

## **IC 5-1-17.5**

### **Chapter 17.5. Motorsports Investment District**

#### **IC 5-1-17.5-1**

##### **Legislative findings**

Sec. 1. The general assembly finds the following:

(1) Marion County and certain surrounding counties and municipalities located in those counties face unique and distinct challenges and opportunities related to the economic development issues associated with the maintenance of a world-class motorsports facility in the town of Speedway.

(2) A unique approach is required to ensure that such a motorsports facility can be maintained to allow these counties and municipalities to meet these challenges and opportunities.

(3) The powers and responsibilities provided to the Indiana motorsports commission created by this chapter and the Indiana finance authority are appropriate and necessary to carry out the public purposes of encouraging and fostering economic development in central Indiana and maintaining a world-class motorsports facility in the town of Speedway.

(4) Encouragement of economic development in central Indiana will:

(A) generate significant economic activity, a substantial part of which results from persons residing outside Indiana, which may attract new businesses and encourage existing businesses to remain or expand in central Indiana;

(B) promote central Indiana to residents outside Indiana, which may attract residents outside Indiana and new businesses to relocate to central Indiana;

(C) protect and increase state and local tax revenues; and

(D) encourage overall economic growth in central Indiana and in Indiana.

(5) Marion County faces unique challenges in the development of infrastructure and other facilities necessary to promote economic development as a result of its need to rely on sources of revenue other than property taxes, due to the large number of tax-exempt properties located in Marion County, because Indianapolis is the seat of state government and Marion County government, and because Marion County is home to multiple institutions of higher education and the site of numerous state and regional nonprofit corporations.

(6) Economic development benefits the health and welfare of the people of Indiana, is a public use and purpose for which public money may be spent, and is of public utility and benefit.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-2**

##### **"Admissions fees"**

Sec. 2. As used in this chapter, "admissions fees" means the admissions fees under IC 6-8-14.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-3**

##### **"Affected statutes"**

Sec. 3. As used in this chapter, "affected statutes" has the meaning set forth in IC 4-4-10.9-1.2.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-4**

##### **"Authority"**

Sec. 4. As used in this chapter, "authority" refers to the Indiana finance authority.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-5**

##### **"Board"**

Sec. 5. As used in this chapter, "board" refers to the board of directors of the commission.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-6**

##### **"Bonds"**

Sec. 6. As used in this chapter, "bonds" has the meaning set forth in IC 4-4-10.9-2.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-7**

##### **"Budget agency"**

Sec. 7. As used in this chapter, "budget agency" means the budget agency established by IC 4-12-1-3.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-8**

##### **"Budget committee"**

Sec. 8. As used in this chapter, "budget committee" means the budget committee established by IC 4-12-1-3.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-9**

##### **"Commission"**

Sec. 9. As used in this chapter, "commission" refers to the Indiana motorsports commission created by this chapter.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-10**

##### **"Department"**

Sec. 10. As used in this chapter, "department" refers to the

department of state revenue.  
*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-11**

##### **"Motorsports investment district"**

Sec. 11. As used in this chapter, "motorsports investment district" means the geographic area established as a motorsports investment district under this chapter.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-12**

##### **"Person"**

Sec. 12. As used in this chapter, "person" has the meaning set forth in IC 36-1-2-12.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-13**

##### **"Political subdivision"**

Sec. 13. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-14**

##### **"Qualified motorsports facility"**

Sec. 14. (a) As used in this chapter, "qualified motorsports facility" means a facility that:

- (1) is located in Indiana;
- (2) is used for professional motorsports racing events;
- (3) has a motorsports racetrack that is greater than two (2) miles in length; and
- (4) holds at least two (2) professional motorsports racing events annually at which the combined admissions total at least two hundred thousand (200,000).

