

INDUSTRIAL DEVELOPMENT REVENUE BOND ACT OF 1963 (EXCERPT)
Act 62 of 1963

125.1253a Programs of water and air pollution control for industries and public utilities; water and air pollution control equipment; powers of municipality.

Sec. 3a. There exists in this state the continuing need for programs of water and air pollution control and solid waste disposal facilities for industries and public utilities in order to protect the public health, safety, and welfare of the residents of the state, and it is necessary to promote and encourage the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, repairing, operation, and maintenance of adequate and proper water and air pollution control equipment and solid waste disposal facilities for industrial buildings and the facilities of public utilities now or hereafter located in this state. The authority and powers conferred by this act, including the powers conferred with respect to the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, repairing, operation, and maintenance of pollution control facilities and the financing thereof whether by purchase, sale, lease, or otherwise, including pollution control facilities heretofore acquired, under construction, placed in operation, or completed by any person, firm, corporation, or public utility, and the issuance of bonds for the purpose of refunding outstanding bonds, constitutes such a necessary program and serves a valid public purpose. A municipality may do any or all of the following:

(a) Construct, acquire by gift or purchase, reconstruct, improve, enlarge, maintain, remodel, repair, or operate and maintain any pollution control facilities or portion thereof within or without the municipality whether the pollution control facilities have been or are operating, are under construction, or are completed. The interest of the municipality in the pollution control facilities leased or sold to a public utility may be subject or may be made subject to a mortgage, lien, security interest, or encumbrance given or made by a public utility from which the municipality acquired its interest or which, under an agreement made pursuant to subdivision (c), has or may acquire an interest in the pollution control facilities.

(b) Issue revenue bonds under, subject to, and in accordance with this act to finance, in whole or in part, the costs of acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities referred to in subdivision (a), or to refund outstanding bonds, or partly to finance, in whole or in part, the costs of acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving or repair of pollution control facilities referred to in subdivision (a) and partly to refund outstanding bonds. The revenue bonds may be issued by a municipality to finance the costs of the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities located or to be located in 1 or more places within or without the municipality issuing the revenue bonds. Revenue bonds issued pursuant to this section may be issued solely for the acquisition, purchase, construction, reconstruction, enlarging, remodeling, improving, or repair of pollution control facilities referred to in subdivision (a), notwithstanding that the municipality does not own or propose to own the industrial buildings or public utility facilities, including lands or interests in lands therefor in or near to which the pollution control facilities are or are to be located.

(c) Enter into a lease, lease-purchase agreement, or installment sales contract with any person, firm, corporation, or public utility for the use or sale of pollution control facilities referred to in subdivision (a). The agreement shall provide that the rents to be charged for the use or the sums to be paid under the installment sales contract shall be fixed so as to produce income and revenues therefrom sufficient to pay promptly when due the interest upon and the principal of all bonds issued payable therefrom after provision has been made for the payment of operation and maintenance costs, if the costs of operation and maintenance are required to be paid under the agreement by the municipality. An agreement may provide for conveyance of the pollution control facilities to the lessee or purchaser under the agreement after provision has been made for the retirement in full of all bonds issued therefor under terms and conditions provided in the agreement or, with respect to pollution control facilities leased or sold to a public utility, at any time where the obligation of the lessee or purchaser to make the payments prescribed by the preceding sentence of this subdivision shall remain fixed as therein provided notwithstanding the conveyance. The agreement shall specify that the pollution control facilities shall remain in or near the industrial building or plant or facility of the person, firm, corporation, or public utility until provision has been made for the retirement in full of all bonds issued therefor unless the pollution control facilities are conveyed by the municipality as authorized by this subdivision or are replaced without cost to the municipality with machinery and equipment of at least equivalent value or utility. Where the pollution control facilities are sold pursuant to an installment sales contract, the terms "lease," "leased," "lessee," or words of similar import used in this act shall be construed respectively to mean "installment sales contract," "sold," "purchaser," or words of similar import as the context may require, and the term "rent" or words of similar import as used in this act shall be construed to mean

"purchase installments" or words of similar import as the context may require.

(d) Mortgage or create security interest in any pollution control facilities referred to in subdivision (a), or in any lease, lease-purchase agreement, or installment sales contract referred to in subdivision (c), or in the rents, revenues, or sums to be paid thereunder, in favor of the holders of the revenue bonds issued therefor. A mortgage or security interest in pollution control facilities leased or sold to a public utility may be subject, or may be made subject, to a mortgage, lien, security interest, or encumbrance to which the interest of the municipality may be subject to pursuant to the provisions of subdivision (a) or to a future mortgage, lien, security interest, or other encumbrance which may be created in any pollution control facilities by the lessee or purchaser.

(e) Sell and convey the pollution control facilities referred to in subdivision (a) owned by the municipality, including without limitation the sale and conveyance thereof subject to a mortgage or security interest referred to in subdivision (d) for such price and at such time as the governing body may determine. A sale or conveyance shall not be made in any manner as to impair the rights or interests of the holders of any revenue bonds previously issued therefor or the rights or interests of any lessee or the purchaser thereof under any agreement with the municipality for the lease or purchase thereof.

History: Add. 1972, Act 75, Imd. Eff. Mar. 9, 1972;—Am. 1973, Act 7, Imd. Eff. Apr. 4, 1973;—Am. 1973, Act 172, Imd. Eff. Dec. 31, 1973;—Am. 1978, Act 229, Imd. Eff. June 14, 1978.