

**Central Indiana Regional Development
Authority**
Bylaws

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APPENDIX A: Indiana Code 36-7.6 A-1

Article I. Structure

Section 1.01 Statute

- (a) Indiana Code (IC) Title 36, Article 7.6 Regional Development Authority outlines the requirements of Regional Development Authorities in Indiana. Indiana statute provides the authority for the Central Indiana Regional Development Authority (CIRDA).

Section 1.02 Regional Development Authority Board

- (a) The Regional Development Authority Board (RDA Board) is the governing body for the CIRDA.

Section 1.03 CIRDA Staff

- (a) CIRDA will be staffed by an outside agency, as agreed upon by the RDA Board. The outside agency will incur costs for providing staffing to CIRDA and these costs will be part of the administrative costs for the RDA, paid by local dues.

Article II. Redevelopment Area

Section 2.01 Redevelopment Area

- (a) CIRDA assists in planning and funding regional projects within the confines of the boundaries of its members.

Article III. CIRDA Membership

Section 3.01 Membership

- (a) CIRDA membership consists of the following:

- City of Carmel
- City of Greenwood
- City of Indianapolis
- City of Westfield
- City of Beech Grove*
- City of Lawrence*
- City of Southport*

*These cities are deemed members of the CIRDA by operation of IC 36-7.6-2-3 (c).

Section 3.02 Dues

- (a) CIRDA members, as outlined in Section 3.01, are responsible for the cost of conducting the day to day business operations of CIRDA. Local match requirements for RDA projects will be assessed on a project by project basis and dues do not count towards the local match portion of a project.
- (b) Only CIRDA members who appoint RDA Board members pay dues.
- (c) The dues calculation only applies to those CIRDA members who pay dues. Dues shall be allotted by percentage based on the population of each member jurisdiction. Population data will be provided from the most recent Decennial Census, conducted by the U.S. Census Bureau. The percentage shall be determined by dividing the population of each member jurisdiction by the total population of all board member jurisdictions. The resulting percentage shall be multiplied by the required costs of the RDA to determine each member jurisdiction's dues.
- (d) RDA staff will present membership dues to the RDA Board no later than the second meeting of the year.
- (e) Failing to pay membership dues may result in the suspension of certain membership privileges provided by these bylaws.

Section 3.03 Joining an RDA

- (a) A county, qualified city, third class city, or town may join the RDA provided that the following requirements are met, in reference to IC 36-7.6-2-4:
 - (i) It is not already part of a redevelopment authority,
 - (ii) Is a county or is located in a county that is adjacent to or has membership in a Regional Development Authority,
 - (iii) The fiscal body of the jurisdictions outlined in Section 3.03 (a) adopts an ordinance authorizing it to become a member, and
 - (iv) The RDA Board adopts a resolution authorizing the membership.
- (b) Once the requirements in 3.03 (a) are met, the jurisdiction becomes a member of the CIRDA, as provided by IC 36-7.6-2-4 (e).
- (c) If a county joins the CIRDA, then all qualified cities (as defined by 36-7.6-1-12.5) and third class cities (as defined by 36-4-1-1) within the county become members of the CIRDA, without further action by the RDA Board or the jurisdiction (s), as provided by IC 36-7.6-2-4(f).
- (d) CIRDA must notify the Indiana Economic Development Corporation promptly in writing when a new member joins the CIRDA, as provided by IC 36-7.6-2-4 (g).

Section 3.04 Membership Length of Participation and Withdrawal

- (a) A jurisdiction that has joined CIRDA must remain in CIRDA for at least eight (8) years after the date the jurisdiction becomes a member of CIRDA. The membership date is counted as the date the RDA Board adopts the resolution authorizing membership, as provided by IC-36-7.6-2-5 (b).
- (b) The RDA was formed when the legislative bodies of the original members adopted an ordinance authorizing membership. The following list records the date of approval:
 - (i) City of Carmel – July 9, 2015
 - (ii) City of Greenwood – June 15, 2015
 - (iii) City of Indianapolis – July 13, 2015
 - (iv) City of Westfield – June 22, 2015
- (c) At least twelve (12) months and no more than eighteen (18) months before the end of the jurisdiction’s membership period, the jurisdiction must adopt an ordinance that commits it to an additional eight (8) years or withdraws its membership from the CIRDA, as provided by IC-36-7.6-2-5 (c).
- (d) If a member chooses to withdraw, it is still responsible for paying any unpaid transfers, under either IC 36-7.6-4-2 or an agreement between members of the development authority and the development board, that become due before the effective date of withdrawal, as provided by IC-36-7.6-2-6.
- (e) If a county withdraws as a member, it does not affect the membership of a qualified city or third-class city that became a member of the development authority as a result of the county’s membership, as provided by IC-36-7.6-2-5 (d).
- (f) If a county chooses to remain a member, the qualified cities and third class cities in the county may not withdraw from the development authority and remain members of the development authority, as provided by IC-36-7.6-2-5 (e).
- (g) The development authority shall notify the Indiana Economic Development Corporation promptly in writing when a member withdraws from the development authority, as provided by IC-36-7.6-2-5 (f).
- (h) Specific language can be found in IC 36-7.6-2-5 and IC-36-7.6-2-6. In the event of a conflict between the provisions of these bylaws and IC 36-7.6, the provisions of IC 36-7.6 shall prevail.

Article IV. Regional Development Authority Board

Section 4.01 Purpose

- (a) The Regional Development Authority Board (RDA Board) is charged with adhering to the duties of the CIRDA, as authorized by IC 36-7.6-3-1:
 - (i) Assisting in the coordination of local efforts concerning projects of regional importance;
 - (ii) Assisting in a county, municipality, commuter transportation district, airport authority, and a regional transportation authority in coordinating regional transportation and economic development efforts;
 - (iii) Funding projects that are of regional importance.
- (b) Any other duties expressed in IC 36-7.6.

