IC 20-47
ARTICLE 47. RELATED ENTITIES; HOLDING COMPANIES; LEASE AGREEMENTS

IC 20-47-1
Chapter 1. Public Foundations

IC 20-47-1-1
"Proceeds from riverboat gaming"
Sec. 1. As used in this chapter, "proceeds from riverboat gaming" means tax revenue received by a political subdivision under IC 4-33-12-6, IC 4-33-13, or an agreement to share a city's or county's part of the tax revenue.
As added by P.L.2-2006, SEC.170.

IC 20-47-1-2
"Public school endowment corporation"
Sec. 2. As used in this chapter, "public school endowment corporation" means a corporation that is:
(1) organized under the Indiana Nonprofit Corporation Act of 1991 (IC 23-17);
(2) organized exclusively for educational, charitable, and scientific purposes; and
(3) formed to provide educational resources to:
   (A) a particular school corporation or school corporations; or
   (B) the schools in a particular geographic area.
As added by P.L.2-2006, SEC.170.

IC 20-47-1-2.5
"Qualified foundation"
Sec. 2.5. As used in this chapter, "qualified foundation" means:
(1) a nonprofit charitable community foundation; or
(2) a public school endowment corporation.
As added by P.L.11-2008, SEC.1.

IC 20-47-1-3
Political subdivisions; donations of gaming revenues to public school endowment corporations
Sec. 3. (a) As used in this section, "gaming revenue" has the meaning set forth in IC 36-1-14-1(b).
(b) A political subdivision may donate gaming revenue to a public school endowment corporation under the following conditions:
(1) The public school endowment corporation retains all rights to the donation, including investment powers.
(2) The public school endowment corporation agrees to return the donation to the political subdivision if the corporation:
   (A) loses the corporation's status as a public charitable organization;
   (B) is liquidated; or
(C) violates any condition of the endowment set by the fiscal body of the political subdivision.


IC 20-47-1-4
Public school endowment corporation; distributions from principal and income

Sec. 4. A public school endowment corporation may distribute both principal and income.

As added by P.L.2-2006, SEC.170.

IC 20-47-1-5
School corporations; powers; donations to foundation

Sec. 5. (a) The governing body of a school corporation may donate the proceeds of a grant, a gift, a donation, an endowment, a bequest, a trust, an agreement to share tax revenue received by a city or county under IC 4-33-12-6 or IC 4-33-13, or an agreement to share revenue received by a political subdivision under IC 4-35-8.5, or other funds not generated from taxes levied by the school corporation, to a foundation under the following conditions:

1) The foundation is a charitable nonprofit community foundation.
2) The foundation retains all rights to the donation, including investment powers, except as provided in subdivision (3).
3) The foundation agrees to do the following:
   A) Hold the donation as a permanent endowment.
   B) Distribute the income from the donation only to the school corporation as directed by resolution of the governing body of the school corporation.
   C) Return the donation to the general fund of the school corporation if the foundation:
      i) loses the foundation's status as a public charitable organization;
      ii) is liquidated; or
      iii) violates any condition of the endowment set by the governing body of the school corporation.

(b) A school corporation may use income received under this section from a community foundation only for purposes of the school corporation.


IC 20-47-1-6
Expired

(Expired 6-30-2012 by P.L.11-2008, SEC.2.)
IC 20-47-2  
**Chapter 2. Public Holding Companies**

**IC 20-47-2-1 Application**

Sec. 1. This chapter does not apply to a:

1. school corporation;
2. joint school corporation; or
3. consolidated school corporation;
the schools of which do not have a total enrollment of at least two hundred fifty (250) pupils.

*As added by P.L.2-2006, SEC.170.*

**IC 20-47-2-2 "Capital actually invested"**

Sec. 2. As used in this chapter, "capital actually invested" includes the following amounts expended by a lessor corporation:

1. Organization and incorporation expenses.
2. Financing costs.
3. Carrying charges.
4. Legal fees.
5. Architects' fees.
6. Contractors' fees.
7. Reasonable costs and expenses incidental thereto.

*As added by P.L.2-2006, SEC.170.*

**IC 20-47-2-3 "Lessor corporation"**

Sec. 3. As used in this chapter, "lessor corporation" means a corporation described in section 6 of this chapter.

*As added by P.L.2-2006, SEC.170.*

**IC 20-47-2-4 "School building"**

Sec. 4. As used in this chapter, "school building" means a building used as a part of or in connection with the operation of a school and includes the:

1. site for the building;
2. equipment for the building; and
3. appurtenances to the building, such as heating facilities, water supply, sewage disposal, landscaping, walks, drives, and playgrounds.

However, the term does not include a building that is designed for and to be used exclusively for interschool athletic contests.

*As added by P.L.2-2006, SEC.170.*

**IC 20-47-2-5 Powers; lease of school building**

Sec. 5. (a) Subject to subsection (b), a school corporation may lease a school building or buildings for the use of:
(1) the school corporation; or
(2) a joint or consolidated school district of which the school corporation is a part or to which it contributes;
for a term not to exceed thirty (30) years.

(b) A school corporation may not enter into a lease under this section unless:
(1) a petition for the lease signed by at least fifty (50) patrons of the school corporation has been filed with the governing body of the school corporation; and
(2) the governing body, after investigation, determines that a need exists for the school building and that the school corporation cannot provide the necessary funds to pay the cost or its proportionate share of the cost of the school building or buildings required to meet the present needs.

(c) If two (2) or more school corporations propose to jointly enter into a lease under this section, joint meetings of the governing bodies of the school corporations may be held, but action taken at a joint meeting is not binding on any of those school corporations unless approved by a majority of the governing body of those school corporations. A lease executed by two (2) or more school corporations as joint lessees must:
(1) set out the amount of the total lease rental to be paid by each lessee, which may be as agreed upon; and
(2) provide that:
   (A) there is no right of occupancy by any lessee unless the total rental is paid as stipulated in the lease; and
   (B) all rights of joint lessees under the lease are in proportion to the amount of lease rental paid by each lessee.

