

§1065. Trust agreements; resolutions

1. Trust agreements. At the discretion of the municipal officers, any revenue obligation securities issued under this subchapter may be secured by a trust agreement between the municipality and any corporate trustee or by a mortgage or other financial document. The trust agreement, mortgage, security agreement or other financial document may:

- A. Pledge or assign the revenues of the project or projects; [PL 1981, c. 476, §2 (NEW).]
- B. Set forth the rights and remedies of the security holders and the trustees and contain any reasonable and legal provisions for protecting the rights and remedies of the security holder; [PL 1981, c. 476, §2 (NEW).]
- C. Restrict the individual right of action by security holders; and [PL 1981, c. 476, §2 (NEW).]
- D. Include covenants setting forth the duties of the municipal officers and used in relation to:
 - (1) Acquisition of property;
 - (2) Construction, reconstruction, renewal, replacement and insurance of the project;
 - (3) Rents to be charged or other payments to be made for use;
 - (4) Payment of the project; and
 - (5) Custody, safeguarding and application of all moneys. [PL 1981, c. 476, §2 (NEW).]

It shall be lawful for any bank or trust company incorporated under the laws of the State, which may act as depository of the proceeds of securities or of revenues, to furnish indemnifying bonds or to pledge the securities as may be required by the municipal officers.
[PL 1981, c. 476, §2 (NEW).]

2. Mortgages. To further secure the payment of the revenue obligation securities, the trust agreement or other financial document may mortgage the project or any part and create a lien upon any or all of the real or personal property of the project. In the event of a default with respect to the revenue obligation securities, the trustee or mortgagee may be authorized by the trust agreement or financial document containing a mortgage or assignment of a mortgage to take possession of, hold, manage and operate all or any part of the mortgaged property and, with or without taking possession, to sell or, from time to time, to lease the property in accordance with law. Any security interest granted by a municipality under this chapter may be created and perfected in accordance with the provisions of the Uniform Commercial Code, Article 9-A.
[PL 1999, c. 699, Pt. D, §5 (AMD); PL 1999, c. 699, Pt. D, §30 (AFF).]

3. Authorizing resolutions. Any resolutions authorizing any issue of revenue obligation securities may contain provisions which shall be a part of the contract with holders, as to:

- A. Pledging any specified revenues or assets of the project to secure the payment of the revenue obligation securities or of any issue of revenue obligation securities, subject to agreements with existing holders of revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]
- B. Pledging all or any part of the unencumbered revenues or assets of the project to secure the payment of the revenue obligation securities or any issue of revenue obligation securities, subject to agreements with existing holders of revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]
- C. Setting aside of, regulating and disposing of reserves or sinking funds; [PL 1981, c. 476, §2 (NEW).]
- D. Limitations on the purpose to which the proceeds of revenue obligation securities may be applied and the pledge of the proceeds to secure the payment of the revenue obligation securities or of any issue of revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]

E. Limitations on the issuance of additional revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]

F. The terms upon which additional revenue obligation securities may be issued and secured and the refunding of outstanding or other revenue obligation securities; [PL 1985, c. 344, §89 (AMD).]

G. The procedure, if any, by which the terms of any contract with holders of revenue obligation securities may be amended or abrogated, including the amount of revenue obligation securities to which the holders must consent and the manner in which the consent may be given; [PL 1985, c. 344, §89 (AMD).]

H. Limitations on the amount of moneys to be expended by the municipality for operating expenses of the project; [PL 1985, c. 344, §89 (AMD).]

I. Vesting in a trustee or trustees such property, rights, powers and duties in trust as the municipality may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the holders of the revenue obligation securities under this subchapter and limiting or abrogating the right of the holders of the revenue obligation securities to appoint a trustee under this chapter or limiting the rights, powers and duties of the trustee; [PL 1985, c. 344, §89 (AMD).]

J. Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the municipal officers to the holders of the revenue obligation securities and providing for the rights and remedies of the holders of the revenue obligation securities in the event of such default, including, as a matter of right, the appointment of a receiver; but only if the rights and remedies are not inconsistent with the general laws of the State and other provisions of this subchapter; and [PL 1985, c. 344, §89 (AMD).]

K. Any other matters of like or different character which in any way affect the security or protection of the holders of the revenue obligation securities. [PL 1985, c. 344, §89 (AMD).]

[PL 1985, c. 344, §89 (AMD).]

4. Authorizing resolution; other provisions. At the discretion of the municipal officers, the authorizing resolution may:

A. Pledge or assign the revenues of the project or projects; [PL 1981, c. 476, §2 (NEW).]

B. Set forth the rights and remedies of the security holders and the trustees and contain any reasonable and legal provisions for protecting the rights and remedies of the security holder; [PL 1981, c. 476, §2 (NEW).]

C. Restrict the individual right of action by security holders; and [PL 1981, c. 476, §2 (NEW).]

D. Include covenants setting forth the duties of the municipal officers and user in relation to:

(1) Acquisition of property;

(2) Construction, reconstruction, renewal, replacement and insurance of the project;

(3) Rents to be charged or other payments to be made for use;

(4) Payment of the project; and

(5) Custody, safeguarding and application of all moneys. [PL 1981, c. 476, §2 (NEW).]

It shall be lawful for any bank or trust company incorporated under the laws of the State which may act as depository of the proceeds of securities or of revenues to furnish indemnifying bonds or to pledge the securities as may be required by the authority.

[PL 1981, c. 476, §2 (NEW).]

5. Expenses; pledges. All expenses incurred in carrying out a trust agreement, financial document or resolution may be treated as a part of the cost of the operation of the project. All pledges of revenue

under this subchapter shall be valid and binding from the time when the pledge is made. All the revenues pledged and later received by the municipality shall immediately be subject to the lien of the pledges without any physical delivery or further action under the Uniform Commercial Code, or otherwise. The lien of the pledges shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the municipality, irrespective of whether the parties have notice.

[PL 1981, c. 476, §2 (NEW).]

6. Other provisions. A trust agreement, financial document or authorizing resolution may contain other provisions the municipal officers deem reasonable and proper for the security of the security holders.

[PL 1981, c. 476, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 476, §2 (NEW). PL 1985, c. 344, §§88,89 (AMD). PL 1999, c. 699, §D5 (AMD). PL 1999, c. 699, §D30 (AFF).

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