

IC 8-22-3.7

Chapter 3.7. Airport Development Authority

IC 8-22-3.7-1

"Airport project"

Sec. 1. As used in this chapter, "airport project" has the meaning set forth in IC 8-22-3.6-2.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-2

"Bonds"

Sec. 2. As used in this chapter, "bonds" means bonds, notes, or other evidences of indebtedness issued by the development authority.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-3

"Development authority"

Sec. 3. As used in this chapter, "development authority" refers to an airport development authority created by this chapter.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-4

"Development board"

Sec. 4. As used in this chapter, "development board" refers to the board of directors of a development authority.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-4.5

"Eligible entity"

Sec. 4.5. Notwithstanding IC 8-22-1-6, as used in this chapter, "eligible entity" means the following:

- (1) A city having a population of more than eighty thousand (80,000) but less than eighty thousand four hundred (80,400).
- (2) A county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000).
- (3) A county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

As added by P.L.108-1993, SEC.11. Amended by P.L.115-1995, SEC.12; P.L.85-1996, SEC.8; P.L.170-2002, SEC.73; P.L.119-2012, SEC.103.

IC 8-22-3.7-5

Creation of authority

Sec. 5. A "_____ Airport Development Authority" (the blank to be filled in with the name of the eligible entity) may be created by an eligible entity as a separate body corporate and politic and as an instrumentality of the eligible entity to finance airport

projects for lease to the authority in that eligible entity. A development authority may be created by ordinance of the legislative body of the eligible entity.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-6

Development board; membership; term; removal; oath

Sec. 6. (a) The development board is composed of three (3) members, who must be residents of the eligible entity. The members of a development board for a development authority established by an eligible entity described in section 4.5(1) of this chapter are appointed by the executive of the eligible entity. The members of a development board for a development authority established by an eligible entity described in section 4.5(2) or 4.5(3) of this chapter are appointed as follows:

(1) One (1) member is appointed by the county executive.

(2) One (1) member is appointed by the executive of the city with the largest population in the county.

(3) One (1) member is appointed by the board of an airport authority that is located in the county.

(b) A member is entitled to serve a three (3) year term. A member may be reappointed to subsequent terms.

(c) If a vacancy occurs on the development board, the officer or entity that made the original appointment shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) A member may be removed for cause by the officer or entity that appointed the member.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(f) A member may not receive a salary, and no profit or money of the development authority inures to the benefit of a member.

As added by P.L.108-1993, SEC.11. Amended by P.L.115-1995, SEC.13; P.L.85-1996, SEC.9.

IC 8-22-3.7-7

Meetings; quorum

Sec. 7. (a) Immediately after January 15 of each year, the development board shall hold an organizational meeting. It shall elect one (1) of the members of the development board president, another vice president, and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The development board may elect an assistant secretary-treasurer.

(b) Special meetings may be called by the president of the development board or any two (2) members of the development board.

(c) A majority of the members constitutes a quorum, and the

concurrence of a majority of the members is necessary to authorize any action.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-8

Bylaws and rules

Sec. 8. The development board may adopt the bylaws and rules that it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-9

Purposes of authority

Sec. 9. The development authority is organized for the following purposes:

- (1) Financing, constructing, and leasing airport projects to the authority.
- (2) Financing and constructing additional improvements to airport projects owned by the development authority and leasing them to the authority.
- (3) Acquiring all or a portion of one (1) or more airport projects from the authority by purchase or lease and leasing these airport projects back to the authority, with any additional improvements that may be made to them.
- (4) Acquiring all or a portion of one (1) or more airport projects from the authority by purchase or lease to fund or refund indebtedness incurred on account of those airport projects to enable the authority to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the authority considers to be unduly burdensome.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-10

Authorized activities of authority; dissolution

Sec. 10. (a) The development authority may also:

- (1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip airport projects;
- (2) lease those airport projects to the authority;
- (3) sue, be sued, plead, and be impleaded, but all actions against the development authority must be brought in the circuit or superior court of the county in which the development authority is located;
- (4) lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with airport projects;
- (5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;
- (6) with permission of the owner or occupant, enter upon any lots or lands for the purpose of surveying or examining them to

- determine the location of an airport project;
- (7) design, order, contract for, and construct, reconstruct, and renovate any airport projects or improvements thereto;
 - (8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for construction of airport projects or improvements to them;
 - (9) 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 chapter; and
 - (10) take any other action necessary to implement its purposes as set forth in section 9 of this chapter.

(b) Whenever the development board determines that the purposes for which the development authority was formed have been substantially fulfilled and that all bonds issued and all other obligations incurred by the development authority have been fully paid or satisfied or provision for the payment of the bonds and obligations has been made in accordance with the terms of the resolution or trust indenture securing them, the development board may declare the development authority dissolved. On the effective date of the resolution of dissolution, the title to all funds and other property owned by the development authority at the time of the dissolution vests in the authority. However, if the authority is not in existence, the title vests in the eligible entity.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-11

Refund of bonds; lease back

Sec. 11. (a) Bonds issued under IC 8-22-3 may be refunded as provided in this section.

(b) The authority may lease all or a portion of an airport project to the development authority, which may be at a nominal lease rental with a lease back to the authority, conditioned upon the development authority assuming bonds issued under IC 8-22-3 and issuing its bonds to refund those bonds.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-12

Reasonableness of leases; leases of airport projects from development authority

Sec. 12. (a) Before a lease may be entered into, the authority must find that the lease rental provided for is fair and reasonable.