As added by P.L.2-2006, SEC.170.

IC 20-47-2-6
Qualifications of lessor corporation; permissible interest; return of capital; recovery of expenses
Sec. 6. (a) A school corporation or corporations may enter into a lease under this chapter only with a corporation organized under Indiana law solely for the purpose of acquiring a site, erecting a suitable school building or buildings on that site, leasing the building or buildings to the school corporation or corporations, collecting the rentals under the lease, and applying the proceeds of the lease in the manner provided in this chapter.

(b) A lessor corporation described in subsection (a):
(1) must, except as provided in subdivision (2), act entirely without profit to the lessor corporation or its officers, directors, and stockholders;
(2) is entitled to the return of capital actually invested, plus interest or dividends on outstanding securities or loans, not to exceed five percent (5%) per annum and the cost of maintaining the lessor corporation's corporate existence and keeping its property free of encumbrance; and
(3) upon receipt of any amount of lease rentals exceeding the
amount described in subdivision (2), apply the excess funds to the redemption and cancellation of the lessor corporation's outstanding securities or loans as soon as may be done.

As added by P.L.2-2006, SEC.170.

IC 20-47-2-7
Required terms of lease agreement
Sec. 7. (a) A lease entered into under this chapter must include the following provisions:

(1) An option for the school corporation or corporations to renew the lease for a further term on similar conditions.
(2) An option for the school corporation or corporations to purchase the property covered by the lease after six (6) years from the execution of the lease and before the expiration of the term of the lease, on the date or dates in each year as may be fixed in the lease. The purchase price:

(A) must be equal to the amount required to enable the lessor corporation owning the property to liquidate by paying all indebtedness, with accrued and unpaid interest, redeeming and retiring any stock at par, and paying the expenses and charges of liquidation; and
(B) may not exceed the capital actually invested in the property by the lessor corporation represented by outstanding securities or existing indebtedness, plus the cost of transferring the property and liquidating the lessor corporation.

(b) A lease entered into under this chapter may not provide or be construed to provide that a school corporation is under any obligation to purchase a leased school building or buildings, or under any obligation in respect to any creditors, shareholders, or other security holders of the lessor corporation.

As added by P.L.2-2006, SEC.170.

IC 20-47-2-8
Lessor corporation; submission of preliminary plans
Sec. 8. (a) A lessor corporation proposing to build a school building or buildings must submit preliminary plans, specifications, and estimates for the building or buildings to the lessee or lessees before the execution of the lease. Final plans and specifications must be submitted to the state department of health, state fire marshal, and other agencies designated by law to pass on plans and specifications for school buildings. The final plans and specifications described in this subsection must be approved by the approving agencies in writing and by the lessee or lessees before the construction of the school building or school buildings.

(b) IC 4-21.5 does not apply to the formulation, issuance, or administrative review of an approval by an agency under subsection (a). However, IC 4-21.5 does apply to the judicial review and civil enforcement of an approval by an agency under subsection (a).

As added by P.L.2-2006, SEC.170.
IC 20-47-2-9
Permissible provisions of lease; payment of taxes; insurance
Sec. 9. A lease entered into under this chapter may provide that as part of the lease rental for the school building or buildings the lessee or lessees shall:
(1) pay all taxes and assessments levied against or on account of the leased property;
(2) maintain insurance on the leased property for the benefit of the lessor corporation; and
(3) assume all responsibilities for repair and alterations of the leased property during the term of the lease.
As added by P.L.2-2006, SEC.170.

IC 20-47-2-10
Lease preceding acquisition of land
Sec. 10. A school corporation or corporations may, in anticipation of the acquisition of a site and the construction and erection of a school building or buildings, enter into a lease with a lessor corporation before the actual acquisition of the site and the construction and erection of the building or buildings. However, a lease entered into under this section may not provide for the payment of any lease rental by the lessee or lessees until the building or buildings are ready for occupancy, at which time the stipulated lease rental may begin. The contractor must furnish to the lessor corporation a bond satisfactory to the lessor corporation conditioned upon the final completion of the building or buildings within the period specified in the contract.
As added by P.L.2-2006, SEC.170.

IC 20-47-2-11
Required public hearing; notice of lease terms
Sec. 11. (a) After the lessor corporation and the school corporation or corporations have agreed upon the terms and conditions of a lease proposed to be entered into under this chapter, and before the final execution of the lease, a notice shall be given by publication to all persons interested of a hearing or joint hearing to be held before the governing body or governing bodies of the school corporation or corporations authorized to approve the lease. The hearing must be not earlier than:
(1) ten (10) days after publication of the notice, if new construction is proposed; or
(2) thirty (30) days after publication of the notice, if improvement or expansion is proposed.
(b) The notice required by subsection (a) must:
(1) be published one (1) time in:
   (A) a newspaper of general circulation printed in the English language in the school corporation;
   (B) a newspaper described in clause (A) in each school corporation if the proposed lease is a joint lease; or
   (C) if no such paper is published in the school corporation,
in any newspaper of general circulation published in the county;
(2) name the date, time, and place of the hearing; and
(3) set forth a brief summary of the principal terms of the lease agreed upon, including the:
   (A) location of the property to be leased;
   (B) name of the proposed lessor corporation;
   (C) character of the property to be leased;
   (D) rental to be paid; and
   (E) number of years the lease is to be in effect.
The cost of publishing the notice shall be borne by the lessor corporation.

(c) The proposed lease, drawings, plans, specifications, and estimates for the school building or buildings must be available for inspection by the public during the ten (10) day or thirty (30) day period described in subsection (a) and at the hearing under section 12 of this chapter.