Section 4.02 Powers

- (a) The RDA Board shall have the authority to approve work product of the CIRDA staff including, but not limited to, the annual reporting required by IC 36-7.6-3-4 and the comprehensive development plan required by IC 36-7.6-3-5.
- (b) The RDA Board shall establish and administer a development authority fund pursuant to IC 36-7.6-4. Specific details regarding the administration of the authority fund are found in Section 5.07 of these bylaws.
- (c) The RDA Board shall have the power to accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source. This power is as provided by IC 36-7.6-3-2 (a) (19).
- (d) The RDA Board has the ability to issue bonds. This power is provided by IC 36 7.6-4-4.
- (e) Any other powers expressed in IC 36-7.6 including, but not limited to, the specific powers provided in IC 36-7.6-3-2.

Section 4.03 Members

- (a) The RDA Board shall have five members appointed by written agreement of the executives of the members of the development authority, as provided by IC 36-7.6-2-7
 - (b). Membership appointments are made as follows:
 - (i) One member appointed by the Mayor of the City of Carmel;
 - (ii) One member appointed by the Mayor of the City of Greenwood;
 - (iii) One member appointed by the Mayor of the City of Indianapolis;

- (iv) One member appointed by the Mayor of the City of Indianapolis as recommended by the President of the City-County Council of the City of Indianapolis, and
 - (v) One member appointed by the Mayor of the City of Westfield.
- (b) A member appointed to the RDA Board, as provided by IC 36-7.6-2-7 (c):
- (i) May not be an elected official or an employee of a member county or municipality; and
 - (ii) Must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:
 - a) Transportation
 - b) Regional Economic Development
 - c) Business or finance.
 - d) Private, nonprofit sector, or academia.
- (c) Proxy
- (i) Each member is permitted one proxy.
 - (ii) That proxy must be designated in writing by the appointing authority of the RDA board member.
 - (iii) That proxy must meet the same qualifications as outlined in Section 4.03 (b).
- (d) Terms
- (i) A RDA Board member serves a four (4) year term and may be reappointed to subsequent terms, as provided by IC 36-7.6-2-9 (a). The board member must be reappointed using the process outlined in Section 4.03 (a).
- (e) Removal
- (i) A member may only be removed by written agreement of at least three-fourths (3/4) of the executives of the members of the development authority, as outlined in IC 36-7.6-2-9 (b).
- (f) Vacancy
- (i) If a vacancy occurs, the executive of the appointing member for the vacated board seat shall nominate a replacement board member who, subject to the written approval of all member executives, shall be appointed to fill the vacant board seat, as provided by IC 36-7.6-2-9 (c).
- (g) Oath
- (i) Each member appointed to the RDA Board must, before entering upon duties of office, take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the RDA Board, as provided by IC-36 7.6-2-9 (d).

(h) Compensation and Per Diem

- (i) A member appointed to a RDA Board is not entitled to receive any compensation for performance of the member's duties, as provided by IC 36-7.6-2-9 (e).
- (ii) A member is entitled to a per diem from the development authority for the member's participation in the RDA Board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1 (b). This section is as provided by IC 36-7.6-2-9 (e).

Section 4.04 Officers

- (a) In January of each year, the RDA Board will hold a meeting to elect the following officers from the membership of the RDA Board, as provided by IC 36-7.6-2-10 (a):
 - (i) Chair,
 - (ii) Vice Chair,
 - (iii) and Secretary-Treasurer.
- (b) An officer is elected if the officer receives an affirmative vote of the majority of the appointed RDA Board members, as provided by IC 36-7.6-2-10 (b).
- (c) The officer serves from the date of the officer's election until the officer's successor is elected and qualified, as provided by IC 36-7.6-2-10 (c).
- (d) The Chair leads the RDA Board meetings and is responsible for the meeting agenda.
- (e) The Vice Chair assumes the responsibility of the Chair, in the Chair's absence.
- (f) The Secretary-Treasurer is responsible for meeting notes and financial oversight of the RDA Board. CIRDA staff may assist in this effort.

Section 4.05 Meetings and Agendas

- (a) The RDA Board must meet quarterly, as provided by IC 36-7.6-2-11 (a).
- (b) A special meeting may be called by the chair or two (2) RDA Board members, as provided by IC 36-7.6-2-11 (b).
- (c) Meeting agendas will be distributed at least one week prior to the RDA Board meetings. Items on the agenda originate from CIRDA staff and relate to pertinent items of business that the CIRDA must complete. Items may also be placed on the agenda at the request of any officer or appointed member.
- (d) The CIRDA and RDA Board shall conduct their business in compliance with the State of Indiana's Open Meetings Law (IC 5-14-1.5), and Indiana's Public Access Laws (IC 5-14-3).
- (e) All meetings will be held at locations with access to public transit.

Section 4.06 Quorum and Approval

- (a) A majority of the appointed members of the RDA Board constitutes a quorum, as provided by IC 36-7.6-2-11 (c).
- (b) The affirmative votes of at least a majority of the appointed members of a RDA Board are necessary to authorize any action of the development authority, as provided by IC 36-7.6-2-11 (d).

Section 4.07 Legal Counsel

- (a) The RDA Board shall at times have the discretion to retain legal counsel as it deems appropriate and necessary.

Article V. General Provisions

Section 5.01 Bylaw Adoption and Bylaw Amendments

- (a) A development board shall adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property, as provided by IC 36-7.6-2-12.
- (b) Each appointed member must receive written notice of a proposed bylaw amendment at least thirty (30) days prior to the meeting at which the amendment is to be considered.
- (c) Amendments to these Bylaws of the CIRDA shall require the affirmative vote of at least the majority of appointed members of the RDA Board.

Section 5.02 Conflict with Indiana Code

- (a) These Bylaws are made in an effort to comply with current Indiana Code. Any Bylaws in conflict with the Indiana Code or subsequent amendments to the Indiana Code shall be deemed and declared void.

Section 5.03 Public Purchasing and Public Projects

- (a) CIRDA shall comply with IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations, as provided by IC 36-7.6-2-13 (a). An eligible political subdivision that receives a loan, a grant, or other financial assistance from a development authority or enters in a lease with a development authority must comply with applicable federal, state, and local public purchasing and bidding laws and regulations, as provided by IC 36-7.6-2-13 (a).

- (b) Any project undertaken by the CIRDA shall set a goal for participation by minority business enterprises and women's business enterprises. The goals must be consistent with:
 - (i) The participation goals established by the counties and municipalities that are members of the development authority; and
 - (ii) The goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services.
 - (iii) This section is as provided by IC 36-7.6-2-13 (b).