(b) For purposes of this section, a professional motorsports racing event includes a professional motorsports racing practice session that is open to the general public.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-15**

##### **Commission established; purpose**

Sec. 15. The Indiana motorsports commission is created in Indiana as a separate body corporate and politic, as an instrumentality of the state, to finance and lease real and personal property improvements for the benefit of an owner of a qualified motorsports facility within a motorsports investment district.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-16**

##### **Board of directors of the commission**

Sec. 16. (a) The board of directors of the commission is composed of the following five (5) directors, who serve at the pleasure of the governor and must be residents of Indiana:

(1) The budget director, or the budget director's designee, who shall serve as chair of the commission.

(2) Four (4) directors appointed by the governor. The president pro tempore of the senate and the speaker of the house of representatives may each make one (1) recommendation to the governor concerning the appointment of a director under this subdivision.

(b) The commission shall be governed by the board. The directors may not be elected public officials of the state or any political subdivision. Except for the budget director, the directors first appointed continue in office for terms expiring on July 1, 2014, July 1, 2015, July 1, 2016, and July 1, 2017, and until their respective successors are duly appointed and qualified.

(c) Except for the budget director, the term of any director first appointed must be designated by the governor. If a vacancy occurs on the board, the governor shall fill the vacancy by appointing a new director. The successor of each such director is appointed for a term of four (4) years, except that any person appointed to fill a vacancy is appointed to serve only for the unexpired term and until a successor is duly appointed and qualified. A director is eligible for reappointment.

(d) The directors shall hold an initial organizational meeting within thirty (30) days after the board's appointment and after public notice given by the budget director in accordance with IC 5-3-1-4. As soon as practicable after January 15 of each year, the board shall hold its annual organizational meeting. The board shall elect one (1) of the directors as vice chair and another director as 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. Special meetings may be called by the chair or any two (2) directors of the board.

(e) Three (3) directors constitute a quorum of the board, and the affirmative vote of at least three (3) directors is necessary for any official action taken by the board. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all the rights and perform all the duties of the board.

(f) Except for the budget director, the directors are entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with their duties as provided by law. Directors are not entitled to the salary per diem provided by IC 4-10-11-2.1(b) or any other compensation while performing their duties.

(g) All expenses incurred in carrying out the provisions of this chapter shall be payable solely from funds provided under this chapter or from the proceeds of bonds issued by the authority under this chapter, and no liability or obligation shall be incurred by the commission or the authority under this chapter beyond the extent to

which money shall have been provided under the authority of this chapter.

(h) The board:

- (1) is responsible for implementing the powers and duties of the commission under this chapter;
- (2) may adopt bylaws for the regulation of the affairs of the board, the conduct of the business of the commission, and the safeguarding of the funds and property entrusted to the commission; and
- (3) shall, without complying with IC 4-22-2, adopt the code of ethics specified in executive order 05-12 for its members and employees.

*As added by P.L.233-2013, SEC.5. Amended by P.L.2-2014, SEC.9.*

### **IC 5-1-17.5-17**

#### **Powers of the commission**

Sec. 17. The commission is authorized and empowered to do the following:

- (1) To sue and be sued, and to plead and be impleaded in the name of the commission.
- (2) To receive and accept from any federal agency grants and to receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.
- (3) To hold, use, administer, and expend such sum or sums as may at any time be appropriated or transferred to the commission.
- (4) To purchase, acquire, or hold debt securities or other investments for the commission's own account at prices and in a manner the commission considers advisable, and to sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the commission considers advisable.
- (5) To lease real or personal property as lessor or lessee from or to the authority or any person under this chapter.
- (6) To do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

*As added by P.L.233-2013, SEC.5.*

### **IC 5-1-17.5-18**

#### **Staff support and expenses; employees**

Sec. 18. The authority shall provide staff support for the commission and pay all expenses of the commission from funds transferred to the commission from the motorsports investment district fund established under section 30 of this chapter. In providing such staff, the authority may employ, without the approval of the attorney general or any other state officer, any accounting and technical experts, attorneys, and other officers, employees, and

agents, permanent or temporary, as may be necessary in the authority's judgment to carry out the efficient operation of the commission, including professionals who can prepare a report on the matters to be considered in making the findings of the commission set forth in section 24 of this chapter, and the commission may fix their compensation and title. Employees of the authority employed under this section shall not be considered employees of the state.