As added by P.L.2-2006, SEC.170.

IC 20-47-2-12
Conduct of public hearing; lease authorization procedures
Sec. 12. (a) At the hearing, all interested persons have a right to be heard upon the necessity for the execution of the proposed lease and whether the rental to be paid to the lessor corporation under the proposed lease is a fair and reasonable rental for the proposed building. The hearing may be adjourned to a later date or dates.

(b) Within thirty (30) days following the termination of the hearing, the governing body or bodies of the school corporation or corporations may by a majority vote of all members of the governing body or bodies:
   (1) authorize the execution of the proposed lease as originally agreed upon; or
   (2) make modifications to the proposed lease that are agreed upon with the lessor corporation.
However, the lease rentals as set out in the published notice may not be increased in any modifications approved under subdivision (2).

As added by P.L.2-2006, SEC.170.

IC 20-47-2-13
Notice of signing of lease; appeal
Sec. 13. (a) If the execution of the lease as originally agreed upon or as modified by agreement is authorized by the governing body or bodies of the school corporation or corporations, the governing body shall give notice of the signing of the lease by publication one (1) time in:
   (1) a newspaper of general circulation printed in the English language in the school corporation;
   (2) a newspaper described in subdivision (1) in each school corporation if the proposed lease is a joint lease; or
   (3) if no such newspaper is published in the school corporation,
in any newspaper of general circulation published in the county. 

(b) This subsection does not apply to a lease for which a school corporation after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5, or, in the case of a lease not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the lease after June 30, 2008. Within thirty (30) days after the publication of notice under subsection (a), fifty (50) or more taxpayers in the school corporation or corporations who:

(1) will be affected by the proposed lease; and 
(2) are of the opinion that:

(A) necessity does not exist for the execution of the lease; or 
(B) the proposed rental provided for in the lease is not a fair and reasonable rental;

may file a petition in the office of the county auditor of the county in which the school corporation or corporations are located. The petition must set forth the taxpayers' objections to the lease and facts showing that the execution of the lease is unnecessary or unwise or that the lease rental is not fair and reasonable, as the case may be.

(c) Upon the filing of a petition under subsection (b), the county auditor shall immediately certify a copy of the petition, together with any other data that is necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and data, if any, the department of local government finance shall fix a time, date, and place for the hearing of the matter, which may not be less than five (5) nor more than thirty (30) days thereafter. The department of local government finance shall:

(1) conduct the hearing in the school corporation or corporations, or in the county where the school corporation or corporations are located; and 
(2) give notice of the hearing to the members of the governing body or bodies of the school corporation or corporations and to the first fifty (50) taxpayers who signed the petition under subsection (b) by a letter signed by the commissioner or deputy commissioner of the department of local government finance and enclosed with full prepaid postage addressed to the taxpayer petitioners at their usual place of residence, at least five (5) days before the hearing.

The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease and as to whether the rental is fair and reasonable, is final.


IC 20-47-2-14
Limitation on time to file appeal

Sec. 14. An action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease may not be instituted at any time later than:
(1) thirty (30) days after publication of notice of the execution of the lease by the governing body or bodies of the school corporation or corporations; or
(2) if an appeal is allowed under section 13 of this chapter and has been taken to the department of local government finance, thirty (30) days after the decision of the department of local government finance.


IC 20-47-2-15
Acquisition of land for building site; sale to lessor corporation
Sec. 15. The lessor corporation shall acquire, own, and hold in fee simple the land on which a school building or buildings are to be erected under this chapter. A school corporation that proposes to lease such a school building, either alone or jointly with another school corporation, and owns the land on which it desires that the building or buildings be erected may sell and transfer that land to the lessor corporation in fee simple, subject to the following conditions:
(1) Before the sale may take place, the governing body of the school corporation must file a petition with the circuit court of the county in which the school corporation is located, requesting the appointment of:
   (A) one (1) disinterested freeholder of the school corporation as an appraiser; and
   (B) two (2) disinterested appraisers licensed under IC 25-34.1;
who are residents of Indiana to determine the fair market value of the land. One (1) of the appraisers described in clause (B) must reside not more than fifty (50) miles from the land.
(2) Upon their appointment, the three (3) appraisers shall proceed to fix the fair market value of the land and shall report the amount fixed to the circuit court within two (2) weeks after their appointment.
(3) The school corporation may sell the land to the lessor corporation for an amount not less than the amount fixed as the fair market value by the three (3) appraisers, which shall be paid in cash upon delivery of the deed by the school corporation to the lessor corporation. However, if the land was acquired by the school corporation within three (3) years immediately preceding the date of the filing of the petition with the circuit court, the land may not be sold for an amount less than the amount paid by the school corporation for the land.


IC 20-47-2-16
Lessor corporation; sale of bonds and securities; mortgage bonds
Sec. 16. (a) A corporation qualifying as a lessor corporation under this chapter may, in furtherance of its corporate purposes, issue and
sell stock, bonds, and other securities. Mortgage bonds issued by a
lessor corporation that are a first lien on the leased property are legal
and proper investments for state banks and trust companies, insurance
companies, and fiduciaries. Bonds issued under this section may be
callable upon notice in the manner provided in the mortgage
indenture, at premiums up to five percent (5%) with accrued and
unpaid interest.

(b) Stocks, bonds, and other securities issued by a lessor
corporation shall be sold in the manner provided in IC 5-1-11.
However, the notice of sale shall be published in the manner required
for bonds of the county in which the school building is located.

(c) Shares of common stock issued by a lessor corporation are not
required to be sold at a public sale. The price of the shares shall be
determined by the lessor corporation, but the price of the shares may
not exceed the lesser of:

(1) the necessary expense of incorporation, preparation of
preliminary plans and specifications, and other preliminary
expense necessary to the preparation of the proposed lease and
publication of notice of the lease; or
(2) a sum equal to five percent (5%) of the proposed cost of the
building or buildings.