Section 5.04 Annual Report

- (a) Before April 1, the RDA Board shall send a report to the legislative council, the budget committee, the Indiana economic development corporation, and the executive of each member of the development authority concerning the operations and activities of the development authority during the preceding calendar year. The report to the legislative council must be in an electronic format under IC 5-14-6. This section is as provided by IC 36-7.6-3-4.

Section 5.05 Audits

- (a) Pursuant to IC 36-7.6-2-14, CIRDA shall be responsible for the cost of an annual audit to be performed by a certified public accountant as contracted by the Office of Management and Budget of the State of Indiana and shall be also responsible for the costs of any audit of CIRDA conducted by the State Board of Accounts.

Section 5.06 Strategic Development Plan

- (a) Pursuant to IC 36-7.6-3-5, the authority shall prepare a comprehensive development plan that includes detailed information concerning the following:
 - (i) The proposed projects to be undertaken or financed by the Authority. The following information for each project included:
 - a) Timeline and budget.
 - b) The return on investment.
 - c) The projected or expected need for an ongoing subsidy.
 - d) Any projected or expected federal matching funds.
 - (ii) If the strategic development plan has not been filed as part of a grant or loan request under IC 5-28-37, as such law is in effect as of July 1, 2015, and as the same may be amended from time-to-time, the Authority shall, not later than January 1 of the second year following the year in which the development authority is established, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget and the Indiana Economic Development Corporation.

- (iii) The Authority shall, on a periodic basis, review and modify the strategic development plan as is in the best interest of the Authority.

Section 5.07 Authority Fund Administration

- (a) The Authority shall establish and administer a development authority fund (the "Fund"). The Fund shall consist of the following:
 - (i) Amounts transferred by members of the Authority.
 - (ii) Amounts transferred to the Fund by each member of the Authority, if any, including any payments required under an interlocal agreement entered into by the members of the Authority.
 - (iii) Appropriations, grants, or other distributions made to the Fund by the state.
 - (iv) Money received from the federal government.
 - (v) Gifts, contributions, donations, and private grants made to the Fund.
 - (vi) The Fund shall be administered in accordance with IC 36-7.6-4, as such law is in effect as of July 1, 2015, and as the same may be amended from time to time.

Section 5.08 Budget

- (a) The CIRDA staff shall present an annual budget to the RDA Board no later than the first meeting of the year. The budget will include details about funding levels, source of funding, and the activities for the year.
- (b) The RDA Board shall approve the budget no later than the second meeting of the year.

Section 5.09 Indemnification

- (a) Each jurisdiction with the authority to appoint a board member to the RDA Board shall, to the fullest extent permitted by law, be responsible for the defense and indemnification of its appointee(s) against all expenses, judgments, settlements and any other amounts actually and reasonably incurred by them in connection with any claim or administrative or legal proceeding while acting in their official capacity on behalf of CIRDA or in connection with their position as a CIRDA Board member, so long as the appointee did not act in a grossly negligent manner, or in a willful and wanton manner, or in violation of state or federal criminal law.
 - (i) The City of Carmel board member is indemnified by Carmel Municipal Code, Section 2-29.
 - (ii) The City of Greenwood board member is indemnified by Greenwood Municipal Code, Sections 2-55 through 2-60.

- (iii) The City of Indianapolis board members are indemnified by the Revised Code of the Consolidated City of Indianapolis and Marion County Section 292-1(a) and (d).
- (iv) The City of Westfield board member is indemnified by the member's signature of an indemnification letter.
- (v) The RDA Board shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its Officers, Board members, members, employees, and other agents, against any liability asserted against or incurred by any Officer, Board member, member, employee, or agent in such capacity or arising out of the Officer's Board member's, member's, employee's or agent's status as such.

Section 5.10 Bonding

- (a) Pursuant to IC 36-7.6-4-3, the authority has the ability to issue bonds.
- (b) Pursuant to IC 36-7.6-4-3 (h) (1) and (2) The authority may not issue bonds unless:
 - (i) The development authority enters into an interlocal agreement with each member that is committing funds to a project to be supported by the bonds; and
 - (ii) The fiscal body of each member that is committing funds to the project to be supported by the bonds approves the agreement described in 5.10 (b) (i) by ordinance.

APPENDIX A: Indiana Code 36-7.6

Effective July, 2015.

ARTICLE 7.6. REGIONAL DEVELOPMENT AUTHORITIES

IC 36-7.6-1

Chapter 1. Definitions

IC 36-7.6-1-1

Application of definitions

Sec. 1. Except as otherwise provided, the definitions in this chapter apply throughout this article.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-2

"Airport authority"

Sec. 2. "Airport authority" refers to an airport authority established under IC 8-22-3.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-3

"Airport authority project"

Sec. 3. "Airport authority project" means a project that can be financed with the proceeds of bonds issued by an airport authority under IC 8-22-3.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-4

"Bonds"

Sec. 4. "Bonds" means, except as otherwise provided, bonds, notes, or other evidences of indebtedness issued by a development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-5

"Commuter transportation district"

Sec. 5. "Commuter transportation district" refers to a commuter transportation district established under IC 8-5-15.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-6

"Commuter transportation district project"

Sec. 6. "Commuter transportation district project" means a project that can be financed with the proceeds of bonds issued by a commuter transportation district under IC 8-5-15.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-7

Repealed

(As added by P.L.232-2007, SEC.7. Repealed by P.L.178-2015, SEC.5.)

IC 36-7.6-1-8

"Development authority"

Sec. 8. "Development authority" refers to a regional development authority established under IC 36-7.6-2-3.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-9

"Development board"

Sec. 9. "Development board" refers to the governing body of a development authority appointed under IC 36-7.6-2-3.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-10

"Economic development project"

Sec. 10. "Economic development project" means an economic development project described in IC 6-3.5-7-13.1(c).

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-11

"Eligible political subdivision"

Sec. 11. "Eligible political subdivision" means any of the following:

- (1) A county.
- (2) A municipality.
- (3) An airport authority.
- (4) A commuter transportation district.
- (5) A regional transportation authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-12

"Project"

Sec. 12. "Project" means an airport authority project, a commuter transportation district project, an economic development project, a regional transportation authority project, an intermodal transportation project, a regional trail or greenway project, or any project that enhances a region with the goal of attracting people or business.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.6.