*As added by P.L.233-2013, SEC.5. Amended by P.L.2-2014, SEC.10.*

#### **IC 5-1-17.5-19**

##### **Surety bonds of directors**

Sec. 19. (a) Except as provided in subsection (b), each director of the board shall execute a surety bond in the penal sum of fifty thousand dollars (\$50,000). To the extent an individual described in this section is already covered by a bond required by state law, the individual is not required to obtain another bond, so long as the bond required by state law is in at least the penal sum specified in this section and covers the individual's activities for the commission.

(b) Instead of a bond, the chair may execute a blanket surety bond covering each director.

(c) Each surety bond must be conditioned upon the faithful performance of the individual's duties and shall be issued by a surety company authorized to transact business in this state as surety. At all times after the issuance of any surety bonds, each individual described in this section shall maintain the surety bonds in full force and effect. All costs of the surety bonds shall be borne by the commission.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-20**

##### **Personal liability of directors**

Sec. 20. The directors of the board are not subject to personal liability or accountability by reason of any act authorized by this chapter with respect to the:

- (1) issuance of any obligations;
- (2) execution of any lease or sublease; or
- (3) execution of any other agreement under this chapter.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-21**

##### **Annual audit**

Sec. 21. The commission shall cause an audit or review of its books and accounts to be made at least once each year by certified public accountants.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-22**

##### **Annual report**

Sec. 22. The commission shall, following the close of each fiscal

year of the commission, submit an annual report of its activities for the preceding year to the governor, the budget committee, and the legislative council. An annual report submitted under this section to the legislative council must be in an electronic format under IC 5-14-6. Each report must set forth a complete operating and financial statement for the commission during the fiscal year the report covers.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-23**

##### **Director's interest in contracts or in sale or lease of property prohibited**

Sec. 23. (a) A director of the commission who knowingly has an interest:

- (1) in any contract with the commission; or
- (2) in the sale or lease of any real or personal property to the commission;

commits a Class A misdemeanor. All such contracts or leases are void.

(b) This section does not apply to contracts for purchases of property, real or personal, between the commission and:

- (1) the authority;
- (2) any political subdivision; or
- (3) any department or agency of the state.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-24**

##### **Resolution by commission establishing a district; public hearing; required findings by commission; territory of district**

Sec. 24. (a) The commission may, after a public hearing, adopt a resolution establishing a motorsports investment district. Notice of the public hearing must be provided in accordance with IC 5-3-1.

(b) In establishing the motorsports investment district, the commission must make the following findings:

- (1) There are improvements that will be undertaken in the motorsports investment district that will have a positive effect on the activities of a qualified motorsports facility.
- (2) The improvements that will be undertaken in the motorsports investment district will benefit the public health and welfare and will be of public utility and benefit.
- (3) The improvements that will be undertaken in the motorsports investment district will protect or increase state and local tax bases and tax revenues.

(c) A motorsports investment district consists of:

- (1) the geographic area that is included within the qualified motorsports facility;
- (2) adjacent property that is:
  - (A) related to the operation of the qualified motorsports facility; and

(B) owned by the owner of the qualified motorsports facility or a subsidiary or affiliate of the qualified motorsports facility;

(3) property on which activities related to the qualified motorsports facility occur; and

(4) other public property specified by the commission; as determined in the resolution adopted by the commission.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-25**

##### **Allocation of amounts appropriated to the commission; expiration date of district**

Sec. 25. A resolution establishing a motorsports investment district must provide for the allocation to the motorsports investment district fund established under section 30 of this chapter of the money appropriated to the commission. The resolution must state an expiration date for the motorsports investment district, which must be the later of:

- (1) the date that is thirty (30) years after the date of the adoption of the resolution; or
- (2) the date on which the owner or owners of a qualified motorsports facility no longer have a financial liability to the commission.

