REPLACING OR PAYING OBLIGATIONS OF PUBLIC CORPORATION

Act 354 of 1972

AN ACT to authorize the replacement or payment without presentation of lost, destroyed or wrongfully taken bonds or other evidences of indebtedness issued by public corporations; and to prescribe the powers and duties of certain departments and agencies.

History: 1972, Act 354, Imd. Eff. Jan. 9, 1973 ;-- Am. 1974, Act 142, Imd. Eff. June 5, 1974

The People of the State of Michigan enact:

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129.131 Definitions.

Sec. 1.

As used in this act:

(a) "Paying agent" means either of the following:

(i) For an obligation that is not registered as to payment of principal by or on behalf of the public corporation that issued the obligation, any bank or trust company designated by the public corporation to make payment of principal of or interest on the obligation.

(ii) For an obligation that is registered as to payment of principal by or on behalf of the public corporation that issued the obligation, any bank or trust company that is authorized by the public corporation to authenticate the obligation on behalf of the public corporation.

(b) "Public corporation" means a body corporate organized pursuant to the laws of this state to carry out a public governmental or proprietary function, including, but not limited to, this state, an agency of this state, or a school district, intermediate school district, city, village, township, county, district, commission, authority, university, college, or any combination of these, which is a corporate entity.

(c) "Obligation" means evidence of indebtedness including, but not limited to, a bond, refunding bond, revenue bond, note, certificate of indebtedness and other like instrument issued by a public corporation, and any coupon representing interest on the obligation.

(d) "Governing body" means the legislative body or the official or official body that exercises the general governing powers of a public corporation, or in the case of this state or an agency of this state, the official body designated by law to issue the obligation to be replaced.

(e) "Replacement obligation" means an obligation and any coupon representing interest in connection with the obligation issued under this act.

(f) "Obligor" means either of the following:

(i) A person or entity that has borrowed the proceeds of an obligation from a public corporation and is contractually obligated to make loan repayments sufficient to pay principal of and interest on the obligation.

(ii) A person or entity that has leased, rented, or purchased on an installment basis from a public corporation a facility financed with proceeds of an obligation and that is making payments for the use or purchase of the facility in amounts sufficient to pay principal of and interest on the obligation.

History: 1972, Act 354, Imd. Eff. Jan. 9, 1973 ;-- Am. 1974, Act 142, Imd. Eff. June 5, 1974 ;-- Am. 1996, Act 109, Imd. Eff. Mar. 5, 1996

129.132 Replacement obligations; prerequisites to issuance; exercise of powers by paying agent; resolution; execution; seal.

Sec. 2.

(1) A public corporation, by resolution of the governing body or the state treasurer, may provide for issuance and delivery of a replacement obligation for an unmatured obligation or for payment without presentation of a matured obligation that has been lost, apparently destroyed, or wrongfully taken when furnished with all of the following:

(a) Proof of ownership as required by the governing body.

(b) Proof of loss, destruction, or wrongful taking as required by the governing body.

(c) An open penalty bond of indemnity that was issued by a company rated in 1 of the 3 highest rating categories and 1 of the top 10 financial size categories by a nationally recognized insurance rating agency, and that indemnifies the public corporation, the obligor, if any, and the paying agent against any loss they may suffer on account of issuance and delivery of the replacement obligation, or payment of the obligation without presentation, in amounts and with coverage as required by the governing body.

(d) Payment of the cost of preparation of the replacement obligation and all other costs incurred by the public corporation and the fees, costs, and expenses of the paying agent in connection with the issuance and delivery of the replacement obligation, or payment without presentation of the obligation.

(2) A paying agent may exercise on behalf of the governing body the powers granted to the governing body under subsection (1) if both of the following conditions are met:

(a) The governing body adopts a resolution generally authorizing the paying agent to exercise such powers.

(b) In each particular case in which the paying agent wishes to exercise such powers, the paying agent notifies the governing body in writing and the governing body does not object within 60 days after notice is given.

(3) A paying agent shall notify the governing body of a public corporation of that paying agent's exercise of powers granted to the governing body under subsection (1) not more than 30 days after exercising such powers.

(4) If a public corporation is organized under the economic development corporations act, Act No. 338 of the Public Acts of 1974, being sections 125.1601 to 125.1636 of the Michigan Compiled Laws, either the legislative body of the municipality that incorporated the public corporation or the governing body of the public corporation may adopt a resolution under subsection (1) or (2)(a). If the legislative body of the municipality adopts a resolution under subsection (2)(a), the legislative body of the municipality, rather than the governing body of the public corporation, shall be given the notice and may exercise the power to object under subsection (2)(b).

(5) A person holding the same office as the person who executed the obligation originally issued is authorized, upon notice from the paying agent of satisfaction of the conditions described in subsection (1)(a) through (d), to execute and seal, where necessary, a replacement obligation without further action of the governing body.

History: 1972, Act 354, Imd. Eff. Jan. 9, 1973 ;-- Am. 1974, Act 142, Imd. Eff. June 5, 1974 ;-- Am. 1996, Act 109, Imd. Eff. Mar. 5, 1996

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129.133 Replacement obligations; form; security; execution; formal requirements; indorsement.

Sec. 3.

A replacement obligation shall be of the same form and tenor and be secured in the same manner as the obligation originally issued. The replacement obligation shall be executed in the same manner and subject to the same formal requirements as those provided by law for the obligation originally issued. Obligations that are not registered as to payment of either principal or interest shall be indorsed with the word "replacement".

History: 1972, Act 354, Imd. Eff. Jan. 9, 1973 ;-- Am. 1974, Act 142, Imd. Eff. June 5, 1974 ;-- Am. 1996, Act 109, Imd. Eff. Mar. 5, 1996

129.134 Replacement of unmatured interest coupons; payment of matured interest coupons.

Sec. 4.

The governing body may provide for replacement of unmatured interest coupons lost, destroyed, or wrongfully taken. Matured interest coupons shall not be replaced, and replacement coupons shall not be issued separately from a replacement obligation evidencing principal. The governing body may authorize a paying agent to make payment of matured interest coupons lost, destroyed, or wrongfully taken without presentation upon receipt of documentation and indemnification satisfactory to the paying agent and payment of any fees, costs, and expenses of the paying agent.

History: 1972, Act 354, Imd. Eff. Jan. 9, 1973 ;-- Am. 1974, Act 142, Imd. Eff. June 5, 1974 ;-- Am. 1996, Act 109, Imd. Eff. Mar. 5, 1996

129.135 Repealed. 2000, Act 117, Imd. Eff. May 26, 2000.

Compiler's Notes: The repealed section pertained to the authority of the department to promulgate rules to implement the act.

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