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HEALTH AND SAFETY CODE - HSC

DIVISION 31. HOUSING AND HOME FINANCE [50000 - 54913] (*Division 31 repealed and added by Stats. 1977, Ch. 610.*)

PART 5. LOCAL HOUSING FINANCE AGENCIES [52000 - 52106] (*Part 5 added by Stats. 1979, Ch. 1069.*)

CHAPTER 4. Revenue Bonds [52030 - 52044] (*Chapter 4 added by Stats. 1979, Ch. 1069.*)

52030. For purposes of this part, a city or county shall have the following powers:

- (a) To issue its bonds to defray, in whole or in part, (1) the costs of acquiring home mortgages or making loans to lending institutions in order to enable them to make home mortgages, (2) the costs of studies and surveys, insurance premiums, underwriting fees, legal, accounting and marketing services incurred in connection with the issuance and sale of bonds, including bond and mortgage reserve accounts; and trustee, custodian and rating agency fees, and (3) such other costs as are reasonably related to the foregoing.
- (b) To sell or otherwise dispose of any home mortgages, in whole or in part, or to loan sufficient funds to any person to defray, in whole or in part, the costs of purchasing home mortgages, so that the revenues and receipts to be derived with respect to the home mortgages, 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 home mortgages or loans made to lending institutions pursuant to this part to the punctual payment of bonds authorized under this part, and the interest and redemption premiums, if any, thereon.
- (d) To mortgage, pledge, assign, or grant security interests in any home mortgages, notes, loans made to lending institutions pursuant to this part, or other property in favor of the holder or holders of bonds issued therefor or the trustee for such holder or holders.
- (e) To sell and convey any home mortgages or loans made to lending institutions pursuant to this part, for such prices and at such times as the governing body of the city or county 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 herein.

(*Added by Stats. 1979, Ch. 1069.*)

52031. The exercise of any or all powers granted by this part shall be authorized and the bonds shall be authorized to be issued under this part for the purposes set forth in this part, by resolution or ordinance of the governing body of the city or county which shall take effect immediately upon adoption. Any such resolution or ordinance shall set forth a finding and declaration (1) of the public purpose therefor and (2) that such resolution or ordinance is being adopted pursuant to the powers granted by this part. The finding and declaration shall be conclusive evidence of the existence and sufficiency of the public purpose and powers.

(*Added by Stats. 1979, Ch. 1069.*)

52032. The bonds shall bear interest at such rate or rates, may be payable at such times, may be in one or more series, may bear such date or dates, may mature at such time or times not exceeding 45 years from their respective dates, may be payable in such medium of payment at such place or places, may carry such registration privileges, may be subject to such terms of redemption at such premiums, may be executed in such manner, may contain such terms, covenants and conditions and may be in such form, either coupon or registered, as the resolution authorizing the bonds may provide. The bonds may be sold at public or private sale in such manner and upon such terms as may be provided in such resolution or by separate resolution. Pending the preparation of definitive bonds, interim receipts or certificates in such form and with such provisions as may be provided in such resolution, may be issued to the purchaser or purchasers of bonds sold pursuant to this part. The bonds and interim receipts or certificates shall be

deemed to be securities and negotiable instruments within the meaning and for all purposes of the Uniform Commercial Code of this state, subject to the provisions for registration thereof contained in such resolution.

(Added by Stats. 1979, Ch. 1069.)

52033. Any resolution authorizing the issuance of the bonds may contain covenants as to (1) the use and disposition of the revenues and receipts from or with respect to any home mortgages or loans to lending institutions for which the bonds are to be issued, including the creation and maintenance of reserves, (2) any insurance to be carried on any home, home mortgage or bonds and the use and disposition of insurance moneys, (3) the appointment of 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, (4) the investment of any funds held by such trustee or custodian, (5) the maximum interest rate payable on any home mortgage, and (6) the terms and conditions upon which the holders of the bonds or any portion thereof, or any trustees therefor, are entitled to the appointment of a receiver by a court of competent jurisdiction, and which may provide that the receiver may take possession of the home mortgages, or any part thereto, and maintain, sell or otherwise dispose of such mortgages, prescribe other payments and collect, receive and apply all income and revenues thereafter arising therefrom.

Any resolution authorizing the issuance of bonds may provide that the principal or redemption price of, and interest on, the bonds shall be secured by a mortgage, pledge, assignment, security interest, insurance agreement or indenture of trust covering such home mortgages or loans to lending institutions for which the bonds are issued and may include any improvements or extensions thereafter made. Such mortgage, pledge, assignment, security interest, insurance agreement or indenture of trust may contain such covenants and agreements to properly safeguard the bonds as may be provided for in the resolution authorizing such bonds and shall be executed in the manner as may be provided for in the resolution. The provisions of this part and any such resolution and any such 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 issuing city or county and its agencies and officers under this part and any such resolution and any such 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.