Subject to section 24(c) of this chapter, the commission shall specify in the resolution the geographic area that is included within the motorsports investment district.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-26**

##### **Filing of informational tax returns by certain taxpayers; guidelines**

Sec. 26. (a) A taxpayer operating in the motorsports investment district that files a consolidated return with the department also shall file annually an informational return with the department for each business location of the taxpayer within the motorsports investment district.

(b) If the department is unable to determine the extent to which taxes remitted by a taxpayer are gross retail incremental amounts or income tax incremental amounts for purposes of IC 4-10-23, the department shall use the best information available in calculating those incremental amounts.

(c) The department shall adopt guidelines to govern its responsibilities under this chapter.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-27**

##### **Submission to the budget agency of resolution establishing district**

Sec. 27. Upon adoption by the commission of a resolution establishing a motorsports investment district under this chapter, the commission shall submit the resolution to the budget agency.



*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-28**

##### **Budget committee review; approval by budget agency; required findings before resolution may be approved**

Sec. 28. The budget agency, after review by the budget committee, shall approve the resolution establishing the motorsports investment district if the budget agency finds that the improvements to be made within the qualified motorsports facility are economically sound and will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the motorsports investment district.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-29**

##### **Information to be provided to department of state revenue**

Sec. 29. (a) If the commission adopts a resolution establishing a motorsports investment district, the commission shall notify the department in an electronic format approved by the department of the adoption of the resolution and shall include with the notification a complete list of the following:

- (1) Employers and vendors with a responsibility to remit taxes in the motorsports investment district.
- (2) Street names and the range of street numbers of each street in the motorsports investment district.

(b) The commission shall update the list prepared under subsection (a) before July 1 of each year.

(c) At the request of the department, the commission, the owner or owners of a motorsports facility located in the district, and any political subdivision in which all or a part of the district is located shall disclose to the department the names of the employers described in subsection (a) and such other information that may assist in the determination of the gross retail incremental amounts or income tax incremental amounts for purposes of IC 4-10-23.

(d) At the request of the department, a political subdivision in which the qualified motorsports facility is located shall provide to the department information requested by the department concerning permits issued by the political subdivision to vendors operating within the motorsports investment district.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-30**

##### **Motorsports investment district fund; request for appropriations; use of money in the fund**

Sec. 30. (a) If a motorsports investment district is established under this chapter, the commission, or the authority for and on behalf of the commission, shall establish a motorsports investment district fund for the motorsports investment district. The fund shall be administered by the commission. Except as provided in subsection

(f), money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) The commission shall deposit amounts appropriated to the commission in the motorsports investment district fund as provided in this chapter.

(c) The commission shall request that the general assembly make an appropriation not to exceed five million dollars (\$5,000,000) to the commission for deposit in the motorsports investment district fund in each state fiscal year following the creation of the motor sports investment district fund, until the earlier of:

- (1) the date that is twenty-two (22) years after the date on which appropriations are first deposited in the motorsports investment district fund; or
- (2) the date on which all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding.

The commission may use money in the motorsports investment district fund for the purposes of this chapter.

(d) Amounts held in the motorsports investment district fund may be distributed to a trustee of any bonds that are issued or to be issued by the authority under section 37 of this chapter and that are secured by rent to be paid by the commission under a lease entered into with the authority under section 32 of this chapter.

(e) In addition, to the extent the rent due in a state fiscal year under leases of structures or other capital improvements that are within a motorsports investment district is anticipated to be insufficient to pay debt service on bonds issued under section 37 of this chapter, when due in that state fiscal year, the authority shall make the request under subsection (c) upon reaching the determination.

(f) Money in the motorsports investment district fund may be used by the commission, the authority, or a trustee for the following:

- (1) Payment of the rent due under leases of structures or other capital improvements that are located within a motorsports investment district.
- (2) Payment of all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter, including those incurred in connection with the establishment of the motorsports investment district.
- (3) Payment of debt service on bonds issued under section 37 of this chapter, but only to the extent of any deposit made to the motorsports investment district fund from appropriations requested under subsection (e) or section 30.5(d) of this chapter.

(g) On the date that all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding and all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter have been paid, all money then remaining on deposit in the motorsports investment district fund reverts to the state general fund.

