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HEALTH AND SAFETY CODE - HSC

DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING [33000 - 37964] (*Heading of Division 24 amended by Stats. 1975, Ch. 1137.*)

PART 2. HOUSING AUTHORITIES [34200 - 34606] (*Part 2 added by Stats. 1951, Ch. 710.*)

CHAPTER 1. Housing Authorities Law [34200 - 34380] (*Chapter 1 added by Stats. 1951, Ch. 710.*)

ARTICLE 5. Bonds [34350 - 34375] (*Article 5 added by Stats. 1951, Ch. 710.*)

34350. An authority shall have the following powers:

- (a) To issue bonds for any of its corporate purposes.
- (b) To sell or otherwise dispose of any mortgage loans, in whole or in part, or to loan sufficient funds to any person to defray, in whole or in part, the costs of purchasing mortgage loans, so that the revenues and receipts to be derived with respect to the loans, together with any insurance proceeds, reserve accounts, and earnings thereon, shall be designed to produce revenues and receipts at least sufficient to provide for the prompt payment at maturity of principal, interest, and redemption premiums, if any, upon all bonds issued to finance such costs.
- (c) To pledge any revenues and receipts to be received from or with respect to any mortgage loans or loans made to lending institutions pursuant to this chapter to the punctual payment of bonds authorized under this chapter, and the interest and redemption premiums, if any, thereon.
- (d) To mortgage, pledge, assign, or grant security interests in any mortgage loans, notes, loans made to lending institutions pursuant to this chapter, or other property in favor of the holder or holders of bonds issued therefor or of the trustee for such holder or holders.
- (e) To sell and convey any mortgage loans, or loans made to lending institutions pursuant to this chapter, for such prices and at such times as the authority may determine.
- (f) To issue its bonds to refund previously issued bonds in whole or in part at any time.
- (g) To make and execute contracts and other instruments necessary or convenient to the exercise of any of the powers granted in this chapter.

(Amended by Stats. 1983, Ch. 1309, Sec. 9.)

34350.2. A housing authority may not issue bonds pursuant to Section 34312.4 unless it has received an allocation of qualified mortgage bonds pursuant to Section 50193, and has complied with the applicable provisions of Chapter 3.5 (commencing with Section 50171) of Part 1 of Division 31.

(Added by Stats. 1985, Ch. 306, Sec. 2.)

34350.5. The exercise of any or all powers granted by this chapter shall be authorized and the bonds shall be authorized to be issued under this chapter for the purposes set forth in this chapter, by resolution of the authority which shall set forth a finding and declaration (1) of the public purpose therefor and (2) that such resolution is being adopted pursuant to the powers granted by this chapter. The finding and declaration shall be conclusive evidence of the existence and sufficiency of the public purpose and powers.

(Added by Stats. 1983, Ch. 1309, Sec. 10.)

34351. An authority may issue such types of bonds as it determines, including bonds on which the principal and interest are payable:

- (a) Exclusively from the income and revenues of the housing project financed with the proceeds of the bonds, or with such proceeds together with a grant from the Federal Government in aid of the project.

(b) Exclusively from the income and revenues of certain designated housing projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) From its revenues generally.

(Added by Stats. 1951, Ch. 710.)

34352. (a) Any of the bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project or other property of the authority.

(b) Any pledge made to secure bonds shall be valid and binding from the time when the pledge is made. The revenues and receipts or property or interests in the property pledged and thereafter received by the authority, a trustee, or custodian shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against such authority, trustee, or custodian, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(Amended by Stats. 1983, Ch. 1309, Sec. 11.)

34353. Neither the commissioners of an authority nor any person executing the bonds are liable personally on the bonds or subject to any personal liability or accountability by reason of their issuance. The bonds and other obligations of an authority are not a debt of the city, county, state, or any of its political subdivisions and neither are they liable on the bonds, nor are the bonds or obligations payable out of any funds or properties other than those of the authority pledges for the payment thereof; and the bonds shall so state on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation.

(Amended by Stats. 1983, Ch. 1309, Sec. 12.)

