that fiscal year may be transferred to the general fund of the state.

(c) Notwithstanding any other law, and except as provided by subsection (d), after June 30, 2005, the:

- (1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or
- (2) execution by the bank of any other agreement that creates a reserve fund subject to subsection (a) to pay all or part of any indebtedness issued by the bank;

is subject to the conditions set forth in subsection (e) and review by the budget committee and approval by the budget director as required

by subsection (f).

(d) If the budget committee does not conduct a review of a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (c) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

(e) Issuance by the bank of any indebtedness that establishes a reserve fund under subsection (a), the establishment of a procedure for certification, or the execution by the bank of any other agreement that creates a reserve fund subject to subsection (a) may be extended only for a project or a purpose that:

- (1) can be financed by a qualified entity under the law applying to financing by the qualified entity; or
- (2) is specifically authorized by the general assembly.

A reserve fund established under subsection (a) may be used only to finance the purchase of securities (as defined in IC 5-1.5-1-10) issued by entities described in IC 5-1.5-1-8.

(f) The budget director may approve establishing a reserve fund under subsection (a) only if the following conditions are satisfied:

- (1) The project or purpose qualifies under subsection (e).
- (2) The documentation required by subsection (g) has been provided by the bank.
- (3) The bank has provided the budget agency with a written finding that revenues available to the qualified entity to pay annual debt service exceed the annual debt service requirements by at least twenty percent (20%).
- (4) If the financing is for a project or purpose that will produce ongoing revenue from fees or user charges, the qualified entity agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) that the qualified entity will first increase the rate of the fees or user charges, or both, by an amount sufficient to satisfy any shortfall in the reserve fund established under subsection (a) before subsection (a) is to be applied.
- (5) A qualified entity seeking the benefit of a reserve fund established under subsection (a) agrees to include a provision in the instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) that the qualified entity will pledge sufficient property taxes, user fees, hook up fees, connection fees, or any other available local revenues or any combination of those revenues that will be sufficient to satisfy any shortfall in the reserve fund established under subsection (a) before subsection (a) is to be applied.
- (6) The instrument governing the qualified entity's duties with respect to the security (as defined in IC 5-1.5-1-10) will include, to the extent the budget director determines is possible, a

provision that money payable to the qualified entity by the state may be withheld by the auditor of state to recover any funds provided by the state, if subsection (a) is applied in connection with the qualified entity's securities.

(g) If the bank proposes that a reserve fund be established under subsection (a) for a project or purpose, the bank shall provide to the budget committee and the budget agency at or before the time of the bank's request, the following information in writing:

- (1) A description of the project or purpose.
- (2) How the project or purpose satisfies the requirements of subsection (e).
- (3) The qualified entity's application for financing that was filed with the bank.
- (4) The estimated relative savings that can be achieved by establishing a reserve fund under subsection (a).
- (5) The finding required by subsection (f)(3) and proposed language for those instrument provisions required by subsection (f)(4) through (f)(6), if applicable.
- (6) Any other information required by the budget committee or budget agency.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.21; P.L.235-2005, SEC.77; P.L.229-2011, SEC.67.*

#### **IC 5-1.5-5-5**

##### **Combining reserve funds**

Sec. 5. Subject to the provisions of any agreement with its holders, the bank may combine a reserve fund established for an issue of bonds or notes into one (1) or more reserve funds.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.22.*

#### **IC 5-1.5-5-6**

##### **Certain qualified entities; debt service reserve appropriations not available**

Sec. 6. The provisions of section 4(a) of this chapter are not available to any bonds or notes issued by the bank to purchase securities of, or fund loans to, any qualified entity described in IC 5-1.5-1-8(5) or IC 5-1.5-1-8(6).

*As added by P.L.37-1991, SEC.4.*

## **IC 5-1.5-6**

### **Chapter 6. Other Funds and Accounts**

#### **IC 5-1.5-6-1**

##### **General fund; establishment; use; creation of subaccounts or special accounts**

Sec. 1. (a) The bank shall establish and maintain a fund called the general fund into which there shall be deposited all money received by the bank and any money that the bank shall transfer to the fund from any reserve fund under IC 5-1.5-5-1(c). Money in the general fund shall be used for operating expenses of the bank and, subject to any contract between the bank and its holders, may be:

- (1) used to pay principal of or interest on bonds or notes of the bank to prevent a default;
- (2) transferred to any reserve fund to prevent a default or to make up any deficiency in that reserve fund;
- (3) used to purchase securities; and
- (4) used to purchase or redeem the bank's bonds or notes.