*As added by P.L.233-2013, SEC.5. Amended by P.L.213-2015, SEC.55.*

#### **IC 5-1-17.5-30.5**

##### **Establishment of motorsports facility fund; deposits; reversions; requests for appropriations**

Sec. 30.5. (a) If a motorsports investment district is established under this chapter, the commission shall establish a motorsports facility fund for the motorsports investment district.

(b) During the term of the written agreement entered into by:

- (1) the owner or owners of the qualified motorsports facility;
- (2) the authority; and
- (3) the commission;

the commission shall, in each state fiscal year, deposit in the motorsports facility fund two million dollars (\$2,000,000) solely from payments established under section 37(f)(1) of this chapter.

(c) Subject to subsection (e), the commission, or the authority for and on behalf of the commission, shall request that the general assembly make an appropriation to the commission in each state fiscal year in which the written agreement described in subsection (b) is in effect. The amount of the requested appropriation must be equal to the amount that the commission is required to deposit into the motorsports facility fund under subsection (b) for that state fiscal year. An appropriation made to the commission under this subsection:

- (1) must be deposited in the motorsports investment district fund established under section 30 of this chapter; and
- (2) is in addition to an amount appropriated under section 30 of this chapter.

(d) In addition, to the extent the rent due in a state fiscal year under leases of structures or other capital improvements that are within a motorsports investment district, plus the appropriation requested under section 30(e) of this chapter, are anticipated to be insufficient to pay debt service on bonds issued under section 37 of this chapter, when due in that state fiscal year, the authority shall make the request under subsection (c) upon reaching the determination.

(e) The commission may not request an appropriation under subsection (c) after the earlier of:

- (1) the date specified in section 30(c)(1) of this chapter; or
- (2) the date specified in section 30(c)(2) of this chapter.

(f) Money in the motorsports facility fund reverts to the state general fund on June 30 of each year.

*As added by P.L.190-2014, SEC.8. Amended by P.L.213-2015, SEC.56.*

#### **IC 5-1-17.5-31**

##### **Powers of Indiana finance authority**

Sec. 31. The authority may do any of the following:

- (1) Finance the improvement, construction, reconstruction, renovation, and acquisition of real and personal property improvements within a qualified motorsports facility.
- (2) Exercise the authority's powers under IC 4-4-11 within a qualified motorsports facility.

*As added by P.L.233-2013, SEC.5.*

### **IC 5-1-17.5-32**

#### **Lease of structures and improvements; requirements**

Sec. 32. (a) The commission may lease all or any part of structures and capital improvements located within a qualified motorsports facility from the authority, and the authority may lease all or any part of structures and capital improvements located within a qualified motorsports facility to the commission. Any property subject to such a lease is not exempt from taxation under the laws of the state solely by reason of it being subject to such a lease. In a lease from the authority to the commission, the commission may pledge:

- (1) amounts appropriated to the commission and deposited in the motorsports investment district fund;
- (2) any other rental payments, receipts, and income from the leased structures and capital improvements; or
- (3) any other money legally available to the commission for the payment of rent under such a lease.

(b) The amount of any such rent may include the amount necessary to pay the principal of, redemption premium, and interest on any bonds issued by the authority under section 37 of this chapter, when due, the amount of any necessary reserves, and the amount of any expenses incurred by the authority or the commission in connection with the exercise of its duties and obligations set forth in this chapter.

(c) A lease from the authority to the commission under subsection (a):

- (1) must set forth the terms and conditions of the use and occupancy, if applicable, under the lease;
- (2) must set forth the amounts agreed to be paid at stated intervals for the use and occupancy, if applicable, under the lease;
- (3) must provide that the commission is not obligated to continue to pay for the use and occupancy, if applicable, under the lease, but is instead required to vacate the equipment, structures, and capital improvements subject to the lease, if it is shown that the terms and conditions of such use and occupancy and the amount to be paid for such use and occupancy are unjust and unreasonable considering the value of the services, equipment, structures, and capital improvements thereby afforded;
- (4) must provide that the commission is required to vacate such equipment, structures, and capital improvements if funds are not available to pay any sum agreed to be paid for such use and

occupancy when due; and

(5) may contain any other provisions agreed upon by the authority and the commission.

