

1975 Assembly Bill 1415

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CHAPTER 221, Laws of 1975

AN ACT to renumber 234.01 (7) (a) to (e) and 234.04 (3); to amend 66.40 (16), 67.10 (7), 234.01 (5) and (7) (intro.), 234.02 (1), 234.03 (16), 234.04 (title), 234.24 and 893.23 (1) and (2); to repeal and recreate 66.395 (6), 67.025 and 234.15; and to create 66.402 (3), 234.01 (7) (b), 234.04 (3), 234.32 and 234.44 of the statutes, relating to municipal housing authorities and the Wisconsin housing finance authority and legal opinions upon municipal obligations.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.395 (6) of the statutes is repealed and recreated to read:

66.395 (6) SECTIONS 66.401 TO 66.404 APPLY. The provisions of ss. 66.401 to 66.404 shall apply to housing authorities and providing housing for elderly persons under this section without reference to the income of such persons, except as follows:

(a) As set down by the federal housing authority in the case of housing projects to the financing or subsidizing of which it is a party; or

(b) As set down by the Wisconsin housing finance authority in accordance with ch. 234 in the case of housing projects to the financing of which it is a party.

SECTION 4. 66.40 (16) of the statutes is amended to read:

66.40 (16) POWER TO MORTGAGE WHEN PROJECT FINANCED WITH AID OF GOVERNMENT. In connection with any project financed in whole or in part, or otherwise aided by a government (whether through a donation of money or property, a loan, the insurance or guarantee of a loan, or otherwise), the authority shall also have power to mortgage all or any part of its property, real or personal, then owned or thereafter acquired, to grant security interests in such property, and to issue its note or other obligation as may be required by the government. For purposes of this subsection, "government" includes the Wisconsin housing finance authority.

SECTION 5. 66.402 (3) of the statutes is created to read:

66.402 (3) Subsection (1) (a) and (c) does not apply in the case of housing projects to the financing of which the Wisconsin housing finance authority is a party, as to which ch. 234 shall be controlling.

SECTION 6. 67.025 of the statutes is repealed and recreated to read:

67.025 Certification of municipal obligations. In any municipality, the officers charged with the negotiation and sale of its municipal obligations may, in their discretion, prior to the issuance thereof, submit to the attorney general or to an attorney employed pursuant to s. 67.10 (7) a certified copy of all its proceedings preliminary to such issue, and also a printer's proof or sample of or the unsigned obligations, for examination and certification. Such attorney shall examine the proceedings and, if found regular and valid, shall execute a certificate of such examination and validity. As soon as such certificate is returned, the clerk of the municipality shall cause such certificate to be recorded. This section applies to obligations issued pursuant to ss. 59.071, 66.521 and 66.54.

SECTION 7. 67.10 (7) of the statutes is amended to read:

67.10 (7) ATTORNEY'S OPINION ON BOND ISSUE. In any ~~city~~ municipality the officers charged with the negotiation and sale of its ~~bonds~~ municipal obligations may employ an attorney whose opinion, in their judgment, will be accepted by ~~bond~~ buyers thereof as to the legality of ~~bonds~~ municipal obligations issued by the ~~city~~ municipality to pass upon the legality of any ~~bonds~~ municipal obligations issued by the ~~city~~ municipality and pay a reasonable compensation therefor.

SECTION 8. 234.01 (5) and (7) (intro.) of the statutes are amended to read:

234.01 (5) "Housing project" means a specific work or improvement within this state undertaken primarily to provide dwelling accommodations, including land development and the acquisition, construction or rehabilitation of buildings and improvements thereto, for residential housing, and such other nonhousing facilities as may be determined by the authority to be either necessary for the economic viability thereof, required by law or by a master plan, or incidental or appurtenant thereto.

(7) (intro.) "Nonprofit corporation" means a:

(a) A nonprofit corporation incorporated under ch. 181 whose articles of incorporation, in addition to other requirements of law, provide that:

SECTION 9. 234.01 (7) (a) to (e) of the statutes are renumbered 234.01 (7) (a) 1 to 5, respectively.

SECTION 10. 234.01 (7) (b) of the statutes is created to read:

243.01 (7) (b) Any authority established pursuant to s. 66.395 or 66.40.