IC 36-7.6-1-12.5

"Qualified city"

Sec. 12.5. "Qualified city" means:

- (1) a second class city; or
- (2) a city or town that is eligible to become a second class city.

As added by P.L.178-2015, SEC.7.

IC 36-7.6-1-13

"Regional transportation authority"

Sec. 13. "Regional transportation authority" means a regional transportation authority established under IC 36-9-3.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-1-14

"Regional transportation authority project"

Sec. 14. "Regional transportation authority project" means a project that can be financed with the proceeds of bonds issued by a regional transportation authority under IC 36-9-3. *As added by P.L.232-2007, SEC.7.*

IC 36-7.6-2

Chapter 2. Development Authority and Board

IC 36-7.6-2-1

Establishment of development authorities

Sec. 1. The provisions of section 3 of this chapter govern the establishment of a development authority.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.8.

IC 36-7.6-2-2

Body corporate and politic; development authority activities

Sec. 2. A development authority established under this chapter is a separate body corporate and politic that shall carry out the purposes of this article by:

- (1) acquiring, constructing, equipping, owning, leasing, and financing projects and facilities for lease to or for the benefit of eligible political subdivisions under this article; and
- (2) funding and developing:
 - (A) airport authority projects;
 - (B) commuter transportation district and other rail projects and services;
 - (C) regional transportation authority projects and services;
 - (D) economic development projects;
 - (E) intermodal transportation projects;
 - (F) regional trail or greenway projects; and
 - (G) any project that enhances the region with the goal of attracting people or business;

that are of regional importance.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.9.

IC 36-7.6-2-3

Units that may establish a development authority; requirements

Sec. 3. (a) A development authority may be established by any of the following:

- (1) One (1) or more counties and one (1) or more adjacent counties.
- (2) One (1) or more counties and one (1) or more qualified cities in adjacent counties.
- (3) One (1) or more qualified cities and one (1) or more qualified cities in adjacent counties.

(b) A county or qualified city may participate in the establishment of a development authority under this section and become a member of the development authority only if the fiscal body of the county or qualified city adopts an ordinance authorizing the county or qualified city to participate in the establishment of the development authority.

(b) When a county establishes a development authority with another unit as provided in this chapter, each qualified city and third class city in the county also becomes a member of the development authority, without further action by the qualified city, third class city, or the

development authority.

(c) Notwithstanding any other provision of this article, a county or municipality may be a member of only one (1) development authority.

(d) Notwithstanding any other provision of this article, a county or municipality that is a member of the northwest Indiana regional development authority under IC 36-7.5 may not be a member of a development authority under this article.

(e) A development authority shall notify the Indiana economic development corporation in writing promptly after the development authority is established.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.10.

IC 36-7.6-2-4

Joining an existing development authority

Sec. 4. (a) A county that:

(1) is not a member of a development authority; and

(2) is adjacent to a county that:

(A) is a member of a development authority; or

(B) contains a member of a development authority; may

join that development authority under this article.

(b) A qualified city or a third class city that:

(1) is not a member of a development authority; and

(2) is located in a county that:

(A) is adjacent to a county that is a member of a development authority; or

(B) is adjacent to a county containing a member of a development authority; may join that development authority under this article.

(c) A town that:

(1) is not a member of a development authority; and

(2) is located in a county that:

(A) is a member of a development authority;

(B) is adjacent to a county that is a member of a development authority; or

(C) is adjacent to a county containing a member of a development authority; may join that development authority under this article.

(d) A county or qualified city described in subsection (a), (b), or

(c) may join a development authority under this article only if:

(1) the fiscal body of the county, qualified city, third class city, or town adopts an ordinance authorizing the county, qualified city, third class city, or town to become a member of the development authority; and

(2) the development board of the development authority adopts a resolution authorizing the county, qualified city, third class city, or town to become a member of the development authority.

(e) A county, qualified city, third class city, or town becomes a member of a development authority upon passage of a resolution under subsection (d)(2) authorizing the county, qualified city, third class city, or town to become a member of the development authority.

(f) Notwithstanding subsection (e), if a county joins a development

authority under this section, each qualified city and third class city in the county also becomes a member of the development authority, without further action by the qualified city, third class city, or the development authority.

(g) A development authority shall notify the Indiana economic development corporation promptly in writing when a new member joins the development authority.

As added by P.L.232-2007, SEC.7. Amended by P.L.3-2008, SEC.265; P.L.178-2015, SEC.11.

IC 36-7.6-2-5

Minimum length of participation; withdrawal

Sec. 5. (a) This section applies to a county, qualified city, third class city, or town authorized to establish or join a development authority under this article.

(b) A county, qualified city, third class city, or town described in subsection (a) shall be a member of the development authority for at least eight (8) years after the date the county, qualified city, third class city, or town becomes a member of the development authority.

(c) At least twelve (12) months and not more than eighteen (18) months before the end of a county's, qualified city's, third class city's, or town's membership period under subsection (b) or this subsection, the county, qualified city, third class city, or town described in subsection (a) must adopt an ordinance that:

(1) commits the county, qualified city, third class city, or town to an additional eight (8) years as a member of the development authority, beginning at the end of the current membership period; or

(2) withdraws the county, qualified city, third class city, or town from membership in the development authority not earlier than the end of the current membership period.

(d) A county, qualified city, third class city, or town described in subsection (a) may withdraw from a development authority as provided in this section without the approval of the development board. However, the withdrawal of a county does not affect the membership of a qualified city or third class city that became a member of the development authority as a result of the county's membership.

(e) If at the end of a county's membership period a county described in subsection (a) does not withdraw from the development authority under this section and remains a member of the development authority, the qualified cities and third class cities in the county may not withdraw from the development authority and remain members of the development authority.

(f) A development authority shall notify the Indiana economic development corporation promptly in writing when a member withdraws from the development authority.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.12.

IC 36-7.6-2-6

Liability for unpaid transfers after withdrawal

Sec. 6. A county or municipality that withdraws from a development authority under section 5 of this chapter is liable to the development authority for any unpaid transfers under:

(1) IC 36-7.6-4-2; or

(2) an agreement between the members of the development authority and the development board; that become due before the withdrawal of the county or municipality from the development authority is effective.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.13.