(b) A lease of an airport project from the development authority to the authority:

- (1) must comply with IC 8-22-3.6;
- (2) may not require payment of lease rental for a newly constructed airport project or for improvements to an existing airport project except to the extent that the airport project or improvements to the project have been completed and are ready

for occupancy or use;

(3) may contain provisions:

(A) allowing the authority to continue to operate an existing airport project until completion of the improvements, reconstruction, or renovation; and

(B) requiring payment of lease rentals for an existing airport project being used, reconstructed, or renovated;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the authority to purchase the airport project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the airport project, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of an airport project;

(7) may provide that the authority shall agree to:

(A) pay all taxes and assessments on the project;

(B) maintain insurance on the project for the benefit of the development authority; and

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(8) may provide that the lease rental payments by the authority shall be made from any one (1) or more of the sources set forth in IC 8-22-3.6.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-13

Authority for leases between development authority and authority

Sec. 13. This chapter and IC 8-22-3.6 contain full and complete authority for leases between the development authority and the authority. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board, authority or the eligible entity or any other officer, department, agency, or instrumentality of the state or any political subdivision are required to enter into any lease, except as prescribed in this chapter and IC 8-22-3.6.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-14

Leases; authority approval of plans and specifications of project

Sec. 14. If the lease provides for an airport project or improvements to an airport project to be constructed by the development authority, the plans and specifications shall be submitted to and approved by the authority.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-15

Party walls; easements; licenses

Sec. 15. The development authority and the authority may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-16**Sales or leases of projects to development authority**

Sec. 16. (a) The authority may lease for a nominal lease rental or sell to the development authority one (1) or more airport projects or portions of airport projects or land upon which an airport project is located or is to be constructed.

(b) Any lease of all or a portion of an airport project by the authority to the development authority must be for a term equal to the term of the lease of that airport project back to the authority.

(c) The authority or the eligible entity may sell property to the development authority for the amount that the authority or the eligible entity determines to be in the best interest of the authority or the eligible entity, which amount may be paid from the proceeds of bonds of the development authority.

(d) The authority may sublease an airport project or portion of an airport project to any person or entity for a term not to exceed the term of the lease from the development authority, upon the terms and at the rental that the authority determines to be in the best interest of the authority.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-17**Bond issues**

Sec. 17. (a) The development authority may issue bonds for the purpose of obtaining money to pay the cost of:

- (1) acquiring property;
- (2) constructing, improving, reconstructing, or renovating one (1) or more airport projects; or
- (3) funding or refunding bonds issued under this chapter or IC 8-22-3.

(b) The bonds are payable solely from the lease rentals from the lease of the airport project for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the development board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within fifty (50) years.

(f) The development board shall sell the bonds at public or private sale upon terms determined by the development board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition

or construction, or both, of airport projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

- (1) planning and development of the airport project and all related buildings, facilities, structures, and improvements;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the airport projects suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction and for a period thereafter determined by the board, but in no event to exceed five (5) years;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums, if any, and interest on, the bonds being refunded or refinanced.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-18

Law governing issuance; bonds as legal investment

Sec. 18. (a) This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board of any other officer, department, agency, or instrumentality of the state or of any political subdivision are required to issue any bonds, except as prescribed in this chapter.

(b) Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associates, credit unions, banks of discount and deposit, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-19

Trust indentures securing bonds

Sec. 19. (a) The development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or

national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign lease rentals, receipts, and income from leased airport projects;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and the board;
- (3) set forth the rights and remedies of bondholders and trustee; and
- (4) restrict the individual right of action of bondholders.

However, the trust indenture may not mortgage airport projects.

(c) Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-20

Bonds issued upon exercise of option to purchase

Sec. 20. If the authority exercises its option to purchase leased property, it may issue its bonds authorized by statute.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-21

Exemptions from taxation

Sec. 21. (a) All:

- (1) property owned by the development authority;
- (2) revenues of the development authority; and
- (3) bonds issued by the development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana 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.

(b) All securities issued under this chapter are exempt from the registration requirements of IC 23-19 and other securities registration statutes.

As added by P.L.108-1993, SEC.11. Amended by P.L.254-1997(ss), SEC.18; P.L.27-2007, SEC.9.

IC 8-22-3.7-22

Actions to contest validity of bonds; conditions

Sec. 22. Any action to contest the validity of bonds to be issued under this chapter may not be brought after:

(1) fifteen (15) days following the receipt of bids for the bonds, if the bonds are sold at public sale; or

(2) the time limitations set forth in IC 5-1-14-13.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-23

Impairment of bondholder rights

Sec. 23. The general assembly covenants that it will not:

(1) repeal or amend this chapter, IC 8-22-3.5, or IC 8-22-3.6 in a manner that would adversely affect owners of outstanding bonds, or payment of any lease rentals, secured by the revenues pledged under this chapter, IC 8-22-3.5, or IC 8-22-3.6; or

(2) in any way impair the rights of owners of bonds of the development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter or IC 8-22-3.6.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-24

Financing powers as public purpose

Sec. 24. This provision of alternative financing power to eligible entities, development authorities, and authorities in order to finance airport projects is a public purpose.

As added by P.L.108-1993, SEC.11.

IC 8-22-3.7-25

Supplemental nature of chapter

Sec. 25. This chapter is supplemental to other statutes and does not supersede any other provisions of the Indiana Code.

As added by P.L.108-1993, SEC.11.