(d) None of the costs of construction of the building, the purchase
of the equipment for the building, or the incidental expenses in
connection with the construction or purchase may be paid from
stocks, bonds, or securities of the lessor corporation unless those
stocks, bonds, or securities are sold at public sale as provided in this
section.

(e) The approval of the securities commissioner is not required in
connection with the issuance and sale of any stocks, bonds, or other
securities of the lessor corporation.

(f) A part of the proceeds from stocks, bonds, or other securities
sold at public sale may be used to reimburse the incorporators or any
other person or persons who may have advanced funds for essential
preliminary expenses as provided for in this section, with interest on
the amount reimbursed not to exceed five percent (5%).

As added by P.L.2-2006, SEC.170.

IC 20-47-2-17
Refunding of outstanding bonds; appeal

Sec. 17. (a) As used in this section, "bonds" includes bonds,
debentures, or other evidences of indebtedness.

(b) A lessor corporation having outstanding bonds that by their
terms are redeemable before their maturities may issue bonds in the
manner provided by section 16 of this chapter to refund the
outstanding bonds. The refunding bonds may be issued in an amount
not exceeding the sum of:

(1) the principal amount of the outstanding bonds;
(2) any premium required to be paid upon redemption of the
outstanding bonds; and
(3) the estimated expenses to be incurred in connection with the
issuance of the refunding bonds.

(c) The sum of the net interest cost to the lessor corporation of the refunding bonds plus the premium required to be paid in connection with the redemption of the outstanding bonds and the estimated expenses to be incurred in connection with the issuance of the refunding bonds may not exceed the total interest that would have been payable by the lessor corporation on the bonds being refunded from the date of redemption to the maturity of the bonds being refunded. Net interest cost on the refunding bonds is the amount determined by computing the total interest on all the refunding bonds to their maturities and deducting from that amount the premium bid, if any.

(d) Refunding bonds issued under this section:
   (1) are legal and proper investments;
   (2) are exempt from taxation; and
   (3) may be sold without registration with or approval of the securities division of the office of the secretary of state or securities commissioner;

in the same manner, under the same conditions, and subject to the same limitations as any other bonds issued by lessor corporations under section 16 of this chapter. However, no proceedings or actions by the lessee nor approval by any board, commission, or agency are required in connection with the refunding, and the refunding authorized in this section does not affect the obligation of the lessee to pay the lease rental under the lease of the building or buildings.

(e) An action to contest the validity of refunding bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

(f) In connection with the issuance of refunding bonds, the lessee school corporation or school corporations may enter into an amendment to the lease with the lessor corporation providing for an extension of the time set forth in the lease before the option of the lessee or lessees to purchase may be exercised to a time agreed upon between the lessee school corporation or school corporations and the lessor corporation.

As added by P.L.2-2006, SEC.170.

IC 20-47-2-18
Issuance of bonds; use of proceeds to refund outstanding bonds and make improvements; appeal

Sec. 18. (a) As used in this section, "bonds" means bonds, debentures, or other evidences of indebtedness.

(b) As used in this section, "improvement" or "improvements" means one (1) or more of the following:
   (1) Construction of a school building.
   (2) An addition to a school building owned by a lessor corporation or owned by the school corporation to which a lessor corporation has leased property under this chapter, and any remodeling incidental to that addition.
   (3) Remodeling of or construction of appurtenances to a school
building owned by a lessor corporation.

(c) A lessor corporation having outstanding bonds that by their terms are redeemable before their maturities may issue bonds in the manner provided under section 16 of this chapter to refund the outstanding bonds and construction of improvements.

(d) Refunding and improvement bonds issued under this section:
   (1) are legal and proper investments;
   (2) are exempt from taxation; and
   (3) may be sold without registration with or approval of the securities division of the office of the secretary of state or the securities commissioner;

in the same manner, under the same conditions, and subject to the same limitations as any other bonds issued by lessor corporations under section 16 of this chapter.

(e) In connection with the issuance of refunding and improvement bonds, the lessee school corporation or school corporations may enter into an amendment to the lease with the lessor corporation providing for:
   (1) an extension of the time set forth in the lease before the option of the lessee or lessees to purchase may be exercised to a time agreed upon between the lessee school corporation or school corporations and the lessor corporation;
   (2) an extension of the term of the lease, not to exceed ten (10) years, to include the improvements in the description of the leased property; and
   (3) increased lease rental payments after the completion of the improvements.

(f) No proceedings or actions by the lessee nor approval by any board, commission, or agency are required in connection with a refunding under this section, and the refunding does not affect the obligation of the lessee to pay the lease rental under the lease of the building or buildings. However, all provisions, restrictions, and limitations of this chapter that are not inconsistent with this section, including the petition of school patrons, notice of hearing, hearing, notice of execution, and right to file an objecting petition, apply to an amendment of the lease increasing the lease rental payments as if the amendment were an original lease.

(g) An action to contest the validity of refunding and improvement bonds issued under this section may not be brought after the fifteenth day following the receipt of bids for the bonds.

As added by P.L.2-2006, SEC.170.

IC 20-47-2-19
Option to purchase; bonds to fund purchase

Sec. 19. A school corporation that decides to exercise an option to purchase a school building under this chapter may issue general obligation bonds to procure funds to pay the cost of acquisition. General obligation bonds issued under this section must be authorized, issued, and sold in the manner provided for the authorization, issuance, and sale of bonds by school corporations for
school building purposes.
As added by P.L.2-2006, SEC.170.