IC 36-7.6-2-7

Development board; members

Sec. 7. (a) A development authority is governed by a development board appointed under this section.

(b) A development board is composed of five (5) members appointed by written agreement of the executives of the members of the development authority.

(c) A member appointed to the development board:

(1) may not be an elected official or an employee of a member county or municipality; and

(2) must have knowledge of and at least five (5) years professional work experience in at least one (1) of the following:

(A) Transportation.

(B) Regional economic development.

(C) Business or finance.

(D) Private, nonprofit sector, or academia.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.14.

IC 36-7.6-2-8

Repealed

(As added by P.L.232-2007, SEC.7. Repealed by P.L.178-2015, SEC.15.)

IC 36-7.6-2-9

Terms; reappointment; oath; per diem

Sec. 9. (a) A member appointed to a development board serves a four (4) year term. A member may be reappointed to subsequent terms.

(b) A member of a development board may only be removed from the development board before the expiration of the four (4) year term by written agreement of at least three-fourths (3/4) of the executives of the members of the development authority.

(c) If a vacancy occurs on a development board, the executives of the members of the development authority at the time of the vacancy shall fill the vacancy by appointing a new member for the remainder of the vacated term and as otherwise provided in subsection (a).

(d) Each member appointed to a development board, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the development board.

(e) A member appointed to a development board is not entitled to receive any compensation for performance of the member's duties. However, a member is entitled to a per diem from the development authority for the member's participation in development board meetings. The amount of the per diem is equal to the amount of the per diem provided under IC 4-10-11-2.1(b).

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.16.

IC 36-7.6-2-10

Officers

Sec. 10. (a) In January of each year, a development board shall hold an organizational meeting at which the development board shall elect the following officers from the members of the development board:

- (1) A chair.
- (2) A vice chair.
- (3) A secretary-treasurer.

(b) The affirmative vote of at least a majority of the appointed members of a development board is necessary to elect an officer under subsection (a).

(c) An officer elected under subsection (a) serves from the date of the officer's election until the officer's successor is elected and qualified.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-11

Quarterly meetings; calling meetings; quorum; authorization of action

Sec. 11. (a) A development board shall meet at least quarterly.

(b) The chair of a development board or any two (2) members of a development board may call a special meeting of the development board.

(c) A majority of the appointed members of a development board constitutes a quorum.

(d) The affirmative votes of at least a majority of the appointed members of a development board are necessary to authorize any action of the development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-12

Bylaws and rules

Sec. 12. A development board shall adopt the bylaws and rules that the development board considers necessary for the proper conduct of the development board's duties and the safeguarding of the development authority's funds and property.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.17.

IC 36-7.6-2-13

Public purchasing and public works project laws apply

Sec. 13. (a) A development authority shall comply with IC 5-22 (public purchasing), IC 36-1-12 (public work projects), and any applicable federal bidding statutes and regulations. An eligible political subdivision that receives a loan, a grant, or other financial assistance from a development authority or enters into a lease with a development authority must comply with applicable federal, state, and local public purchasing and bidding laws and regulations. However, a purchasing agency (as defined in IC 5-22-2-25) of an eligible political subdivision may:

- (1) assign or sell a lease for property to a development authority; or
- (2) enter into a lease for property with a development authority; at any price and under any other terms and conditions as may be determined by the eligible political subdivision and the development authority. However, before making an assignment or a sale of a lease or entering into a lease under this section that would otherwise be subject to IC 5-22, the eligible political subdivision or its purchasing agent must obtain or cause

to be obtained a purchase price for the property to be subject to the lease from the lowest responsible and responsive bidder in accordance with the requirements for the purchase of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to projects undertaken by a development authority, the development authority shall set a goal for participation by minority business enterprises and women's business enterprises. The goals must be consistent with:

- (1) the participation goals established by the counties and municipalities that are members of the development authority; and
- (2) the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services.

As added by P.L.232-2007, SEC.7. Amended by P.L.252-2015, SEC.50.

IC 36-7.6-2-14

Annual financial audit

Sec. 14. (a) The office of management and budget shall contract with a certified public accountant for an annual financial audit of each development authority. The certified public accountant may not have a significant financial interest, as determined by the office of management and budget, in a project, facility, or service funded by or leased by or to any development authority.

(b) The certified public accountant shall present an audit report not later than four (4) months after the end of each calendar year and shall make recommendations to improve the efficiency of development authority operations. The certified public accountant shall also perform a study and evaluation of internal accounting controls and shall express an opinion on the controls that were in effect during the audit period.

(c) A development authority shall pay the cost of the annual financial audit under subsection (a). In addition, the state board of accounts may at any time conduct an audit of any phase of the operations of a development authority. A development authority shall pay the cost of any audit by the state board of accounts.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-2-15

Local advisory committees

Sec. 15. Each county or municipality that is member of a development authority may appoint a local advisory committee to advise the county or municipality on issues related to the development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-3

Chapter 3. Development Authority Powers and Duties

IC 36-7.6-3-1

Duties

Sec. 1. A development authority shall do the following:

- (1) Assist in the coordination of local efforts concerning projects that are of regional importance.
- (2) Assist a county, a municipality, a commuter transportation district, an airport authority, and a regional transportation authority in

coordinating regional transportation and economic development efforts.

- (3) Fund projects that are of regional importance, as provided in this article.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-3-2

Powers

Sec. 2. (a) A development authority may do any of the following:

- (1) Finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip land and projects that are of regional importance.
- (2) Lease land or a project to an eligible political subdivision.
- (3) Finance and construct additional improvements to projects or other capital improvements owned by the development authority and lease them to or for the benefit of an eligible political subdivision.
- (4) Construct or reconstruct highways, roads, and bridges.
- (5) Acquire land or all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease and lease the land or projects back to the eligible political subdivision, with any additional improvements that may be made to the land or projects.
- (6) Acquire all or a part of one (1) or more projects from an eligible political subdivision by purchase or lease to fund or refund indebtedness incurred on account of the projects to enable the eligible political subdivision to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the eligible political subdivision considers to be unduly burdensome.
- (7) Make loans, loan guarantees, and grants or provide other financial assistance to or on behalf of the following:
 - (A) A commuter transportation district.
 - (B) An airport authority.