(d) If the commission enters into such a lease with the authority, it may sublease the structures and capital improvements subject to the lease to the owner or owners of the qualified motorsports facility.

(e) The commission may, in anticipation of the acquisition, construction, reconstruction, renovation, or equipping of any such structures or capital improvements, including any equipment or necessary appurtenances, enter into a lease with the authority before any such construction, reconstruction, renovation, or equipping. Such a lease must require the payment of lease rental by the commission to begin when the equipment, structures, or improvements have been acquired or completed and are ready for use and occupancy, if applicable, but not before that time.

(f) If necessary to enter into a lease under subsection (a):

(1) the commission may lease structures and capital improvements located within a motorsports investment district from the owner or owners of the qualified motorsports facility and sublease all or any part of such structures and capital improvements to the authority for a nominal rent; and

(2) the authority may lease all or any part of such structures and capital improvements from the commission for a nominal rent.

*As added by P.L.233-2013, SEC.5.*

### **IC 5-1-17.5-33**

#### **Option to renew lease**

Sec. 33. A lease from the authority to the commission under section 32 of this chapter may provide the commission with an option to renew the lease for the same term or a shorter term, on the conditions provided in the lease.

*As added by P.L.233-2013, SEC.5.*

### **IC 5-1-17.5-34**

#### **Option to purchase leased property; conveyance of property; requirements**

Sec. 34. (a) A lease from the authority to the commission under section 32 of this chapter shall give the commission an option to purchase the leased property before the expiration of the term of the lease:

(1) on the date or dates in each year that are fixed by the lease; and

(2) at a price to be computed by a method set forth in the lease.

However, such a lease may not provide, or be construed to provide, that the commission is under an obligation to purchase the leased structures or improvements or is under an obligation respecting any creditors or bondholders of the authority.

(b) If the commission does not exercise the option to purchase the property, then upon the expiration of the lease and upon full

performance by the commission, the property becomes the absolute property of the commission or the authority's leasehold interest in such property terminates, as applicable. The authority shall take the steps necessary to convey title or such leasehold interest to the commission.

(c) If the commission purchases the leased property as provided in subsection (a) or in the event described in subsection (b), the commission may convey, with or without consideration, its ownership or leasehold interest, as applicable, in such property to the owner or owners of the qualified motorsports facility. However, the commission shall not convey its ownership or leasehold interest in any such property to the owner or owners of the qualified motorsports facility until:

- (1) the date on which the aggregate amount of credits provided to the owner or owners of the qualified motorsports facility under IC 4-10-23 equals or exceeds the aggregate of the amount of money appropriated to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent; and
- (2) all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-35**

##### **Authorization and execution of leases by commission board of directors**

Sec. 35. Each lease under section 32 of this chapter must be authorized by resolution of the board, which shall be entered in the official records of the commission. Such a lease must be executed on behalf of the commission by the chair or the vice-chair and the secretary-treasurer of the commission, and on behalf of the authority by the chairman or the vice chairman of the authority and the public finance director.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-36**

##### **Commission approval of financed improvements; liens and security interests; transfer of controlling ownership interest in qualified motorsports facility; credits against obligations of owners**

Sec. 36. (a) Improvements financed under this chapter must be approved by the commission. The commission shall secure the obligations of the owner or owners of the qualified motorsports facility to the commission under a lease or sublease under this chapter with liens or security interests, which may include:

- (1) perfected security interests in personal property;
- (2) a mortgage lien on the real property; or

(3) such other security determined to be appropriate by the commission and the authority.

(b) On the date that the aggregate amount of credits provided to the owner or owners of the qualified motorsports facility under IC 4-10-23 equals or exceeds the aggregate of the amount of the appropriations made to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent, and all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding, the commission shall take the legal steps required to terminate each of its security interests in and mortgage liens on the improvements described in subsection (a).