IC 20-47-2-20
Required levy; payment of obligations
Sec. 20. A school corporation that executes a lease under this chapter shall annually appropriate from its debt service fund or general fund an amount sufficient to pay the lease rental required under the lease. The appropriation is reviewable by other bodies vested by law with such authority to ascertain that the specified amount is sufficient to meet the lease rental required under the lease. The first specific appropriation shall be made at the first budget period following the date of the execution of the lease, and the first annual appropriation must be sufficient to pay the estimated amount of the first annual lease rental payment to be made under the lease. Thereafter, the annual appropriations provided for in this section shall be made, and payments shall be made from the debt service fund.
As added by P.L.2-2006, SEC.170.

IC 20-47-2-21
Exemption of lessor corporation property from taxes
Sec. 21. Property owned by a lessor corporation entering into a lease with a school corporation or corporations under this chapter, and all stock and other securities (including the interest or dividends) issued by a lessor corporation, are exempt from all state, county, and other taxes, except the financial institutions tax (IC 6-5.5) and inheritance taxes (IC 6-4.1).
As added by P.L.2-2006, SEC.170.

IC 20-47-2-22
Statutory construction; supplemental legislation; limitation of application of other laws
Sec. 22. This chapter shall be construed as being supplemental to all other laws covering the acquisition, use, and maintenance of school buildings by school corporations. However, as to school buildings constructed, acquired, leased, or purchased under this chapter, it is not necessary to comply with other laws concerning the acquisition, use, and maintenance of school buildings by school corporations except as specifically required in this chapter.
As added by P.L.2-2006, SEC.170.

IC 20-47-2-23
Termination of lease; disposition of surplus revenues
Sec. 23. (a) Upon the termination of a lease entered into under this chapter, the lessor corporation shall return to the school corporation any money held by the lessor corporation that exceeds the amount needed to retire bonds issued under this chapter and to dissolve the lessor corporation.
(b) A school corporation shall deposit the money received under subsection (a) in its debt service fund or capital projects fund.
As added by P.L.2-2006, SEC.170.
IC 20-47-3
Chapter 3. Private Holding Companies

IC 20-47-3-1
Application
Sec. 1. This chapter does not apply to a charter school.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-2
"School building"
Sec. 2. As used in this chapter, "school building" means a building used as part of or in connection with the operation of schools and includes the:
(1) site for the building;
(2) equipment for the building; and
(3) appurtenances to the building, such as heating facilities, water supply, sewage disposal, landscaping, walks, drives, and playgrounds.
However, the term does not include a building that is designed for and to be used exclusively for interschool athletic contests.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-3
Powers; lease of school building; maximum term of lease; petition; required terms of joint lease involving more than one school corporation
Sec. 3. (a) Subject to subsection (b), a school corporation may lease a school building or buildings for the use of:
(1) the school corporation; or
(2) a joint or consolidated school district of which the school corporation is a part or to which it contributes;
for a term not to exceed fifty (50) years.
(b) A school corporation may not enter into a lease under this section unless:
(1) a petition for the lease signed by at least fifty (50) patrons of the school corporation has been filed with the governing body of the school corporation; and
(2) the governing body, after investigation, determines that a need exists for the school building.
(c) If two (2) or more school corporations propose to jointly enter into a lease under this section, joint meetings of the governing bodies of the school corporations may be held, but action taken at a joint meeting is not binding on any of those school corporations unless approved by a majority of the governing body of each of those school corporations. A lease executed by two (2) or more school corporations as joint lessees must:
(1) set out the amount of the total lease rental to be paid by each lessee, which may be as agreed upon; and
(2) provide that:
(A) there is no right of occupancy by any lessee unless the
total rental is paid as stipulated in the lease; and
(B) all rights of joint lessees under the lease are in proportion to the amount of lease rental paid by each lessee.

As added by P.L.2-2006, SEC.170.

IC 20-47-3-4
Qualifications of lessor corporation
Sec. 4. A school corporation or corporations may enter into a lease or lease with option to purchase under this chapter only with:
(1) a corporation organized under Indiana law or admitted to do business in Indiana; or
(2) a religious organization (or the organization's agent) that is exempt from federal income taxation under Section 501 of the Internal Revenue Code.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-5
Required terms of lease agreement; option to purchase
Sec. 5. (a) Except as provided in subsections (d) and (e), a lease must provide that the school corporation or corporations have an option to:
(1) renew the lease for a further term on like conditions; and
(2) purchase the property covered by the lease; with the terms and conditions of the purchase to be specified in the lease, subject to the approval of the department of local government finance.
(b) If the option to purchase the property covered by the lease is exercised, the school corporation or corporations, to procure funds to pay the purchase price, may issue and sell bonds under the provisions of the general statute governing the issue and sale of bonds of the school corporation or corporations. The purchase price may not be more than the purchase price set forth in the lease plus:
(1) two percent (2%) of the purchase price as prepayment penalty for purchase within the first five (5) years of the lease term; or
(2) one percent (1%) of the purchase price as prepayment penalty for purchase in the second five (5) years of the lease term;
and thereafter the purchase shall be without prepayment penalty.
(c) However:
(1) if the school corporation or corporations have not exercised an option to purchase the property covered by the lease at the expiration of the lease; and
(2) upon the full discharge and performance by the school corporation or corporations of their obligations under the lease; the property covered by the lease becomes the absolute property of the school corporation or corporations, and the lessor corporation shall execute proper instruments conveying to the school corporation or corporations good and merchantable title to that property.
(d) The following provisions apply to a school corporation that is
located in Dubois County and enters into a lease with a religious organization or the organization's agent as authorized under section 4 of this chapter:

(1) The lease is not required to include on behalf of the school corporation an option to purchase the property covered by the lease.
(2) The lease must include an option to renew the lease.
(3) The property covered by the lease is not required to become the absolute property of the school corporation as provided in subsection (e).