(b) No amount shall be paid or expended out of the general fund, or from any account therein established by the bank for the purpose of paying operating expenses, for the payment of operating expenses of the bank in any year in excess of the amount provided for operating expenses in the annual budget then in effect for that year or any amendment thereof in effect at the time of the payment or expenditure.

(c) The bank is authorized and empowered to create and establish in the general fund accounts, subaccounts, or special accounts that in the opinion of the board are necessary, desirable, or convenient for the purposes of the bank under this chapter.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.23.*

#### **IC 5-1.5-6-2**

##### **Additional reserves; other funds or accounts**

Sec. 2. The board may establish additional reserves or other funds or accounts as may be in its discretion necessary, desirable, or convenient to further the accomplishment of its purposes or to comply with the provisions of any of its agreements or resolutions.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-6-3**

##### **Money or investments in fund or account established for specific purpose; application**

Sec. 3. Unless the resolution or trust agreement authorizing the bonds or notes provides otherwise, money or investments in a fund or account of the bank established or held for the payment of bonds or notes shall be applied to the payment or retirement of the bonds or notes, and to no other purpose.

*As added by P.L.25-1984, SEC.1.*

## **IC 5-1.5-6.5**

### **Chapter 6.5. Capital Funds**

#### **IC 5-1.5-6.5-1**

##### **Capital principal fund and capital interest fund; programs for qualified entities**

Sec. 1. (a) The bank shall establish and maintain:

- (1) a capital principal fund, to be funded from appropriations made to the fund by the general assembly and any other money that the bank transfers to the fund; and
- (2) a capital interest fund, to be funded from investment earnings on the capital principal fund.

(b) The bank may use the funds only for programs for qualified entities issuing securities for any of the following purposes:

- (1) Sewage works.
- (2) Waterworks.
- (3) Parking facilities.
- (4) Redevelopment projects financed with allocated property tax proceeds under IC 36-7-14-39 or IC 36-7-15.1-26.

*As added by P.L.38-1988, SEC.5.*

#### **IC 5-1.5-6.5-2**

##### **Investments; credit of earnings**

Sec. 2. Money in the funds may be invested in the manner provided in IC 5-1.5-3-3. However, all earnings on the funds shall be credited to the capital interest fund.

*As added by P.L.38-1988, SEC.5.*

#### **IC 5-1.5-6.5-3**

##### **Capital principal fund; debt service; agreement; recovery**

Sec. 3. (a) The capital principal fund may be used only to guarantee payment of debt service on:

- (1) securities issued by a qualified entity for a purpose specified in section 1(b) of this chapter; or
- (2) bonds or notes issued to purchase securities issued for a purpose specified in section 1(b) of this chapter.

(b) The bank and the qualified entity must enter into an agreement before a guarantee under subsection (a)(1) is effective. This agreement may contain any provisions the bank considers appropriate and may specify which funds held by a state agency are subject to recovery under subsection (c).

(c) If debt service on securities of a qualified entity is paid by the bank to a qualified entity or owners of its securities under a guarantee under subsection (a)(1), the amount paid from the capital principal fund may be recovered from funds held by a state agency or department that are payable to the qualified entity as set forth in subsection (b).

*As added by P.L.38-1988, SEC.5.*

#### **IC 5-1.5-6.5-4**

##### **Required debt service reserves; budget committee review**

Sec. 4. (a) Except as provided in subsection (d), whenever a reserve fund for an issue of bonds or notes issued to purchase securities specified in section 1(b) of this chapter does not contain the required debt service reserve (as defined in IC 5-1.5-5-1(b)), the chairman of the board shall immediately:

- (1) transfer to the reserve fund the amount needed to restore the required debt service reserve first from the capital interest fund and, to the extent necessary, from the capital principal fund; and
- (2) certify the amounts transferred to the general assembly.

(b) The general assembly may appropriate to the bank for deposit in the capital principal fund the amount transferred from the fund to restore required debt service reserves. Nothing in this subsection creates a debt or a liability of the state to make any appropriation.