A regional transportation authority. A loan, a loan guarantee, a grant, or other financial assistance under this clause may be used by a regional transportation authority for acquiring, improving, operating, maintaining, financing, and supporting the following:

- (i) Bus services (including fixed route services and flexible or demand-responsive services) that are a component of a public transportation system.
 - (ii) Bus terminals, stations, or facilities or other regional bus authority projects.
- (C) A county.
 - (D) A municipality.
- (8) Provide funding to assist a railroad that is providing commuter transportation services in a county containing territory included in the development authority.
 - (9) Provide funding to assist an airport authority located in a county containing territory included in the development authority in the construction, reconstruction, renovation, purchase, lease, acquisition, and equipping of an airport facility or airport project.
 - (10) Provide funding for intermodal transportation projects and facilities.
 - (11) Provide funding for regional trails and greenways.

- (12) Provide funding for economic development projects.
- (13) Hold, use, lease, rent, purchase, acquire, and dispose of by purchase, exchange, gift, bequest, grant, condemnation, lease, or sublease, on the terms and conditions determined by the development authority, any real or personal property.
- (14) After giving notice, enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a project.
- (15) Make or enter into all contracts and agreements necessary or incidental to the performance of the development authority's duties and the execution of the development authority's powers under this article.
- (16) Sue, be sued, plead, and be impleaded.
- (17) Design, order, contract for, construct, reconstruct, and renovate a project or improvements to a project.
- (18) Appoint an executive director and employ appraisers, real estate experts, engineers, architects, surveyors, attorneys, accountants, auditors, clerks, construction managers, and any consultants or employees that are necessary or desired by the development authority in exercising its powers or carrying out its duties under this article.
- (19) Accept loans, grants, and other forms of financial assistance from the federal government, the state government, a political subdivision, or any other public or private source.
- (20) Use the development authority's funds to match federal grants or make loans, loan guarantees, or grants to carry out the development authority's powers and duties under this article.
- (21) Except as prohibited by law, take any action necessary to carry out this article.

Projects funded by a development authority must be of regional importance.

(b) If a development authority is unable to agree with the owners, lessees, or occupants of any real property selected for the purposes of this article, the development authority may proceed under IC 32-24-1 to procure the condemnation of the property. The development authority may not institute a proceeding until it has adopted a resolution that:

- (1) describes the real property sought to be acquired and the purpose for which the real property is to be used;
- (2) declares that the public interest and necessity require the acquisition by the development authority of the property involved; and
- (3) sets out any other facts that the development authority considers necessary or pertinent.

The resolution is conclusive evidence of the public necessity of the proposed acquisition.
As added by P.L.232-2007, SEC.7.

IC 36-7.6-3-3

Agreements for joint actions

Sec. 3. A development authority may enter into an agreement with another development authority or any other entity to:

- (1) jointly equip, own, lease, and finance projects and facilities; or
- (2) otherwise carry out the purposes of the development authority;

in any location.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-3-4

Reports

Sec. 4. A development authority shall before April 1 of each year issue a report to the legislative council, the budget committee, the Indiana economic development corporation, and the executive of each member of the development authority concerning the operations and activities of the development authority during the preceding calendar year. The report to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.18.

IC 36-7.6-3-5

Development plan

Sec. 5. (a) A development authority shall prepare a comprehensive strategic development plan that includes detailed information concerning the following:

- (1) The proposed projects to be undertaken or financed by the development authority.

The following information for each project included under subdivision (1):

- (A) Timeline and budget.
- (B) The return on investment.
- (C) The projected or expected need for an ongoing subsidy.
- (D) Any projected or expected federal matching funds.

(b) The development authority shall, not later than January 1 of the second year following the year in which the development authority is established, submit the comprehensive strategic development plan for review by the budget committee and approval by the director of the office of management and budget and the Indiana economic development corporation. However, a development authority that has already submitted its comprehensive strategic development plan as part of an application for a grant or a loan under IC 5-28-37 is not required to resubmit its comprehensive strategic development plan under this subsection.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.19.

IC 36-7.6-4

Chapter 4. Financing; Issuance of Bonds; Leases

IC 36-7.6-4-1

Development authority fund; accounts; debt service

Sec. 1. (a) A development board shall establish and administer a development authority fund.

- (b) A development authority fund consists of the following:
 - (1) Amounts transferred under section 2 of this chapter by each county and municipality that is a member of the development authority.
 - (2) Amounts transferred to the fund by each county or municipality that is a member of the development authority, including any payments required under an interlocal agreement entered into under section 3(h) of this chapter. The transfers allowed by this subdivision may be made from any local revenue of the county or municipality, including property tax revenue, distributions, incentive payments, money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16, money received by the county

or municipality under a development agreement (as defined by IC 36-1-8-9.5), or any other local revenue that is not otherwise restricted by law or committed for the payment of other obligations.

(3) Appropriations, grants, or other distributions made to the fund by the state.

(4) Money received from the federal government.

(5) Gifts, contributions, donations, and private grants made to the fund.

(c) On the date a development authority issues bonds for any purpose under this article, which are secured in whole or in part by the development authority fund, the development board shall establish and administer two (2) accounts within the development authority fund. The accounts must be the general account and the lease rental account. After the accounts are established, all money transferred to the development authority fund under subsection (b)(1) shall be deposited in the lease rental account and used only for the payment of or to secure the payment of obligations of an eligible political subdivision under a lease entered into by the eligible political subdivision and the development authority under this chapter. However, any money deposited in the lease rental account and not used for the purposes of this subsection shall be returned by the secretary-treasurer of the development authority to the unit that contributed the money to the development authority.

(1) Notwithstanding subsection (c), if the amount of all money transferred to a development authority fund under subsection (b)(1) for deposit in the lease rental account in any one (1) calendar year is greater than an amount equal to the product of: one and twenty-five hundredths (1.25); multiplied by

(2) the total of the highest annual debt service on any bonds then outstanding to their final maturity date, which have been issued under this article and are not secured by a lease, plus the highest annual lease payments on any leases to their final maturity, which are then in effect under this article;

then all or a part of the excess may instead be deposited in the general account.