(c) If a controlling ownership interest in a qualified motorsports facility is sold after the authority issues bonds under this chapter, the commission shall determine whether there exists good cause not to allow the purchaser to assume the motorsports facility's obligations under this chapter. If the commission determines that no such good cause exists, the commission shall be deemed to have accepted the purchaser's assumption of the motorsports facility's obligations under this chapter, and the purchaser shall be deemed to have assumed and become obligated to fully perform those obligations. If the commission determines that there exists good cause not to approve the purchaser's assumption of the motorsports facility's obligations under this chapter, the commission shall be deemed to have disapproved such assumption and the commission may require that the owner or owners of the qualified motorsports facility shall pay or cause to be paid to the commission an amount to be deposited in the motorsports investment district fund sufficient to pay the cost of defeasing all outstanding bonds issued by the authority under section 37 of this chapter and paying all expenses of the commission and the authority incurred in connection with such defeasance. For purposes of this section, the following shall not be deemed to be the sale of a controlling ownership interest:

(1) Transfers among the qualified motorsports facility and its subsidiaries and affiliates existing at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the financing of the improvements under this chapter.

(2) Transfers among the qualified motorsports facility's existing equity owners (as determined at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the financing of the improvements under this chapter).

(3) Transfers between the qualified motorsports facility's existing equity owners (as determined at the time the owner or owners of the qualified motorsports facility enter into the written agreement under this chapter concerning the terms of the

financing of the improvements under this chapter) and trusts, family limited partnerships, and other entities for estate planning purposes.

(d) Money deposited in the motorsports investment district fund may be used to pay the cost of defeasing all outstanding bonds issued by the authority under section 37 of this chapter and paying all other expenses of the commission and the authority incurred in connection with such defeasance.

(e) If, after the date payments are received by the commission from the owner or owners of the qualified motorsports facility under subsection (c), all bonds issued by the authority under section 37 of this chapter are no longer deemed outstanding, and all expenses incurred by the commission or the authority in connection with the exercise of its duties and obligations set forth in this chapter have been paid, all money then remaining in the motorsports investment district fund reverts to the state general fund.

*As added by P.L.233-2013, SEC.5.*

### **IC 5-1-17.5-37**

#### **Issuance of bonds; terms and conditions; use of bond proceeds**

Sec. 37. (a) Subject to subsection (f), the authority may issue bonds for the purpose of obtaining money to pay the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping improvements within a qualified motorsports facility.

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

(c) The bonds must mature within twenty (20) years.

(d) The authority shall sell the bonds at public or private sale upon the terms determined by the authority.

(e) All money received from any bonds issued under this chapter shall be applied to the payment of the cost of improving, constructing, reconstructing, renovating, acquiring, or equipping improvements within a qualified motorsports facility, or payment of the cost of refunding or refinancing outstanding bonds for which the bonds are issued. The cost may include:

- (1) planning and development of the improvement and all buildings, facilities, structures, and improvements related to the improvement;
- (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 capital improvement suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney's fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;



- (9) insurance during construction;
  - (10) 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) for, and interest on the bonds being refunded or refinanced.
- (f) The authority may not issue bonds under this chapter unless:
- (1) the owner or owners of the qualified motorsports facility, the authority, and the commission have entered into a written agreement concerning the terms of the financing of the improvements financed under this chapter, including the obligation of the owner or owners of the qualified motorsports facility to make payments in an amount equal to at least two million dollars (\$2,000,000) in each state fiscal year to the commission for deposit in the motorsports facility fund during the term of the agreement;
  - (2) in connection with the issuance of such bonds, the authority has leased the equipment, structures, and capital improvements being financed with the proceeds of the bonds to the commission under a lease under section 32 of this chapter, and the commission has entered into a sublease of such equipment, structures, and capital improvements with the owner or owners of the qualified motorsports facility. Such a sublease must include the terms described in sections 34(c) and 36(c) of this chapter; and
  - (3) as part of the written agreement concerning the terms of the financing of the improvements, the ultimate parent company of the qualified motorsports facility:
    - (A) guarantees the full and timely performance of all of the duties, responsibilities, and obligations of the qualified motorsports facility and the owner or owners of the qualified motorsports facility; and
    - (B) guarantees that if:
      - (i) the aggregate amount credited to the owner or owners of the qualified motorsports facility under IC 4-10-23-12 from income tax incremental amounts, gross retail incremental amounts, and admissions fees deposited in the state general fund under IC 6-8-14 during the thirty (30) years after the date of the adoption of the resolution establishing the motorsports improvement district; plus
      - (ii) the amounts deposited in the motorsports facility fund established under section 30.5 of this chapter;
- is less than the aggregate of the amount of money appropriated to the commission and used to pay rent by the commission to the authority under any lease entered into between the authority and the commission under this chapter and any expenses that are incurred by the authority or the commission under this chapter and are not paid out of such rent, then the ultimate parent company will pay the difference to the commission.