(c) Appropriations made to the capital principal fund do not revert to the state general fund at the end of any fiscal year.

(d) Notwithstanding any other law, and except as provided by subsection (e), after June 30, 2005, the:

- (1) issuance by the bank of any indebtedness that incorporates the provisions set forth in subsection (a) or otherwise establishes a procedure for the bank or a person acting on behalf of the bank to certify to the general assembly the amount needed to restore a reserve fund or another fund to required levels; or
- (2) execution by the bank of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the bank;

is subject to review by the budget committee and approval by the budget director.

(e) If the budget committee does not conduct a review of a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the review is considered to have been conducted. If the budget director does not approve or disapprove a proposed transaction under subsection (d) within twenty-one (21) days after a request by the bank, the transaction is considered to have been approved.

*As added by P.L.38-1988, SEC.5. Amended by P.L.235-2005, SEC.78.*

#### **IC 5-1.5-6.5-5**

##### **Capital interest fund; purposes for use**

Sec. 5. With respect to the programs specified in section 1(b) of this chapter, the capital interest fund may be used for the following purposes in addition to the purpose specified in section 4 of this chapter:

- (1) To guarantee payment of debt service on bonds or notes.
- (2) To pay premiums for bond insurance or debt service reserve

insurance for bonds or notes.

(3) To pay credit enhancement, liquidity support, remarketing, or conversion fees for bonds or notes.

(4) To pay other costs of issuance of a bank transaction.

*As added by P.L.38-1988, SEC.5.*

## **IC 5-1.5-7**

### **Chapter 7. Default by the Bond Bank**

#### **IC 5-1.5-7-1**

##### **Achievement of purpose of article**

Sec. 1. In order to:

- (1) carry out its purpose under this article of making loans to qualified entities by purchase of the securities and by receipt of its income from service charges and from payments of interest on and the maturing principal of securities purchased and held by it; and
- (2) produce revenues or income to the bank sufficient at all times to meet its costs and expenses of operation under this article and to pay the principal of and interest on its outstanding bonds and notes when due;

the bank must at all times, and to the greatest extent possible, plan to issue its bonds and notes and lend money to qualified entities so that the purpose is achieved without in any way jeopardizing any rights of the holders of bonds or notes of the bank or adversely affecting other matters under this article.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.24.*

#### **IC 5-1.5-7-2**

##### **Default; appointment of trustee to represent holders of notes or bonds**

Sec. 2. If the bank:

- (1) defaults in the payment of principal or interest on an issue of notes or bonds after they become due, whether at maturity or upon call for redemption, and the default continues for thirty (30) days; or
- (2) fails or refuses to comply with this article or defaults in an agreement made with the holders of an issue of notes or bonds;

and there is no trustee under a trust agreement, then the holders of twenty-five percent (25%) in the aggregate principal amount of the outstanding notes or bonds of that issue, by instrument filed in the office of the clerk of Marion County and executed in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of those notes or bonds for the purposes provided in this article.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-7-3**

##### **Trustees; duties; powers; venue; notice**

Sec. 3. (a) A trustee appointed under section 2 of this chapter shall, in his name, upon written request of the holders of twenty-five percent (25%) in principal amount of the outstanding notes or bonds:

- (1) by civil action enforce all rights of the holders, including the right to require the bank to:

(A) collect rates, charges, and other fees and to collect interest and principal payments on securities held by it adequate to carry out an agreement as to, or pledge of, the rates, charges, and other fees and of the interest and principal payments; and

(B) carry out any other agreements with the holders of the notes or bonds and to perform its duties under this article;

(2) bring a civil action upon the notes or bonds;

(3) by civil action require the bank to account as if it were the trustee of an express trust for the holders of the notes or bonds;

(4) by civil action enjoin anything that may be unlawful or in violation of the rights of the holders of the notes or bonds; and

(5) declare all the notes or bonds due and payable, and if all defaults are made good, then with the consent of the holders of twenty-five percent (25%) of the principal amount of the outstanding notes or bonds, annul the declaration and its consequences.

(b) The trustee also has all the powers necessary for the exercise of functions specifically set out or incident to the general representation of holders in the enforcement and protection of their rights.