34354. By resolution, an authority may authorize the issuance of its bonds which may be taxable or nontaxable. The resolution, its trust indenture, or mortgage may provide for:

- (a) The issuance of bonds in one or more series.
- (b) The date the bonds shall bear.
- (c) The date of maturity, not exceeding 45 years from their respective dates.
- (d) The interest rate, not exceeding 12 percent a year.
- (e) The denomination of the bonds.
- (f) The form of the bonds, either coupon or registered, as permitted by law.
- (g) The conversion or registration privileges which the bonds shall carry.
- (h) The rank or priority of the bonds.
- (i) The manner of execution of the bonds.
- (j) The medium of payment in which the bonds are payable.
- (k) The place of payment.
- (l) The terms of redemption, with or without premium.

(Amended by Stats. 1983, Ch. 1309, Sec. 13.)

34354.5. Notwithstanding Section 34354 or any other provision of law, the rate of interest on any indebtedness or obligation of a housing authority which is payable to the federal government or any agency or instrumentality thereof or on any indebtedness or obligation of a housing authority which is guaranteed by the federal government or any instrumentality thereof may be at a rate higher than the limitation established in Section 34354, or any other law, if the rate is the rate established by the federal government or any instrumentality thereof. Any such indebtedness or obligation shall be in any form and denomination, have any maturity and be subject to any conditions which may be prescribed by the federal government or agency or instrumentality thereof.

(Amended by Stats. 1981, Ch. 714.)

34355. The bonds may be sold at public or private sale in such manner and upon such terms as may be provided in the resolution authorizing the bonds or by separate resolution.

(Amended by Stats. 1983, Ch. 478, Sec. 6. Effective July 28, 1983.)

34356. The bonds shall bear the manual or facsimile signatures of such authority commissioner or officer as may be designated in the resolution authorizing the bonds and such signatures shall be the valid and binding signatures of such commissioner or officer,

notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be commissioner or officer of the authority. The validity of the bonds shall not be dependent on, nor affected by, the validity or regularity of any proceedings relating to any mortgage loans or housing projects for which the bonds are issued. The resolution authorizing the bonds may provide that the bonds shall contain a recital that they are issued pursuant to this chapter and the recital shall be conclusive evidence of their validity and of the regularity of their issuance. Bonds issued pursuant to this chapter are fully negotiable.

(Amended by Stats. 1983, Ch. 1309, Sec. 14.)

34357. In any proceedings involving the validity or enforceability of any bond or its security, any such bond reciting in substance that it has been issued by the authority to aid in financing dwelling accommodations for persons of low income, is conclusively deemed to have been issued for such purpose pursuant to this chapter.

(Amended by Stats. 1980, Ch. 723.)

34358. In connection with the issuance of bonds or the incurring of obligations in acquiring, developing, or leasing real property and in order to secure the payment of the bonds or obligations, an authority has the powers conferred by Sections 34359 to 34365, inclusive.

(Amended by Stats. 1975, Ch. 1135.)

34359. An authority may:

- (a) Pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence.
- (b) Mortgage all or any part of its real or personal property then owned or thereafter acquired.
- (c) Borrow money from private sources, the state, county, or federal government, and issue its notes and encumber its assets as security by means of deeds of trust. The obligation of the authority is limited to the security on the deed of trust.

(Amended by Stats. 1975, Ch. 166.)

34360. An authority may:

- (a) Covenant against pledging all or part of its rents, fees, and revenues, against mortgaging all or part of its real or personal property, to which its right or title then exists or may thereafter come into existence, or against permitting or suffering any lien on such revenues or property.
- (b) Covenant with respect to limitations on its right to sell, lease, or otherwise dispose of all or part of any housing project.
- (c) Covenant as to what other or additional debts or obligations may be incurred by it.
- (d) Covenant as to the bonds to be issued, as to their issuance in escrow or otherwise, and as to the use and disposition of the bond proceeds.
- (e) Provide for the replacement of lost, destroyed, or mutilated bonds.
- (f) Covenant against extending the time for the payment of its bonds or interest on them.
- (g) Redeem the bonds, covenant for their redemption, and provide the redemption terms and conditions.