(e) In the case of a lease for which a school corporation:
(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or
(2) in the case of a lease not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the lease after June 30, 2008; the terms and conditions of the purchase that are specified in the lease are not subject to the approval of the department of local government finance.


IC 20-47-3-6
Lessor corporation; submission of preliminary plans
Sec. 6. (a) A lessor corporation proposing to build a school building or buildings must submit preliminary plans, specifications, and estimates for the building or buildings to the lessee or lessees before the execution of the lease. Final plans and specifications must be submitted to the state department of health, state fire marshal, and other agencies designated by law to pass on plans and specifications for school buildings. The final plans and specifications must be approved by those agencies in writing and by the lessee or lessees before the construction of the school building or school buildings.

(b) IC 4-21.5 does not apply to the formulation, issuance, or administrative review of an approval by an agency under subsection (a). However, IC 4-21.5 does apply to the judicial review and civil enforcement of an approval by an agency under subsection (a).

As added by P.L.2-2006, SEC.170.

IC 20-47-3-7
Permissible provisions of lease; payment of taxes; insurance
Sec. 7. A lease entered into under this chapter may provide that as a part of the lease rental for the school building or buildings the lessee or lessees shall:

(1) pay all taxes and assessments levied against or on account of the leased property;
(2) maintain insurance on the leased property for the benefit of the lessor corporation; and
(3) assume all responsibilities for repair and alterations of the
leased property during the term of the lease.

As added by P.L.2-2006, SEC.170.

IC 20-47-3-8
Lease preceding acquisition of land
Sec. 8. (a) Except as provided in subsection (b), a school corporation or corporations may, in anticipation of the acquisition of a site and the construction and erection of a school building or buildings, and, subject to the approval of the department of local government finance, enter into a lease with a lessor corporation before the actual acquisition of the site and the construction and erection of the building or buildings. However, the lease entered into by the school corporation or school corporations may not provide for the payment of any lease rental by the lessee or lessees until the building or buildings are ready for occupancy, at which time the stipulated lease rental may begin. The lessor corporation shall furnish a bond to the approval of the lessee or lessees conditioned on the final completion of the building or buildings within a period not to exceed one (1) year from the date of the execution of the lease, unavoidable delays excepted.

(b) In the case of a lease for which a school corporation:

(1) after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5; or

(2) in the case of a lease not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the lease after June 30, 2008; the approval of the department of local government finance is not required.


IC 20-47-3-9
Required public hearing; notice of lease terms
Sec. 9. (a) After the lessor corporation and the school corporation or corporations have agreed upon the terms and conditions of a lease proposed to be entered into under this chapter, and before the final execution of the lease, a notice shall be given by publication to all persons interested of a hearing or joint hearing to be held before the governing body or governing bodies of the school corporations authorized to approve the lease. The hearing must be not earlier than:

(1) ten (10) days after publication of the notice, if new construction is proposed; or

(2) thirty (30) days after publication of the notice, if improvement or expansion is proposed.

(b) The notice required by subsection (a) must:

(1) be published one (1) time in:

(A) a newspaper of general circulation printed in the English language in the school corporation;

(B) a newspaper described in clause (A) in each school
corporation if the proposed lease is a joint lease; or
(C) if no such paper is published in the school corporation,
in any newspaper of general circulation published in the
county;
(2) name the date, time, and place of the hearing; and
(3) set forth a brief summary of the principal terms of the lease
agreed upon, including the:
(A) location of the property to be leased;
(B) name of the proposed lessor corporation;
(C) character of the property to be leased;
(D) rental to be paid; and
(E) number of years the lease is to be in effect.
The cost of publication of the notice shall be paid by the lessor
corporation.
(c) The proposed lease, drawings, plans, specifications, and
estimates for the school building or buildings must be available for
inspection by the public during the ten (10) day or thirty (30) day
period described in subsection (a) and at the hearing under section 10
of this chapter.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-10
Conduct of public hearing; lease authorization procedures
Sec. 10. (a) At the hearing, all interested persons have a right to be
heard upon the necessity for the execution of the proposed lease and
whether the rental to be paid to the lessor corporation under the
proposed lease is a fair and reasonable rental for the proposed
building. The hearing may be adjourned to a later date or dates.
(b) Not later than thirty (30) days following the termination of the
hearing, the governing body or bodies of the school corporation or
corporations may by a majority vote of all members of the governing
body or bodies:
(1) authorize the execution of the lease as originally agreed
upon; or
(2) make modifications to the proposed lease as agreed upon
with the lessor corporation.
However, the lease rentals as set out in the published notice may not
be increased.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-11
Notice of signing of lease; appeal
Sec. 11. (a) If the execution of the lease as originally agreed upon
or as modified by agreement is authorized by the governing body or
bodies of the school corporation or corporations, the governing body
shall give notice of the signing of the lease by publication one (1)
time in:
(1) a newspaper of general circulation printed in the English
language in the school corporation;
(2) a newspaper described in subdivision (1) in each school
corporation if the proposed lease is a joint lease; or
(3) if no such newspaper is published in the school corporation, in any newspaper of general circulation published in the county.

(b) This subsection does not apply to leases for which a school corporation after June 30, 2008, makes a preliminary determination as described in IC 6-1.1-20-3.1 or IC 6-1.1-20-3.5 or a decision as described in IC 6-1.1-20-5, or, in the case of leases not subject to IC 6-1.1-20-3.1, IC 6-1.1-20-3.5, or IC 6-1.1-20-5, adopts a resolution or ordinance authorizing the lease after June 30, 2008. Within thirty (30) days after the publication of notice under subsection (a), ten (10) or more taxpayers in the school corporation or corporations who:

1. will be affected by the proposed lease; and
2. are of the opinion that:
   (A) no necessity exists for the execution of the lease; or
   (B) the proposed rental provided for in the lease is not a fair and reasonable rental;
may file a petition in the office of the county auditor of the county in which the school corporation or corporations are located. The petition must set forth the taxpayers' objections to the lease and facts showing that the execution of the lease is unnecessary or unwise, or that the lease rental is not fair and reasonable, as the case may be.