(c) The venue of any suit, action, or proceeding brought by the trustee on behalf of the holders shall be laid in Marion County, Indiana.

(d) Before declaring the principal of notes or bonds due and payable, the trustee must first give not less than thirty (30) days notice in writing to the chairman of the board and the attorney general.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.25.*

## **IC 5-1.5-8**

### **Chapter 8. Loans to Qualified Entities**

#### **IC 5-1.5-8-1**

##### **Purchase of securities offered by qualified entity; private sale; issuance of bonds and notes for purpose of purchase**

Sec. 1. The bank, to carry out the purposes and policies of this article, may purchase securities of the qualified entity, including any securities issued by a school corporation to refund bonds or other obligations that were issued or entered into by a school corporation before that school corporation completed a consolidation or merger under IC 20-23 or any other law. Notwithstanding any law to the contrary, a qualified entity may sell its securities to the bank at a negotiated, private sale. The bank, for this purpose, may issue its bonds and notes payable solely from the revenues or funds available to the bank for such payment and may otherwise assist qualified entities as provided in this article.

*As added by P.L.25-1984, SEC.1. Amended by P.L.28-1992, SEC.3; P.L.140-2014, SEC.1.*

#### **IC 5-1.5-8-2**

##### **Securities to be purchased and held in name of bank; required documentation**

Sec. 2. (a) All securities at any time purchased, held, or owned by the bank shall at all times be purchased and held in the name of the bank.

(b) Except for agreements described in IC 5-1.5-1-10(4), all securities at any time purchased by the bank, upon delivery to the bank, shall, unless waived by the board, be accompanied by all documentation required by the board that shall include an approving opinion of recognized bond counsel, certification and guarantee of signatures, and certification as to no litigation pending as of the date of delivery of the securities challenging the validity or issuance of such securities.

*As added by P.L.25-1984, SEC.1. Amended by P.L.44-1990, SEC.3; P.L.28-1992, SEC.4.*

#### **IC 5-1.5-8-3**

##### **Contracts with bank; terms and conditions; fees and charges; denomination and prices**

Sec. 3. (a) Every qualified entity is authorized and empowered to contract with the bank with respect to the loan or purchase of its securities, and the contracts shall contain the terms and conditions of the loan or purchase and may be in any form agreed to by the bank and the qualified entity, including a customary form of bond ordinance or resolution. Every qualified entity is authorized and empowered to pay fees and charges required to be paid to the bank for its services.

(b) Notwithstanding any statute applicable to or constituting any limitation on the sale of bonds or notes or on entry into an agreement, any qualified entity may sell its securities to the bank, without limitation as to denomination, at a private sale at such price or prices as may be determined by the bank and the qualified entity.

(c) Notwithstanding any law that applies to or constitutes a limitation on the leasing or disposition of materials or other property, and subject to subsection (d), any qualified entity, or any purchasing agency (as defined in IC 5-22-2-25) of a qualified entity, may:

(1) assign or sell a lease or purchase contract for property to the bank;

(2) enter into a lease or purchase contract for property with the bank; or

(3) buy property from or sell property to the bank;

at any price and under any other terms and conditions as may be determined by the bank and the qualified entity.

(d) This subsection does not apply to a school corporation that buys or leases a school bus from the bank under IC 5-1.5-4-1(a)(5). Before taking an action described under subsection (c)(1) through (c)(3) that would otherwise be subject to IC 5-22, a qualified entity or its purchasing agent must obtain or cause to be obtained a purchase price for the property to be subject to the sale, purchase contract, or lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

*As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.14; P.L.48-1989, SEC.2; P.L.49-1997, SEC.25; P.L.192-2006, SEC.2.*

#### **IC 5-1.5-8-4**

##### **Agreement with bank; waiver of statutory defenses to nonpayment; rights and remedies of bank**

Sec. 4. Upon the sale and delivery by a qualified entity of any securities to the bank, the qualified entity shall be deemed to have agreed that upon its failure to pay interest or principal on the securities owned or held by or arising from an agreement with the bank when payable, all statutory defenses to nonpayment are waived. Upon nonpayment and demand on the qualified entity for payment, if the securities are payable from property taxes and funds are not available in the treasury of the qualified entity to make payment, an action in mandamus for the levy of a tax to pay the interest and principal on the securities shall lie, and the bank shall be constituted a holder or owner of the securities as being in default. The bank may thereupon avail itself of all remedies, rights, and provisions of law applicable in the circumstances, and the failure to exercise or exert any rights or remedies within a time or period provided by law may not be raised as a defense by the qualified entity. The bank may carry out this section and exercise all the rights, remedies, and provisions of law provided or referred to in this section.