(d) All other money and revenue of a development authority may be deposited in the general account or the lease rental account at the discretion of the development board. Money on deposit in the lease rental account may be used only to make rental payments on leases entered into by the development authority under this article. Money on deposit in the general account may be used for any purpose authorized by this article.

(e) A development authority fund shall be administered by the development authority that established the development authority fund.

(f) Money in a development authority fund shall be used by the development authority to carry out this article and does not revert to any other fund.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.20.

IC 36-7.6-4-2

Revenue transfers to fund

Sec. 2. (a) This section applies only to a development authority and its member counties and municipalities to the extent necessary to make required payments and maintain a required reserve for debt obligations or leases that were issued or entered into by the development authority before May 1, 2015.

(b) Beginning January 1 of the year following the year in which a

development authority is established, the fiscal officer of each county and each municipality that is a member of the development authority shall transfer the amount determined under subsection (c) to the development authority for deposit in the development authority fund.

(c) The amount of the transfer required each year by subsection (b) from each county and each municipality is equal to the following:

- (1) Except as provided in subdivision (2), the amount that would be distributed to the county or the municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of five-hundredths of one percent (0.05%) in the county.

In the case of a county or municipality that becomes a member of a development authority after June 30, 2011, and before July 1, 2013, the amount that would be distributed to the county or municipality as certified distributions of county economic development income tax revenue raised from a county economic development income tax rate of twenty-five thousandths of one percent (0.025%) in the county.

(d) Notwithstanding subsection (c), if the additional county economic development income tax under IC 6-3.5-7-28 is in effect in a county, the obligations of the county and each municipality in the county under this section are satisfied by the transfer to the development fund of all county economic development income tax revenue derived from the additional tax and deposited in the county regional development authority fund.

(e) The following apply to the transfers required by this section:

- (1) The transfers shall be made without appropriation by the fiscal body of the county or the fiscal body of the municipality.
- (2) Except as provided in subdivision (3), the fiscal officer of each county and each municipality that is a member of the development authority shall transfer twenty-five percent (25%) of the total transfers due for the year before the last business day of January, April, July, and October of each year.
- (3) County economic development income tax revenue derived from the additional county economic development income tax under IC 6-3.5-7-28 must be transferred to the development fund not more than thirty (30) days after being deposited in the county regional development fund.
- (4) This subdivision does not apply to a county in which the additional county economic development income tax under IC 6-3.5-7-28 has been imposed or to any municipality in the county. The transfers required by this section may be made from any local revenue (other than property tax revenue) of the county or municipality, including excise tax revenue, income tax revenue, local option tax revenue, riverboat tax revenue, distributions, incentive payments, or money deposited in the county's or municipality's local major moves construction fund under IC 8-14-16.

As added by P.L.232-2007, SEC.7. Amended by P.L.172-2011, SEC.158; P.L.178-2015, SEC.21.

IC 36-7.6-4-3

Version a Bond issues

Note: This version of section effective until 7-1-2015. See also following version of this section, effective 7-1-2015.

Sec. 3. (a) Subject to subsection (h), a development authority may issue bonds for the purpose of obtaining money to pay the cost of:

- (1) acquiring real or personal property, including existing capital improvements;
- (2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or
- (3) funding or refunding bonds issued under this chapter, IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.

(b) The bonds are payable solely from:

the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

- (1) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds must be authorized by a resolution of the development board of the development authority that issues the bonds.

(d) The terms and form of the bonds must either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within forty (40) years.

(f) A development board shall sell the bonds only to the Indiana bond bank established by IC 5-1.5-2-1 upon the terms determined by the development board and the Indiana bond bank.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

- (1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney's fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

(h) A development authority may not issue bonds under this article or otherwise finance debt unless:

- (1) the development authority enters into an interlocal agreement

with each member that is committing funds to a project to be supported by the bonds;

(2) the fiscal body of each member that is committing funds to the project to be supported by the bonds approves the agreement described in subdivision (1) by ordinance; and

the development authority finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.22.

IC 36-7.6-4-3

Version b Bond issues

Note: This version of section effective 7-1-2015. See also preceding version of this section, effective until 7-1-2015.

Sec. 3. (a) A development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;

(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter, IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and

(2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds must be authorized by a resolution of the development board of the development authority that issues the bonds.

(d) The terms and form of the bonds must either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within forty (40) years.

(f) A development board shall sell the bonds only to the Indiana bond bank established by IC 5-1.5-2-1 upon the terms determined by the development board and the Indiana bond bank.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;

(2) acquisition of a site and clearing and preparing the site for construction;

(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;

- (4) architectural, engineering, consultant, and attorney's fees;
 - incidental expenses in connection with the issuance and sale of bonds;
 - (5) reserves for principal and interest;
 - (6) interest during construction;
 - (7) financial advisory fees;
 - (8) insurance during construction;
 - (9) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
 - (10) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.
- (h) A development authority may not issue bonds under this article or otherwise finance debt unless:
- (1) the development authority enters into an interlocal agreement with each member that is committing funds to a project to be supported by the bonds; and
 - (2) the fiscal body of each member that is committing funds to the project to be supported by the bonds approves the agreement described in subdivision (1) by ordinance.

As added by P.L.232-2007, SEC.7. Amended by P.L.178-2015, SEC.22; P.L.252-2015, SEC.51; P.L.178-2015, SEC.23.

IC 36-7.6-4-4

Bonding; complete authority

Sec. 4. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a development board or any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this article.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-5

Bonding; security; trust indenture

Sec. 5. (a) A development authority may secure bonds issued under this chapter by a trust indenture between the development authority and a corporate trustee, which may be any trust company or national or state bank in Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign revenue received by the development authority, amounts deposited in the development authority fund, and lease rentals, receipts, and income from leased projects, but may not mortgage land or projects;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the development authority and development board;
- (3) set forth the rights and remedies of bondholders and trustees; and

restrict the individual right of action of bondholders. Any pledge or assignment made by the development authority under this section is valid and binding in accordance with IC 5-1-14-4 from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created

or an assignment made need not be filed or recorded. The lien is perfected against third parties in accordance with IC 5-1-14-4.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-6

Bond refunding; leases

Sec. 6. (a) Bonds issued under IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law may be refunded as provided in this section.