(c) Upon the filing of a petition under subsection (b), the county auditor shall immediately certify a copy of the petition and any other data that is necessary to present the questions involved to the department of local government finance. Upon receipt of the certified petition and data, if any, the department of local government finance shall fix a date, time, and place for the hearing of the matter, which may not be less than five (5) nor more than thirty (30) days after receipt of the petition and data, if any. The department of local government finance shall:

1. conduct the hearing in the school corporation or corporations or in the county where the school corporation or corporations are located; and
2. give notice of the hearing to the members of the governing body or bodies of the school corporation or corporations and to the first ten (10) taxpayer petitioners upon the petition by a letter signed by the commissioner or deputy commissioner of the department of local government finance, and enclosed with full prepaid postage addressed to the taxpayer petitioners at their usual place of residence, at least five (5) days before the hearing.

The decision of the department of local government finance on the appeal, upon the necessity for the execution of the lease, and as to whether the rental is fair and reasonable, is final.


IC 20-47-3-12
Limitation on time to file appeal
Sec. 12. An action to contest the validity of the lease or to enjoin the performance of any of the terms and conditions of the lease may not be instituted at any time later than:

(1) thirty (30) days after publication of notice of the execution of the lease by the governing body or bodies of the school corporation or corporations; or

(2) if an appeal is allowed under section 11 of this chapter and has been taken to the department of local government finance, thirty (30) days after the decision of the department of local government finance.


IC 20-47-3-13
Acquisition of land for building site; sale to lessor corporation

Sec. 13. The lessor corporation shall acquire, own, and hold in fee simple the land on which a school building or buildings are to be erected under this chapter. A school corporation that proposes to lease a school building, either alone or jointly with another school corporation, and owns the land on which it desires to be erected the building or buildings may sell and transfer that land to the lessor corporation in fee simple, subject to the following conditions:

(1) Before the sale may take place, the governing body of the school corporation must file a petition with the circuit court of the county in which the school corporation is located, requesting the appointment of:

(A) one (1) disinterested freeholder of the school corporation as an appraiser; and

(B) two (2) disinterested appraisers licensed under IC 25-34.1;

who are residents of Indiana to determine the fair market value of the land. One (1) of the appraisers described in clause (B) must reside not more than fifty (50) miles from the land.

(2) Upon appointment, the three (3) appraisers shall proceed to fix the fair market value of the land and shall report the amount fixed to the circuit court within two (2) weeks after the appointment.

(3) The school corporation may sell the land to the lessor corporation for an amount not less than the amount fixed by the three (3) appraisers as the fair market value, which shall be paid in cash upon delivery of the deed by the school corporation to the lessor corporation. However, if the land was acquired by the school corporation within three (3) years immediately preceding the date of the filing of the petition with the circuit court, the land may not be sold for an amount less than the amount paid by the school corporation for the land.


IC 20-47-3-14
Required levy; payment of obligations
Sec. 14. A school corporation that executes a lease under this chapter shall annually appropriate and pay out of the debt service fund an amount sufficient to pay the lease rental required under the lease. The appropriation and rate are reviewable by other bodies vested by law with the authority to determine that the levy is sufficient to raise the amount required to meet the rental required under the lease.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-15
Exemption of lessor corporation property from taxes
Sec. 15. School buildings leased by a lessor corporation entering into a lease with a school corporation or corporations under this chapter are exempt from all state, county, and other taxes. However, the rental payments to a lessor corporation under the terms of such a lease are subject to all applicable taxes under Indiana law.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-16
Statutory construction; supplemental legislation; limitation of application of other laws
Sec. 16. This chapter shall be construed as being supplemental to all other laws covering the acquisition, use, and maintenance of school buildings by school corporations. However, as to school buildings constructed or leased under this chapter, it is not necessary to comply with the provisions of other laws concerning the acquisition, use, and maintenance of school buildings by school corporations except as specifically required in this chapter.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-17
Lessor corporation; sale of bonds and securities; mortgage bonds
Sec. 17. (a) A corporation qualifying as a lessor corporation under this chapter may issue and sell bonds and other securities. Mortgage bonds issued by a lessor corporation that are a first lien on the leased property are legal and proper investments for state banks and trust companies, insurance companies, and fiduciaries.
(b) Bonds and other securities issued by a lessor corporation under this section need not be sold under IC 5-1-11, and approval of the securities commissioner is not required in connection with the issuance and sale of the bonds.
As added by P.L.2-2006, SEC.170.

IC 20-47-3-18
Termination of lease; disposition of surplus revenues
Sec. 18. (a) Upon the termination of a lease entered into under this chapter, the lessor corporation shall return to the school corporation any money held by the lessor corporation that exceeds the amount needed to retire bonds issued under this chapter and to dissolve the
lessor corporation.

(b) A school corporation shall deposit the money received under subsection (a) in its debt service fund or its capital projects fund.

*As added by P.L.2-2006, SEC.170.*
IC 20-47-4  
Chapter 4. Lease of Existing School Building

IC 20-47-4-1  
Application  
Sec. 1. This chapter applies to the lease by a school corporation of an existing school building or improved school building under IC 20-47-2 or IC 20-47-3.  
As added by P.L.2-2006, SEC.170.

IC 20-47-4-2  
"Existing school building"  
Sec. 2. As used in this chapter, "existing school building":  
(1) includes a:  
(A) school building; or  
(B) building that after acquisition will be used as a school building; and  
(2) may include more than one (1) building.  
The term does not include a portable or relocatable building or classroom.  
As added by P.L.2-2006, SEC.170.

