

§179. Receive government aid; borrow money; issue bonds and notes

1. Authorization of bonds. An airport authority, through its board of directors, may issue, in accordance with section 180, bonds, notes or other evidences of indebtedness of the airport authority for any of its corporate purposes, including, but not limited to:

A. Paying and refunding its indebtedness; [PL 2007, c. 563, §1 (NEW).]

B. Paying any necessary expenses and liabilities incurred under this chapter, including organizational and other necessary expenses and liabilities, whether incurred by the airport authority or any founding entity or any municipality therein or any person residing in unorganized territory encompassed by the airport authority. The airport authority is authorized to reimburse any founding entity or any municipality therein or any person residing in unorganized territory encompassed by the airport authority for any such expenses; [PL 2007, c. 563, §1 (NEW).]

C. Paying costs directly or indirectly associated with necessary expenses and liabilities incurred in accordance with the purposes of its incorporation and to cover interest payments during the period of construction of capital projects and for such a period thereafter as the directors may determine; [PL 2007, c. 563, §1 (NEW).]

D. Providing reserves for debt service, repairs and replacements or other capital or current expenses that may be required by a trust agreement or resolution securing bonds; and [PL 2007, c. 563, §1 (NEW).]

E. Any combination of these purposes. [PL 2007, c. 563, §1 (NEW).]
[PL 2007, c. 563, §1 (NEW).]

2. Bonds. Bonds may be issued by an airport authority as general obligations of the airport authority or as special obligations payable solely from particular funds. The principal of, premium, if any, and interest on all bonds is payable solely from the funds provided for that purpose from revenues. For purposes of this section, "revenues" means the proceeds of bonds and all revenues, rates, fees, charges, assessments, rents and other receipts derived by the airport authority in accordance with the purposes of its incorporation, including, but not limited to, investment earnings and the proceeds of insurance, condemnation, sale or other disposition of properties.

A. All bonds, notes and other evidences of indebtedness issued by an airport authority in accordance with this section are legal obligations of the airport authority within the meaning of Title 30-A, section 5701. [PL 2007, c. 563, §1 (NEW).]

B. Bonds may be issued under this section without obtaining the consent of any commission, board, bureau or agency of the State or of any municipality encompassed by the airport authority and without any other proceedings or the happening of other conditions or things other than those proceedings, conditions or things that are specifically required by the FAA, this Title, rules of the commissioner or the airport authority's charter. [PL 2007, c. 563, §1 (NEW).]

C. Bonds issued under this section do not constitute a debt or liability of the State or of any municipality encompassed by the airport authority or a pledge of the faith and credit of the State or any such municipality, but the bonds are payable solely from the funds provided for that purpose, and a statement to that effect must be recited on the face of the bonds. [PL 2007, c. 563, §1 (NEW).]

[PL 2007, c. 563, §1 (NEW).]

3. Notes. An airport authority may provide by resolution of its board of directors for the issuance from time to time of notes in anticipation of bonds authorized under this section and of notes in anticipation of the revenues to be collected or received in any year or in anticipation of the receipt of federal or state grants or other aid. The issue of these notes is governed by the applicable provisions of this chapter relating to the issue of bonds, as long as notes in anticipation of revenue mature no later

than one year from their respective dates and notes issued in anticipation of federal or state grants or other aid and renewals thereof mature no later than the expected date of receipt of those grants or aid. Notes in anticipation of revenue issued to mature less than one year from their dates may be renewed from time to time by the issue of other notes, as long as the period from the date of an original note to the maturity of any note issued to renew or pay the same or the interest thereon does not exceed one year.

[PL 2007, c. 563, §1 (NEW).]

4. Grants and loans. An airport authority may enter into agreements with the State or the United States, or any agency of either, or any municipality, corporation, commission or board authorized to grant or loan money to or otherwise assist in the financing of projects of the type the airport authority is authorized to carry out and may accept grants and borrow money from any such government, agency, municipality, corporation, commission or board as may be necessary or desirable to accomplish the purposes of the airport authority.

[PL 2007, c. 563, §1 (NEW).]

5. Maturity; interest; form; temporary bonds. The bonds issued under this section must be dated and must mature at such time or times and bear interest at such rate or rates as may be determined by the board of directors and may be made redeemable before maturity, at the option of the airport authority, at such price or prices and under such terms and conditions as may be fixed by the board of directors prior to the issuance of the bonds.

A. The board of directors shall determine the form of the bonds issued under this section, including any interest coupons to be attached thereto, and the manner of execution of the bonds 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 outside the State. The bonds may be issued in coupon or registered form, or both, as the board of directors may determine and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. [PL 2007, c. 563, §1 (NEW).]

B. The board of directors may sell bonds issued under this section in such manner, either at public or private sale, and for such price as they may determine to be for the best interests of the airport authority. The proceeds of the bonds of each issue must be used solely for the purpose for which those bonds have been authorized and must be disbursed in such manner and under such restrictions, if any, as the board of directors may provide in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds. The resolution providing for the issuance of bonds and any trust agreement securing the bonds may contain such limitations upon the issuance of additional bonds as the board of directors may determine to be proper, and these additional bonds must be issued under such restrictions and limitations as may be prescribed by that resolution or trust agreement. Prior to the preparation of definitive bonds, the board of directors may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when those bonds are executed and are available for delivery. The board of directors may provide for the replacement of any bond that is mutilated, destroyed or lost. [PL 2007, c. 563, §1 (NEW).]