SECTION 11. 234.02 (1) of the statutes is amended to read:

234.02 (1) There is created a public body corporate and politic to be known as the "Wisconsin housing finance authority". The members of the authority shall be the secretary of local affairs and development, and 6 public members appointed by the governor by and with the advice and consent of the senate for staggered 4-year terms commencing on the dates their predecessors' terms expire. At least one such public member shall be a person recommended by the commissioner of savings and loan, at least one a person recommended by the commissioner of banking, and at least one a person recommended by the executive director of the investment board. Of the first 6 public members, 2 shall serve terms expiring on January 1, 1974, 2 shall serve terms expiring on January 1, 1975, and 2 shall serve terms expiring on January 1, 1976. In addition, the ~~chairman~~ chairperson of the assembly committee on municipalities and the ~~chairman~~ chairperson of the senate committee on ~~housing and urban development affairs~~ shall serve as ~~ex-officio~~ members of the authority. A member of the authority shall receive no compensation for his services but shall be reimbursed for necessary expenses, including travel expenses, incurred in the discharge of his duties. ~~Each~~ Subject to the bylaws of the authority respecting resignations, each member shall hold office until ~~his~~ a successor has been appointed and has qualified. A certificate of appointment or reappointment of any member shall be filed with the authority and the certificate shall be conclusive evidence of the due and proper appointment of the members.

SECTION 12. 234.03 (16) of the statutes is amended to read:

234.03 (16) To lease real or personal property and to accept federal funds for and participate in such federal housing programs of leased housing pursuant to section 10 or 23 of the United States housing act of 1937, as now or hereafter amended by the housing and urban development act of 1965 or other amendments are enacted on the effective date of this act (1975) or at any future time.

SECTION 13. 234.04 (title) of the statutes is amended to read:

234.04 (title) Loans to eligible sponsors of housing projects and to or for persons and families of low and moderate income.

SECTION 14. 234.04 (3) of the statutes is renumbered 234.04 (4).

SECTION 15. 234.04 (3) of the statutes is created to read:

234.04 (3) The authority may make or participate in the making and enter into commitments for the making of loans to any banking institution or savings and loan association organized under the laws of this or any other state or of the United States having an office in this state, if the authority first determines that the proceeds of such loans will be utilized for the purpose of making long-term mortgage loans to persons or families of low and moderate income, or for the purpose of providing residential housing for occupancy by persons or families of low and moderate income.

SECTION 16. 234.15 of the statutes is repealed and recreated to read:

234.15 Capital reserve funds. (1) The authority shall establish one or more special funds to secure its bonds, referred to in this chapter as capital reserve funds, and shall pay into each such capital reserve fund any moneys appropriated and made available by the state for the purposes of such fund, any proceeds of sale of notes or bonds, to the extent provided in the resolution of the authority authorizing the issuance thereof and any other moneys which are made available to the authority for the purpose of such fund from any other source.

(2) All moneys held in any capital reserve fund, except as otherwise specifically provided, shall be used, as required, solely for the payment of the principal of bonds of the authority secured in whole or in part by such fund or of the sinking fund payments

mentioned in this section with respect to such bonds, the purchase or redemption of such bonds, the payment of interest on such bonds or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; but, if moneys in such fund at any time are less than the capital reserve fund requirement established for such fund as provided in this section, the authority shall not use such moneys for any optional purchase or optional redemption of such bonds. Any income or interest earned by, or increment to, any capital reserve fund due to the investment thereof may be transferred by the authority to other funds or accounts of the authority to the extent such transfer does not reduce the amount of such capital reserve fund below the capital reserve fund requirement for such fund.

(3) The authority shall not at any time issue bonds, secured in whole or in part by a capital reserve fund if upon the issuance of such bonds, the amount in such capital reserve fund will be less than the capital reserve fund requirement of such fund, unless the authority, at the time of issuance of such bonds, deposits in such fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the capital reserve fund requirement for such fund. For purposes of this section, "capital reserve fund requirement" means, as of any particular date of computation, an amount of money, as provided in the resolutions of the authority authorizing the bonds with respect to which such fund is established, which amount shall not exceed the maximum annual debt service on the bonds of the authority for that fiscal year or any future fiscal year of the authority secured in whole or in part by such fund. The annual debt service for any fiscal year is the amount of money equal to the aggregate of a) all interest payable during such fiscal year on all bonds secured in whole or in part by such fund outstanding on the date of computation, plus b) the principal amount of all such bonds outstanding on said date of computation which mature during such fiscal year, plus c) all amounts specified in any resolution of the authority authorizing any of such bonds as payable during such fiscal year as a sinking fund payment with respect to any of such bonds which mature after such fiscal year, all calculated on the assumption that such bonds will after such date of computation cease to be outstanding by reason, but only by reason, of the payment of bonds when due, and the payment when due and application in accordance with the resolution authorizing those bonds, of all of such sinking fund payments payable at or after such date of computation. However, in computing the annual debt service for any fiscal year, bonds deemed to have been paid in accordance with the defeasance provisions of the resolution of the authority authorizing the issuance thereof shall not be included in bonds outstanding on such date of computation.