IC 20-47-4-3  
"Improved school building"  
Sec. 3. As used in this chapter, "improved school building" means an existing school building as improved, renovated, remodeled, or expanded by a lessor corporation.  
As added by P.L.2-2006, SEC.170.

IC 20-47-4-4  
"School building"  
Sec. 4. As used in this chapter, "school building" has the meaning set forth in IC 20-47-2-4 or IC 20-47-3-2.  
As added by P.L.2-2006, SEC.170.

IC 20-47-4-5  
Powers; lessor corporation; acquisition and financing of existing or improved school building  
Sec. 5. A lessor corporation qualified or formed to acquire a site, erect a school building on the site, and lease the school building to a school corporation under IC 20-47-2 or IC 20-47-3 may:  
(1) be qualified or formed to acquire, improve, or expand an existing school building;  
(2) acquire, improve, or expand an existing school building;  
(3) finance an existing school building or improved school building; and  
(4) lease an existing school building or improved school building to a school corporation under applicable law.  
As added by P.L.2-2006, SEC.170.
IC 20-47-4-6
Powers; acquisition and financing of existing school building; compliance with other laws

Sec. 6. (a) A lessor corporation may acquire and finance an existing school building, other than as provided in section 5 of this chapter, and lease the existing school building to a school corporation. A school corporation shall comply with:

1. IC 20-47-2 or IC 20-47-3;
2. the petition and remonstrance provisions under IC 6-1.1-20 (if required); and
3. the local public question provisions under IC 6-1.1-20 (if required).

(b) A lease made under this section may provide for the payment of lease rentals by the school corporation for the use of the existing school building.

(c) Lease rental payments made under the lease do not constitute a debt of the school corporation for purposes of the Constitution of the State of Indiana.

(d) A new school building may be substituted for the existing school building under the lease if the substitution was included in the notices given under IC 20-47-2, IC 20-47-3, and IC 6-1.1-20. A new school building must be substituted for the existing school building upon completion of the new school building.


IC 20-47-4-7
Limitation on payment of legal or other professional fee

Sec. 7. A school corporation may not pay a legal or other professional fee as the result of an exchange or a substitution under section 5 or 6 of this chapter.

As added by P.L.2-2006, SEC.170.

IC 20-47-4-8
Compliance with other laws

Sec. 8. (a) Except as provided in subsection (b), the lease or contract of lease of an existing school building or improved school building to a school corporation as authorized by this chapter must comply with all applicable terms of IC 20-47-2 or IC 20-47-3, including:

1. the notice of hearing on the lease;
2. public hearing;
3. notice of execution of lease; and
4. the submission of plans and specifications for the improvement or expansion of the existing school building for approval by the state agencies designated in IC 20-47-2 or IC 20-47-3 or otherwise required by law or rule.

(b) If a school corporation is occupying and using an existing school building during the renovation, remodeling, or expansion of the building, the lease or contract of lease may provide for the
payment of lease rental by the school corporation for the use of the building during renovation, remodeling, or expansion.

As added by P.L.2-2006, SEC.170.

**IC 20-47-4-9**
**Sales price; compliance with other laws**

Sec. 9. The sale price of an existing school building must be determined under the provisions of IC 20-47-2 or IC 20-47-3 relating to the sale of land to a lessor corporation. Except as provided in this section, IC 20-26-7 and any other law relating to the sale of the property of school corporations or other public property do not apply to the sale of an existing school building to a lessor corporation under this chapter.

As added by P.L.2-2006, SEC.170.

**IC 20-47-4-10**
**Deposit of proceeds from sale**

Sec. 10. A school corporation that sells an existing school building under section 6 of this chapter shall deposit the proceeds of the sale in the school corporation's capital projects fund and use the proceeds only for:

1. new construction of school buildings;
2. related site acquisition; and
3. related site development.

However, any amount of the proceeds of the sale that are not used for a purpose described in subdivisions (1) through (3) within one (1) year after the school corporation receives the proceeds must be transferred to the school corporation's debt service fund.

As added by P.L.2-2006, SEC.170.
IC 20-47-5
Chapter 5. Payment of Rent by Annexed School Corporation

IC 20-47-5-1
Existing lease; obligation of annexing school corporation

Sec. 1. (a) If a school corporation has leased a building or buildings under IC 20-47-2 or IC 20-47-3 and a part of the territory of the school corporation is later annexed to or otherwise acquired by another school corporation, the school corporation acquiring the territory shall pay to the school corporation whose territory is acquired the part of each lease rental payment as specified in this chapter.

(b) Each payment of an acquiring school corporation described in subsection (a) must be in an amount that bears the same ratio to the lease rental payment coming due from the school corporation whose territory is acquired as the ratio of the net assessed valuation for tax purposes in the territory acquired bears to the net assessed valuation for tax purposes of all property in the school corporation whose territory is acquired, including the property acquired.

(c) In the case of an annexation occurring after an annexation described in subsections (a) and (b), the part of the lease rental payments to be paid by the acquiring school corporation must be increased by the same ratio as the ratio described in subsection (b). The payments must be made to the school corporation whose territory is acquired before the date when the lease rental payments become due and owing.

As added by P.L.2-2006, SEC.170.

IC 20-47-5-2
Property interest in lease; annexing school corporation; termination of obligations of annexed school corporation

Sec. 2. If a building or buildings that have been leased under IC 20-47-2 are located in the territory annexed or acquired, as described in section 1 of this chapter:

(1) the school corporation acquiring the territory:
   (A) shall pay the full amount of the lease rental payments due after the territory is annexed or acquired in accordance with the terms of the lease; and
   (B) succeeds to and possesses all the rights and is subject to the obligations of the lessee under the lease, including the right of occupancy and use of the building; and

(2) all rights and obligations of the lessee school corporation named in the lease terminate.

As added by P.L.2-2006, SEC.170.