*As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.15.*

**IC 5-1.5-8-5**

**Department or agency of state as custodian of money payable to qualified entity; duty on default on payment of principal or interest by qualified entity**

Sec. 5. (a) Notwithstanding any other provision of law, to the extent that any department or agency of the state, including the treasurer of state, is the custodian of money payable to the qualified entity (other than for goods or services provided by the qualified entity), at any time after written notice to the department or agency head from the bank that the qualified entity is in default on the payment of principal or interest on the securities of the qualified entity then held or owned by or arising from an agreement with the bank, the department or agency shall withhold the payment of that money from that qualified entity and pay over the money to the bank for the purpose of paying principal of and interest on bonds of the bank. However, the withholding of payment from the qualified entity and payment to the bank under this section must not adversely affect the validity of the security in default.

(b) This subsection applies to securities of a qualified entity acquired by the bank, or arising from an agreement entered into with the bank, on or after March 1, 2016. Upon receiving notice from the bank that a qualified entity has failed to pay when due the principal or interest on the securities of the qualified entity then held or owned by or arising from an agreement with the bank, the fiscal officer (as defined in IC 36-1-2-7) of the county, for any county in which the qualified entity is wholly or partially located, shall do the following:

(1) Reduce the amount of any revenues or other money or property that:

(A) is held, possessed, maintained, controlled, or otherwise in the custody of the county or a department, an agency, or an instrumentality of the county; and

(B) would otherwise be available for distribution to the qualified entity under any other law;

by an amount equal to the amount of the qualified entity's unpaid securities.

(2) Pay the amount by which the revenues or other money or property is reduced under subdivision (1) to the bank to pay the principal of and interest on bonds or other obligations of the bank.

(3) Notify the qualified entity that the revenues or other money or property, which would otherwise be available for distribution to the qualified entity, has been reduced by an amount necessary to satisfy all or part of the qualified entity's unpaid securities to the bank.

(c) This subsection applies to securities of a qualified entity acquired by the bank, or arising from an agreement with the bank,

that is covered by subsection (b). A reduction under subsection (b) must be made as follows:

(1) First, from local income tax distributions under IC 6-3.6-9 that would otherwise be distributed to the qualified entity under the schedules in IC 6-3.6-9-12 and IC 6-3.6-9-16.

(2) Second, from any other revenues or other money or property that:

(A) is held, possessed, maintained, or controlled by, or otherwise in the custody of, the county or a department, an agency, or an instrumentality of the county; and

(B) would otherwise be available for distribution to the qualified entity under any other law.

*As added by P.L.25-1984, SEC.1. Amended by P.L.43-1985, SEC.26; P.L.46-1987, SEC.16; P.L.47-2016, SEC.1.*

### **IC 5-1.5-8-6**

#### **Repealed**

*(Repealed by P.L.43-1985, SEC.28.)*

### **IC 5-1.5-8-6.1**

#### **Anticipation notes; issuance and purchase**

Sec. 6.1. (a) Notwithstanding any law applicable to a qualified entity concerning the issuance of bonds, a qualified entity that has complied with all statutory requirements for the issuance of its bonds may, in lieu of issuing bonds at that time and without the need for complying with any other law applicable to the issuance of bonds, notes, or other evidences of indebtedness, issue its notes in anticipation of the issuance of bonds to the bank, and the bank may purchase the bond anticipation notes. The bond anticipation notes may be issued on terms set forth in a resolution authorizing their issuance and in any amount equal to or less than the amount of bonds authorized to be issued. The qualified entity may renew or extend the bond anticipation notes from time to time on terms agreed to with the bank, and the bank may purchase the renewals or extensions. The amount of the accrued interest on the date of renewal or extension may be paid or added to the principal amount of the note being renewed or extended so long as the aggregate principal amount of bond anticipation notes outstanding at any time does not exceed the maximum principal amount permitted by this section. The bond anticipation notes of the qualified entity, including any renewals or extensions, must mature in the amounts and at the times (not exceeding five (5) years from the date of the original issuance of the bond anticipation notes) agreed to by the qualified entity and the bank. The bond anticipation notes must be finally paid, and interest on the bond anticipation notes may be finally paid, with the proceeds of the bonds issued by the qualified entity. In connection with the issuance of bonds part or all of the proceeds of which will be used to retire the bond anticipation notes, it is not necessary for the qualified

entity to repeat the procedures for the issuance of bonds, as the procedures followed before the issuance of the bond anticipation notes are for all purposes sufficient to authorize the issuance of the bonds.