(Added by Stats. 1979, Ch. 1069.)

52034. The bonds shall bear the manual or facsimile signatures of such officers of the issuing city or county as may be designated in the resolution authorizing the bonds and such signatures shall be the valid and binding signatures of the officers of the city or county, notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon have ceased to be officers of the city or county. The validity of the bonds shall not be dependent on, nor affected by, the validity or regularity of any proceedings relating to the home mortgages 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 part, and the recital shall be conclusive evidence of their validity and of the regularity of their issuance.

(Added by Stats. 1979, Ch. 1069.)

52035. Bonds issued under this part may be secured by a pledge of, or lien upon the revenues and receipts derived from or with respect to the home mortgages or from or with respect to any notes or other obligations of lending institutions with respect to which the bonds have been issued, and the governing body of the issuing city or county may provide in the resolution authorizing such bonds for the issuance of additional bonds to be equally and ratably secured by a lien upon such revenues and receipts.

(Added by Stats. 1979, Ch. 1069.)

52036. 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 property pledged and thereafter received by the issuing city or county, 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 city or county, 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.

(Added by Stats. 1979, Ch. 1069.)

52037. All bonds issued pursuant to this part shall be limited obligations of the city or county issuing the same, payable solely out of the revenues and receipts derived from or with respect to the home mortgages or from or with respect to any notes or other

obligations of lending institutions with respect to which the bonds are issued. No holder of any bonds issued under this part has the right to compel any exercise of the taxing power of a city or county to pay the bonds, the interest or redemption premium, if any, thereon, and the bonds shall not constitute an indebtedness of the issuing city or county or a loan of credit thereof within the meaning of any constitutional or statutory provision, nor shall the bonds be construed to create any moral obligation on the part of the issuing city or county or any agency or subdivision thereof with respect to the payment of such bonds. It shall be plainly stated on the face of each bond that it has been issued under the provisions of this part and that it does not constitute an indebtedness of the city or county issuing the bond or a loan of credit thereof within the meaning of any constitutional or statutory provisions.

(Added by Stats. 1979, Ch. 1069.)

52038. Neither the members of the governing body of a city or county, nor any official or employee of a city or county, nor any person executing bonds issued under this part shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(Added by Stats. 1979, Ch. 1069.)

52039. Any property or interests in property held by or on behalf of a city or county pursuant to the provisions of this part and any bonds issued under the provisions of this part, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and city or county, or other political subdivision of the state, except inheritance and gift taxes.

(Added by Stats. 1979, Ch. 1069.)

52040. Notwithstanding any other provision of law, bonds issued pursuant to this part shall be legal investments for all trust funds, insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, trustees and all other fiduciaries. Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter, be authorized by law, including deposits to secure public funds.

(Added by Stats. 1979, Ch. 1069.)

52041. 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 and any other applicable laws of the state to determine the validity of any issuance or proposed issuance of bonds under this part and the legality and validity of all proceedings previously taken or proposed in a resolution of a county or city 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. 1979, Ch. 1069.)

52042. A city or county which has issued bonds pursuant to this part or any trustee or custodian on behalf of the city or county, may invest any funds held by it as provided in the resolution authorizing the issuance of the bonds.

(Added by Stats. 1979, Ch. 1069.)

52042.5. Investments under Section 52042 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 of California 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 52042 is additional and alternative to any other authorization for investment contained in this part, including Section 52044, or in other provisions of law.

(Added by Stats. 1980, Ch. 331.)

52043. All moneys received pursuant to the provisions of this part, whether revenues or proceeds from the sale of revenue bonds or proceeds of mortgage insurance or guarantee claims, shall be deemed to be trust funds to be held and applied solely for the purposes of this part. 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 part, subject to the terms of the resolution authorizing the revenue bonds.

(Added by Stats. 1979, Ch. 1069.)

52044. A city or county may provide for the issuance of the revenue bonds of the city or county for the purpose of refunding any revenue bonds of the city or county 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 city or county, for the additional purpose of paying all or any part of the cost of additional residential construction.

The proceeds of revenue bonds issued pursuant to this section may, in the discretion of the city or county, be applied to the purchase or retirement at maturity or redemption of outstanding revenue 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 city or county. Pending use for purchase, retirement at maturity, or redemption of outstanding revenue 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 revenue 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 city or county to be used by it for any lawful purpose under this part. That portion of the proceeds of any revenue bonds issued pursuant to this section which is designated for the purpose of paying all or any part of the cost of additional residential 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 obligation of, or guaranteed by, the United States of America, maturing not later than the time or times when such proceeds will be needed for the purpose of paying all or any part of such cost.

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

(Added by Stats. 1979, Ch. 1069.)