C. Bonds issued under this section must be executed in the name of the airport authority by the manual or facsimile signature of such officer or officers as may be authorized in the resolution to execute the bonds, but at least one signature on each bond must be a manual signature. Coupons, if any, attached to the bonds must be executed with the facsimile signature of the officer or officers of the airport authority designated in the resolution. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons, ceases to be an officer before the delivery of the bonds, the signature or its facsimile is nevertheless valid and sufficient for all purposes as if the officer had remained in office until the delivery. [PL 2007, c. 563, §1 (NEW).]

D. Notwithstanding any provision of this chapter or any recitals in any bonds issued under this section, all bonds issued under this section are negotiable instruments under the laws of this State.

[PL 2007, c. 563, §1 (NEW).]

[PL 2007, c. 563, §1 (NEW).]

6. Pledges and covenants; trust agreement. In the discretion of the board of directors of any airport authority, each issue of bonds under this section may be secured by a trust agreement by and between the airport authority and a corporate trustee, which may be any trust company within or outside the State.

A. The resolution authorizing the issuance of the bonds under this section, or the trust agreement securing those bonds, may pledge or assign, in whole or in part, the revenues and other money held or to be received by the airport authority and any accounts and contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the airport authority, and the proceeds thereof, but may not convey or mortgage any properties of the airport authority. The resolution may also 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, but not limited to, covenants setting forth the duties of the airport authority and the board of directors in relation to the acquisition, construction, reconstruction, improvement, repair, maintenance, operation and insurance of its airport or any of its other properties; the fixing and revising of rates, fees and charges; the application of the proceeds of bonds; the custody, safeguarding and application of revenues, defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities; the establishment of reserves; and the making and amending of contracts. The resolution or 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, the resolution or trust agreement may contain such other provisions as the board of directors may determine reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the resolution or trust agreement may be treated as a part of the cost of operation. The pledge by any resolution or trust agreement is valid and binding and continuously perfected for the purposes of the Uniform Commercial Code from the time when the pledge is made. All revenues, money, rights and proceeds so pledged and thereafter received by the airport authority are immediately subject to the lien of the pledge without any physical delivery or segregation or further action under the Uniform Commercial Code or otherwise, and the lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the airport authority irrespective of whether those parties have notice of the lien. [PL 2007, c. 563, §1 (NEW).]

B. The resolution authorizing the issuance of bonds under this section, or any trust agreement securing those bonds, may provide that all or a sufficient amount of revenues, after providing for the payment of the cost of repair, maintenance and operation and reserves for those costs as may be provided in the resolution or trust agreement, must be set aside at such regular intervals as may be provided in the resolution or trust agreement and deposited in the credit of a fund for the payment of the interest on and the principal of bonds issued under this chapter as the interest and principal become due and the redemption price or purchase price of bonds retired by call or purchase. The use and disposition of money to the credit of the fund are subject to any regulations provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the bonds and, except as may otherwise be provided in the resolution or trust agreement, the fund is for the benefit of all bonds without distinction or priority of one over another. [PL 2007, c. 563, §1 (NEW).]

[PL 2007, c. 563, §1 (NEW).]

7. Trust funds. Notwithstanding any other law, all funds received pursuant to the authority of this chapter are trust funds and must be held and applied solely as provided in this chapter or the airport

authority's charter. The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer to whom, or bank, trust company or other fiscal agent to which, that money is paid shall act as trustee of that money and shall hold and apply the same for the purposes hereof, subject to any regulations as may be provided in the resolution or trust agreement or as may be required by this chapter.

[PL 2007, c. 563, §1 (NEW).]

8. Remedies. Any holder of bonds issued under this section or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights given may be restricted by the resolution authorizing the issuance of those bonds or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, including proceedings for the appointment of a receiver to take possession and control of the properties of the airport authority, protect and enforce all rights under the laws of the State, including but not limited to those granted under this chapter, or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this chapter or by such resolution or trust agreement to be performed by the airport authority or by any officer thereof, including but not limited to the fixing, charging and collecting of rates, fees, payments or charges relating to the services and facilities furnished by the airport authority.

[PL 2007, c. 563, §1 (NEW).]

9. Refunding bonds. Any airport authority formed under this chapter by resolution of its board of directors may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the board of directors determines to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details of and security for the refunding bonds, the rights of the holders of the refunding bonds and the rights, duties and obligations of the airport authority in respect of the refunding bonds is governed by the applicable provisions of this chapter relating to the issue of bonds other than refunding bonds.

[PL 2007, c. 563, §1 (NEW).]

10. Tax exemption. All bonds, notes and other evidences of indebtedness issued by the airport authority under this section are legal investments for savings banks in this State and are exempt from state income tax.

[PL 2007, c. 563, §1 (NEW).]

11. Bonds are legal investments. Bonds and notes issued by any airport authority under this section are securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies and associations and other persons carrying on an insurance business, trust companies, banks, bankers, banking associations, savings banks and savings associations, including savings and loan associations, credit unions, building and loan associations, investment companies, executors, administrators, directors and other fiduciaries, pension, profit-sharing, retirement funds and other persons carrying on a banking business, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the State may properly and legally invest funds, including capital in their control or belonging to them. The bonds and notes are securities that may properly and legally be deposited with and received by any state, municipal or public officer or any agency or political subdivision of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law.

[PL 2007, c. 563, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 563, §1 (NEW).

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