(Added by Stats. 1951, Ch. 710.)

34361. An authority may:

- (a) Covenant as to the rents and fees to be charged in the operation of a housing project, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to their use and disposition.
- (b) Create or authorize the creation of special funds for money held for construction or operating costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of the money held in the funds.

(Added by Stats. 1951, Ch. 710.)

34362. An authority may prescribe procedure by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds whose holders are required to consent, and the manner in which consent may be given. The provisions of this chapter and any resolution and any mortgage, pledge, assignment, security interest, insurance agreement, or indenture of trust shall constitute a contract with the holder or holders of the bonds and continue in effect until the principal of, the interest on, and the redemption premiums, if any, on the bonds so issued have been fully paid or provision made therefor, and the duties of the authority and its officers under this chapter and any resolution and any mortgage, pledge, assignment, security interest, insurance agreement, or indenture of trust shall be enforceable as provided therein by any bondholder by mandamus, foreclosure of any such mortgage,

pledge, assignment, security interest, insurance agreement, or indenture of trust, or other appropriate suit, action, or proceeding in any court of competent jurisdiction; provided, the resolution or any mortgage, pledge, assignment, security interest, insurance agreement, or indenture of trust under which the bonds are issued may provide that all such remedies and rights to enforcement may be vested in a trustee (with full power of appointment) for the benefit of all the bondholders, and that the trustee shall be subject to the control of such number of holders or owners of any outstanding bonds as specified in the resolution.

(Amended by Stats. 1983, Ch. 1309, Sec. 15.)

34363. An authority may:

- (a) Covenant as to the use of any or all of its real or personal property.
- (b) Covenant as to the maintenance of its real and personal property, its replacement, the insurance to be carried on it, and the use and disposition of insurance money.
- (c) Covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation.
- (d) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(Added by Stats. 1951, Ch. 710.)

34364. An authority may:

- (a) Appoint one or more banks or trust companies within or outside the state having the necessary trust powers as trustee, custodian, or trustee and custodian for the benefit of the bondholders, paying agent, or bond registrar.
- (b) Vest in a trustee or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds.
- (c) Vest in a trustee the right, in the event of a default by the authority, to take possession and use, operate, and manage all or part of any housing project, and to collect and dispose of the rents and revenues arising from it pursuant to the agreement of the authority with the trustee.
- (d) Provide for the powers and duties of a trustee and limit his liabilities.
- (e) Provide the terms and conditions upon which the trustee or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(Amended by Stats. 1983, Ch. 1309, Sec. 16.)

34365. An authority may exercise all or any part or combination of the powers granted in Sections 34359 to 34364, inclusive, and make covenants other than the covenants expressly authorized in such sections, of like or different character. An authority may make covenants and do any and all acts and things necessary, convenient, or desirable to secure its bonds, or which will tend to make them more marketable notwithstanding that such covenants, acts, or things are not enumerated in this chapter.

(Added by Stats. 1951, Ch. 710.)

34366. Any authority may submit to the Attorney General any bonds to be issued pursuant to this chapter after all proceedings for their issuance have been taken. Upon such submission the Attorney General shall examine into and pass upon the validity of the bonds and the regularity of all proceedings in connection with them. If the proceedings conform to this chapter and are otherwise regular in form and if the bonds when delivered and paid for will constitute binding and legal obligations of the authority enforceable according to their terms, the Attorney General shall certify in substance upon the back of each bond that it is issued in accordance with the Constitution and state laws.

(Added by Stats. 1951, Ch. 710.)

34366.5. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any bonds issued pursuant to Article 5 (commencing with Section 34350) and the legality and validity of all proceedings previously taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds and for the payment of the principal thereof and interest thereon.

(Added by Stats. 1983, Ch. 1309, Sec. 17.)