(b) In connection with the purchase of bond anticipation notes, the bank may by agreement with the qualified entity impose any terms, conditions, and limitations as in its opinion are proper for the security of the bank and the holders of its bonds or notes. If the qualified entity fails to comply with the agreement or to issue its bonds to retire its bond anticipation notes, the bank may enforce all rights and remedies provided in the agreement or at law, including an action in mandamus to compel the issuance of bonds by the qualified entity.

*As added by P.L.43-1985, SEC.27.*

#### **IC 5-1.5-8-7**

##### **Investment and reinvestment; securities sold to bank**

Sec. 7. Notwithstanding any statute applicable to or constituting any limitation on the investment or reinvestment of funds by or on behalf of political subdivisions, a qualified entity selling securities to the bank in connection with a program established by the bank may invest and reinvest funds that constitute, replace, or substitute for the proceeds of securities sold to the bank under an established bank program in any instrument or other investment authorized under a resolution of the bank.

*As added by P.L.29-1992, SEC.3.*

## **IC 5-1.5-9**

### **Chapter 9. Miscellaneous Provisions**

#### **IC 5-1.5-9-1**

##### **Limitation of actions**

Sec. 1. (a) No action to contest the validity of any bonds or notes of the bank to be sold at public sale may be brought after the fifteenth day following the first publication of notice of the sale of the bonds or notes. No action to contest the validity of any bond sale under this chapter may be brought after the fifth day following the bond sale.

(b) If bonds or notes are sold at private sale, the bank may publish notice of the execution of the contract of sale of the bonds or notes one (1) time in two (2) newspapers published and of general circulation in the city of Indianapolis. If notice is published as permitted in this subsection, no action to contest the validity of such bonds or notes sold at private sale may be brought after the fifteenth day following the publication of notice of the execution of the contract of sale pertaining to the bonds or notes.

(c) If an action challenging the bonds or notes of the bank is not brought within the time prescribed by subsection (a) or (b), whichever is applicable, all bonds or notes of the bank shall be conclusively presumed to be fully authorized and issued under the laws of the state, and a person or a qualified entity is estopped from questioning their authorization, sale, issuance, execution, or delivery by the bank.

(d) Insofar as the provisions of this article are inconsistent with the provisions of any other law, general, special, or local, the provisions of this article shall be controlling.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-9-2**

##### **Property of bank exempt from levy and sale; judgment against bank not charge or lien on property; rights of holders of bonds or notes**

Sec. 2. All property of the bank is exempt from levy and sale by virtue of an execution and no execution or other judicial process may issue against the property. A judgment against the bank may not be a charge or lien upon its property. However, nothing in this section applies to or limits the rights of the holder of bonds or notes to pursue a remedy for the enforcement of a pledge or lien given by the bank on its revenues or other money.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-9-3**

##### **Repealed**

*(Repealed by P.L.1-1990, SEC.46.)*

**IC 5-1.5-9-4****Insurance or guaranty for payment or repayment of interest or principal, or both**

Sec. 4. The bank may obtain from a department or agency of the United States, or a nongovernmental insurer, available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part of interest or principal, on bonds or notes issued by the bank, or on securities purchased or held by the bank.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-9-5****Authority to receive money; disposition**

Sec. 5. The treasurer of the state, as chairman of the board of the bank, is authorized to receive from the United States of America or any department or agency thereof any amount of money as and when appropriated, allocated, granted, turned over, or in any way provided for the purposes of the bank or this article, and those amounts shall, unless otherwise directed by the federal authority, be credited to and deposited in the general fund, and be available to the bank.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-9-6****Financial institution to keep and pay over funds deposited with it**

Sec. 6. A financial institution may give to the bank a good and sufficient undertaking with such sureties as are approved by the bank to the effect that the financial institution shall faithfully keep and pay over to the order of or upon the warrant of the bank or its authorized agent all those funds deposited with it by the bank and agreed interest under or by reason of this article, at such times or upon such demands as may be agreed with the bank or in lieu of these sureties, deposit with the bank or its authorized agent or a trustee or for the holders of bonds, as collateral, those securities as the board may approve. The deposits of the bank may be evidenced by an agreement in the form and upon the terms and conditions that may be agreed upon by the bank and the financial institution.