(4) To assure the continued operation and solvency of the authority for the carrying out of the public purposes of this chapter, the authority shall accumulate in each capital reserve fund an amount equal to the capital reserve fund requirement for such fund. If at any time the capital reserve fund requirement for any capital reserve fund exceeds the amount of such capital reserve fund, the chairperson of the authority shall certify to the secretary of administration, the governor and the joint committee on finance the amount necessary to restore such capital reserve fund to an amount equal to the capital reserve fund requirement in respect thereto. If such certification is received by the secretary of administration in an even-numbered year prior to the completion of the budget compilation under s. 16.43, the secretary shall include the certified amount in the budget compilation. In any case, the joint committee on finance shall introduce in either house, in bill form, an appropriation of the amount so certified to the appropriate capital reserve fund of the authority. Recognizing its moral obligation to do so, the legislature hereby expresses its expectation and aspiration that, if ever called upon to do so, it shall make such appropriation.

(5) In computing the amount of any capital reserve fund for the purposes of this section, securities in which all or a portion of such capital reserve fund is invested shall be valued at par, or if purchased at less than par, at their cost to the authority.

(6) Notwithstanding subs. (1) to (5), the authority, subject to such agreements with noteholders or bondholders as may then exist, may elect not to secure any particular issue of its bonds with a capital reserve fund. Such election shall be made in the resolution authorizing such issue. In this event, subs. (2) and (3) shall not apply to the bonds of such issue in that they shall not be entitled to payment out of or be eligible for purchase by any such fund nor shall they be taken into account in computing or applying any capital reserve fund requirement.

SECTION 17. 234.24 of the statutes is amended to read:

234.24 System of accounts. Subject to agreements with noteholders and bondholders ~~and the approval of the secretary of administration~~, the authority shall prescribe a system of accounts.

SECTION 18. 234.32 of the statutes is created to read:

234.32 Laws not applicable to authority. Chapters 34 and 138 shall not apply to the authority.

SECTION 19. 234.44 of the statutes is created to read:

234.44 Validation of certain obligations and proceedings. Notwithstanding any provision of this chapter or any other law, in the absence of fraud, all obligations issued prior to the effective date of this act (1975) purportedly pursuant to this chapter, and all proceedings prior to such time taken purportedly pursuant to this chapter for the authorization and issuance of such obligations or of obligations not yet issued, and the sale, execution and delivery of such obligations issued prior to the effective date of this act (1975), are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power, however patent, other than constitutional, of the issuing authority or the governing body or officer thereof, to authorize such obligations, or to sell, execute, deliver the same, and notwithstanding any defects or irregularities, however patent, other than constitutional, in such proceeding or in such sale, execution or delivery of such obligations. All such obligations issued prior to the effective date of this act (1975) are binding, legal obligations in accordance with their terms.

SECTION 20. 893.23 (1) and (2) of the statutes are amended to read:

893.23 (1) An action to contest the validity of any municipal ~~bond obligation~~ which has been certified by ~~the an attorney general, as in the manner~~ provided in s. ~~165.015 (3) 67.025~~, for other than constitutional reasons, must be commenced within 30 days after the recording of such certificate as provided by s. 67.025. An action to contest the validity of any state ~~bond or state authority obligation~~ for other than constitutional reasons must be commenced within 30 days after the adoption of the authorizing resolution for such ~~state bonds obligation~~.

(2) An action or proceeding to contest the validity of any ~~state or municipal bond or other financing, or bond issued under s. 66.521~~, other than a ~~bond an obligation~~ certified as described in sub. (1), for other than constitutional reasons, must be commenced within 30 days after the date on which the issuer thereof publishes in the issuer's official newspaper, or, if none exists, in a newspaper having general circulation within the issuer's boundaries, a class 1 notice, under ch. 985, authorized by the governing body of such issuer, and setting forth the name of the issuer, that the notice is given pursuant to this section of the statutes, the amount of the bond issue or other financing and the anticipated date of closing of such bond or other financing and that a copy of proceedings had to date of the notice are on file and available for inspection

in a therein designated office of the issuer. Such notice may not be published until after the issuer has entered into a contract for sale of the bond or other financing.

SECTION 21. Construction of act. This act is necessary for the welfare of the state and its inhabitants; therefore, it shall be liberally construed to effect its purpose.