34367. Subject only to any contractual restrictions binding upon him, an obligee may:

- (a) By proper proceeding compel the authority and its commissioners, officers, agents, or employees to perform each and every provision contained in any contract of the authority with or for his benefit, and require the carrying out of any or all the covenants and

agreements of the authority and the fulfillment of all duties imposed upon it by this chapter.

(b) By proper proceeding enjoin any acts or things which may be unlawful, or the violation of any of his rights by the authority.

(Added by Stats. 1951, Ch. 710.)

34368. By its resolution, trust indenture, mortgage, lease, or other contract an authority may confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the following rights to be exercised upon the happening of an event of default defined in the resolution or instrument, by proceeding in any court of competent jurisdiction:

(a) To cause possession of all or part of any housing project to be surrendered to him.

(b) To obtain the appointment of a receiver of all or part of any housing project and of the rents and profits from it. If the receiver is appointed, he may enter and take possession of the housing project or the part of it, operate and maintain it, collect and receive all fees, rents, revenues, or other charges thereafter arising from it, and keep such money in a separate account and apply it pursuant to the obligations of the authority as the court directs.

(c) To require the authority and its commissioners to account as if it and they were the trustees of an express trust.

(Added by Stats. 1951, Ch. 710.)

34369. Notwithstanding any restrictions on investments contained in any laws of this state, the state, all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, conservators, trustees, and other fiduciaries may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by an authority pursuant to this chapter, or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits.

(Amended by Stats. 1979, Ch. 730.)

34370. It is the purpose of Section 34369 to authorize any person, political subdivision, body, or officer, public or private, to use any funds owned or controlled by him or it, including sinking, insurance, investment, retirement, compensation, pension, and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations.

Nothing in Section 34369 relieves any person from any duty of exercising reasonable care in selecting securities.

(Added by Stats. 1953, Ch. 93.)

34371. Insofar as the provisions of Sections 34369 and 34370 are inconsistent with the provisions of any other law, the provisions of the sections are controlling.

(Added by Stats. 1953, Ch. 93.)

34372. An authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of additional construction.

The proceeds of bonds issued pursuant to this section may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of outstanding bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and, pending such application, that portion of the proceeds allocated for such purpose may be placed in escrow, to be applied to such purchase or retirement at maturity or redemption on such date, as may be determined by the authority. Pending use for purchase, retirement at maturity, or redemption of outstanding bonds, any proceeds held in such an escrow may be invested and reinvested as provided in the resolution authorizing the issuance of the refunding bonds. Any interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to the authority to be used by it for any lawful purpose under this chapter. That portion of the proceeds of any bonds issued pursuant to this section which is designated for the purpose of paying all or any part of the cost of additional construction may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times which such proceeds will be needed for the purpose of paying all or any part of such costs.

All bonds issued pursuant to this section shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

(Added by Stats. 1983, Ch. 1309, Sec. 18.)

34373. An authority which has issued bonds pursuant to this chapter or any trustee or custodian on behalf of the authority may invest any funds held by it as provided in the resolution authorizing the issuance of the bonds.

(Added by Stats. 1983, Ch. 1309, Sec. 19.)

34374. Investments under Section 34373 may include mortgage obligations on single-family dwellings purchased from a state or federally chartered savings and loan association pursuant to a repurchase agreement under which the bank or savings and loan association will repurchase the mortgage obligation on or before a specified date and for a specified amount, provided that the mortgage or the repurchase agreement shall be insured by a mortgage insurance company licensed to insure mortgages in the state and qualified to provide insurance on mortgages purchased by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

The authority provided in this section and Section 34373 is additional and alternative to any other authorization for investment contained in this chapter, including Section 34372, or in other provisions of law.

(Added by Stats. 1983, Ch. 1309, Sec. 20.)

34375. All moneys received pursuant to the provisions of this chapter, whether revenues or proceeds from the sale of bonds or proceeds of insurance or guarantee claims, shall be deemed to be trust funds to be held and applied solely for the purpose of this chapter. Any bank or trust company in which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes specified in this chapter, subject to the terms of the resolution authorizing the bonds.

(Added by Stats. 1983, Ch. 1309, Sec. 21.)