(b) An eligible political subdivision may:

- (1) lease all or a part of land or a project or projects to a development authority, which may be at a nominal lease rental with a lease back to the eligible political subdivision, conditioned upon the development authority assuming bonds issued under IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law and issuing its bonds to refund those bonds; and
- (2) sell all or a part of land or a project or projects to a development authority for a price sufficient to provide for the refunding of those bonds and lease back the land or project or projects from the development authority.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-7

Leases; findings

Sec. 7. (a) Before a lease may be entered into by an eligible political subdivision under this chapter, the eligible political subdivision must find that the lease rental provided for is fair and reasonable.

(b) A lease of land or a project from a development authority to an eligible political subdivision:

- (1) may not have a term exceeding forty (40) years;
- (2) may not require payment of lease rentals for a newly constructed project or for improvements to an existing project until the project or improvements to the project have been completed and are ready for occupancy or use;
- (3) may contain provisions:
 - (A) allowing the eligible political subdivision to continue to operate an existing project until completion of the acquisition, improvements, reconstruction, or renovation of that project or any other project; and
 - (B) requiring payment of lease rentals for land, for an existing project being used, reconstructed, or renovated, or for any other existing project;
- (4) may contain an option to renew the lease for the same or a shorter term on the conditions provided in the lease; must contain an option for the eligible political subdivision to purchase the project upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the project, including indebtedness incurred for the refunding of that indebtedness;
- (5) may be entered into before acquisition or construction of a project;
- (6) may provide that the eligible political subdivision shall agree to:
 - (A) pay any taxes and assessments on the project;

- (B) maintain insurance on the project for the benefit of the development authority;
 - (C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and
 - (D) pay a deposit or series of deposits to the development authority from any funds available to the eligible political subdivision before the commencement of the lease to secure the performance of the eligible political subdivision's obligations under the lease; and
- (7) must provide that the lease rental payments by the eligible political subdivision shall be made from the development authority fund established under section 1 of this chapter and may provide that the lease rental payments by the eligible political subdivision shall be made from:
- (A) net revenues of the project;
 - (B) any other funds available to the eligible political subdivision; or
 - (C) both sources described in clauses (A) and (B).

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-8

Leases; complete authority

Sec. 8. This chapter contains full and complete authority for leases between a development authority and an eligible political subdivision. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by a development authority or the eligible political subdivision or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this article.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-9

Plan approval

Sec. 9. If the lease provides for a project or improvements to a project to be constructed by a development authority, the plans and specifications shall be submitted to and approved by all agencies designated by law to pass on plans and specifications for public buildings.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-10

Agreements; common wall; easements; licenses

Sec. 10. A development authority and an eligible political subdivision may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county in which the project is located.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-11

Leases or sale of projects or land to development authorities

Sec. 11. (a) An eligible political subdivision may lease for a nominal lease rental, or sell to a development authority, one (1) or more projects or parts of a project or land on which a project is located or is to be constructed.

(b) Any lease of all or a part of a project by an eligible political subdivision to a development authority must be for a term equal to the term of the lease of that project back to the eligible political subdivision.

(c) An eligible political subdivision may sell property to a development authority for the amount the eligible political subdivision determines to be in the best interest of the eligible political subdivision. The development authority may pay that amount from the proceeds of bonds of the development authority. *As added by P.L.232-2007, SEC.7.*

IC 36-7.6-4-12

Option to purchase property

Sec. 12. If an eligible political subdivision exercises its option to purchase leased property, the eligible political subdivision may issue its bonds as authorized by statute.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-13

Tax exemption

Sec. 13. (a) All:

- (1) property owned by a development authority;
- (2) revenue of a development authority; and
- (3) bonds issued by a development authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

All securities issued under this chapter are exempt from the registration requirements of IC 23-19 and other securities registration statutes.

As added by P.L.232-2007, SEC.7. Amended by P.L.1-2009, SEC.169.

IC 36-7.6-4-14

Bonds; legal investments

Sec. 14. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associates, credit unions, savings banks, private banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-15

Bonds; contesting validity

Sec. 15. An action to contest the validity of bonds to be issued under this chapter may not be brought after the time limitations set forth in IC 5-1-14-13.

As added by P.L.232-2007, SEC.7.

IC 36-7.6-4-16

Transfers; failure to make transfer; duty of state treasurer

Sec. 16. (a) This section applies if the county or municipality fails to make a transfer or part of a transfer required by:

- (1) section 2 of this chapter; or
 - (2) an interlocal agreement executed under section 3(h) of this chapter that is required to satisfy the county's or municipality's obligation to contribute to the satisfaction of outstanding bonds or other debt of the development authority.
- (b) The treasurer of state shall do the following:
- (1) Withhold an amount equal to the amount of the transfer or part of the transfer under section 2 of this chapter that the county or municipality failed to make from money in the possession of the state that would otherwise be available for distribution to the county or municipality under any other law.
 - (2) Pay the amount withheld under subdivision (1) to the development authority to satisfy the county's or municipality's obligations to the development authority.

As added by P.L.232-2007, SEC.7. Amended by P.L.146-2008, SEC.775; P.L.178-2015, SEC.24.

IC 36-7.6-4-17

Covenants

Sec. 17. (a) If there are bonds outstanding that have been issued under this article by a development authority and are not secured by a lease, or if there are leases in effect under this article, the general assembly covenants that it will not reduce the amount required to be transferred under section 2 of this chapter from a county or municipality that is a member of a development authority to the development authority below an amount that would produce one and twenty-five hundredths (1.25) multiplied by the total of the highest annual debt service on the bonds to their final maturity plus the highest annual lease payments on the leases to their final termination date.

(b) The general assembly also covenants that it will not:

- (1) repeal or amend this article in a manner that would adversely affect owners of outstanding bonds, or the payment of lease rentals, secured by the amounts pledged under this chapter; or
- (2) in any way impair the rights of owners of bonds of a development authority, or the owners of bonds secured by lease rentals, secured by a pledge of revenues under this chapter;

except as otherwise set forth in subsection (a).

As added by P.L.232-2007, SEC.7.