*As added by P.L.25-1984, SEC.1.*

**IC 5-1.5-9-7****Contracts or agreements with financial institutions; care, custody, or safekeeping of securities; services connected with payment or collection of interest or principal**

Sec. 7. The board may enter into agreements or contracts with a financial institution inside or outside the state as may be necessary, desirable, or convenient in the opinion of the board for rendering services in connection with the care, custody, or safekeeping of securities or other investments held or owned by the bank, for rendering services in connection with the payment or collection of amounts payable as to principal or interest, and for rendering

services in connection with the delivery to the bank of securities or other investments purchased by it or sold by it, and to pay the cost of those services. The board may also, in connection with any of the services to be rendered by a financial institution as to the custody and safekeeping of its securities or investments, require security in the form of collateral bonds, surety agreements, or security agreements in such form and amount as, in the opinion of the board, is necessary or desirable.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-9-8**

##### **Financial institutions and fiduciaries; investment in bonds and notes**

Sec. 8. Notwithstanding the restrictions of any other law, all financial institutions, investment companies, insurance companies, insurance associations, executors, administrators, guardians, trustees, and other fiduciaries may legally invest sinking funds, money, or other funds belonging to them or within their control in bonds or notes issued under this article.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-9-9**

##### **Nature of bank property; bonds or notes issued; interest and proceeds received; tax exemption**

Sec. 9. All property of the bank is public property devoted to an essential public and governmental function and purpose and is exempt from all taxes and special assessments, direct or indirect, of the state or a political subdivision of the state. All bonds or notes issued under this article are issued by a body corporate and public of this state, but not a state agency, and for an essential public and governmental purpose and the bonds and notes, the interest thereon, the proceeds received by a holder from the sale of the bonds or notes to the extent of the holder's cost of acquisition proceeds received upon redemption prior to maturity, and proceeds received at maturity and the receipt of the interest and proceeds shall be exempt from taxation in the state for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

*As added by P.L.25-1984, SEC.1. Amended by P.L.46-1987, SEC.17; P.L.21-1990, SEC.6; P.L.254-1997(ss), SEC.6.*

#### **IC 5-1.5-9-10**

##### **Officers, departments, etc., of the state to render services to bank; costs and expenses**

Sec. 10. All officers, departments, boards, agencies, divisions, and commissions of the state shall render services to the bank that are within the area of their respective governmental functions and that may be requested by the board and must comply promptly with any

reasonable request by the board relating to the making of a study or review as to desirability, need, cost, or expense, or financial feasibility with respect to a public project, purpose, or improvement, or the financial or fiscal responsibility or ability of a qualified entity making application for loan to the bank and for the purchase by the bank of securities to be issued by that qualified entity. The cost and expense of a service requested by the board, at the request of the officer, department, board, agency, division, or commission rendering the service, shall be paid by the bank.

*As added by P.L.25-1984, SEC.1.*

#### **IC 5-1.5-9-11**

##### **Pledges of revenues or other money**

Sec. 11. A pledge of revenues or other money made by the bank is binding from the time the pledge is made. Revenues or other money so pledged and thereafter received by the bank are immediately subject to the lien of the pledge without any further act, and the lien of a pledge is binding against all parties having claims of any kind in tort, contract, or otherwise against the bank, regardless of whether the parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created needs to be filed or recorded except in the records of the bank.

*As added by P.L.1-1990, SEC.47.*

#### **IC 5-1.5-9-12**

##### **Securities; registration requirements; exemption**

Sec. 12. All securities issued under this article are exempt from the registration requirements of IC 23-19 and other securities registration statutes.

*As added by P.L.1-1990, SEC.48. Amended by P.L.27-2007, SEC.4.*