(g) Each bond issued under this chapter must contain on its face a statement that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on the bond.

(h) In connection with the issuance of each series of bonds under this section, the authority (or its successor agency) and the public finance director shall be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

*As added by P.L.233-2013, SEC.5. Amended by P.L.190-2014, SEC.9.*

#### **IC 5-1-17.5-38**

##### **Authority for certain actions by the commission and the Indiana finance authority; bonds as legal investments**

Sec. 38. (a) This chapter contains full and complete authority for the issuance of bonds, the improvement, construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of structures and capital improvements located within a motorsports investment district by the commission and the authority, and the leasing of such structures and capital improvements by the commission or the authority. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the commission, the authority, or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds under this chapter, to improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip structures and capital improvements located within a motorsports investment district, or to enter into any lease, 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 associations, credit unions, banks of discount and deposit, savings 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.233-2013, SEC.5.*

#### **IC 5-1-17.5-39**

##### **Securing of bonds; trust indenture; validity of pledge or assignment**

Sec. 39. (a) The authority may secure bonds issued under this chapter by a trust indenture between the 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 money appropriated to the commission and to be paid as rent by the commission to the authority, but may not mortgage land or capital improvements;
- (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;

(3) set forth the rights and remedies of bondholders and the trustee; and

(4) restrict the individual right of action of bondholders.

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

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-40**

##### **Action to contest validity of bonds**

Sec. 40. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

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

(2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-41**

##### **Equal opportunities in procurement and contracting**

Sec. 41. Improvements financed under this chapter are subject to the provisions of 25 IAC 5 concerning equal opportunities for minority business enterprises and women's business enterprises to participate in procurement and contracting processes. The goal for participation by minority business enterprises shall be fifteen percent (15%), the goal for participation by women's business enterprises shall be eight percent (8%), and the goal for participation by veteran or disabled business enterprises shall be three percent (3%), consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goals, historical precedents in the same market shall be taken into account.

*As added by P.L.233-2013, SEC.5.*

#### **IC 5-1-17.5-42**

##### **Income tax withholding; department of state revenue guidelines**

Sec. 42. The department shall develop guidelines and instructions concerning the appropriate amount of adjusted gross income tax to be withheld from purse money and prizes won for racing in the motorsports investment district.

*As added by P.L.233-2013, SEC.5.*

**IC 5-1-17.5-43**

**Office of management and budget review**

Sec. 43. The office of management and budget shall in 2023 do the following:

- (1) Conduct a review of:
  - (A) the structures and improvement that have been financed and constructed under this chapter;
  - (B) the amount of:
    - (i) the gross retail incremental amounts and income tax incremental amounts remitted for purposes of IC 4-10-23; and
    - (ii) the motorsports admissions fees that have been remitted under IC 6-8-14;
  - (C) the amount and terms of outstanding debt issued by the authority under this chapter; and
  - (D) the status, economic impact, and viability of the qualified motorsports facility.
- (2) Before November 1, 2023, submit a copy of the review conducted under subdivision (1) to the budget committee and to the legislative council in an electronic format under IC 5-14-6.

*As added by P.L.233-2013, SEC.5.*