

56.514 Types of bonds issuable to finance industrial development projects or building projects -- Terms -- Issuance -- Marketing -- Refunding.

The following provisions shall be applicable to commission financing to carry out the purposes of this chapter:

- (1) As used in this section, the following terms shall have the following meanings:
 - (a) "Commercial paper revenue bonds" means revenue bond anticipation notes which by their terms mature not more than two hundred seventy (270) days from the date of issuance thereof and are to be refunded by the issuance of commercial paper revenue bonds or by refunding revenue bonds; provided, however, that all commercial paper revenue bonds must possess the characteristics set forth and described in subsection (3)(d) of this section;
 - (b) "Refunding revenue bonds" means revenue bonds issued by the commission to refund outstanding issues of revenue bonds, commercial paper revenue bonds and variable rate revenue bonds; and
 - (c) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to predetermined formulas and indices or pursuant to the standards set forth in subsection (3)(e) of this section.
- (2) The commission may issue and sell revenue or other authorized bonds, including variable rate and commercial paper bonds, to pay all or any part of the expense or cost of or incidental to an industrial development project, or a building project in denominations and amounts, as it deems to be for the best interest of the Commonwealth.
- (3)
 - (a) Revenue bonds issued to pay the costs of industrial development projects or building projects may bear interest at any rate or rates, either fixed or variable in accordance with such method as shall be determined by the commission, shall be payable either annually or at shorter intervals, may be of such terms and maturities, may bear such conversion privileges, may be executed by the manual or facsimile signatures of such officers of the commission, and shall be executed in such manner and at such time or times, or from time to time, and be payable at such times not exceeding forty (40) years from the date thereof, or, if commercial paper, from the date of initial issuance thereof, and at such place or places as the commission determines;
 - (b) Such revenue bonds may provide that they or any of them may be called for redemption prior to maturity under conditions determined by the commission before issuing the bonds;
 - (c) Such revenue bonds may, at any time on or after the earliest redemption date provided therefor at the time of their issuance, be refunded by the commission, in such amount as the commission may deem necessary to refund the principal of the revenue bonds to be refunded, together with any unpaid interest thereon, to create any necessary debt service reserve fund, and to pay any premiums, expenses, and commissions required to be paid in connection therewith;

- (d) At the time of the initial issuance of commercial paper revenue bonds to pay the costs of industrial development projects or building projects, the commission may designate individual officials of any state agency as agents for purposes of approving the principal amount, the interest rate, the discount, if any, and the maturity date of revenue bonds being issued later to refund the maturing commercial paper revenue bonds; provided, however, that at the time of the initial issuance of any such commercial paper revenue bonds, the commission shall set the maximum principal amount, the maximum interest rate, and the maximum discount, if any, of the refunding revenue bonds plus the final maturity date of the last issue of such refunding revenue bonds; and provided further that the commission shall retain the right to revoke any such agent's authority at any time and for any reason whatsoever. Individual issues of commercial paper revenue bonds, issued as part of a continuing financing program, may be refunded by the approvals of such agents of the commission;
- (e) At the time of issuance of variable rate revenue bonds to pay the costs of industrial development projects or building projects, the commission may designate individuals or institutions which in the sole judgment of the commission have financial market expertise to serve as agent for the commission for establishing and changing from time to time while such variable rate revenue bonds remain outstanding the rate of interest to be borne by and the price to be paid for such revenue bonds; provided, however, that the rate-setting procedures and authority of each such agent shall be set forth in writing, and may include a formula or an index or indices based upon market factors, and shall be established by the commission at the time of issuance of such revenue bonds; and provided further that at the time of the issuance of such revenue bonds, the commission shall establish the maximum interest rate to be borne by the revenue bonds; and provided further that the commission shall retain the right to remove or replace any such agent at any time and for any reason whatsoever;
- (f) Any revenue bonds issued and outstanding hereunder to pay the costs of industrial development projects or building projects and the interest due on such revenue bonds shall, prior to the maturity or redemption date thereof, be deemed to have been paid to the same extent as if they had actually been paid in cash and retired, if:
 - 1. In the event any of such revenue bonds are to be redeemed on any date prior to their maturity, the commission shall have given a trustee appointed for the holders of such revenue bonds in connection with their issuance, in form satisfactory to such trustee and in conformity with the requirements of the resolution authorizing their issuance irrevocable instructions to give notice of redemption of such revenue bonds to the holders thereof by written notice which is satisfactory to such trustee;
 - 2. There shall have been deposited with the trustee either money in an amount which shall be sufficient, or direct obligations of or obligations guaranteed by the United States of America, or other obligations

specified by the commission, the principal of and the interest on which, when due, will provide money which, together with the money, if any, deposited with the trustee at the same time, shall be sufficient to pay when due the principal and the interest due and to become due on such revenue bonds on and prior to redemption date or maturity date thereof, as the case may be; and

3. In the event that such revenue bonds are not to be redeemed within the next succeeding sixty (60) days, the commission shall have given the trustee in form satisfactory to it irrevocable instructions to give, as soon as practicable, in a manner satisfactory to it, a notice to the holders of such revenue bonds that the deposit required by subparagraph 2. of this paragraph has been made with the trustee, that such revenue bonds are deemed to have been paid in accordance with the provisions hereof and stating such maturity or redemption date upon which money is to be available for the payment of the principal of and interest on such revenue bonds;
- (g) It is hereby declared and determined that the issuance of any and all refunding bonds as provided herein will be for a public purpose if the commission so declares in the proceedings authorizing same; and
 - (h) If any officer whose signature or countersignature appears on revenue bonds issued to pay the costs of industrial development projects or building projects ceases to be such officer before delivery of the bonds, his signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. Any such revenue bonds issued to pay the costs of industrial development projects or building projects shall be sold upon such terms as the commission deems best, either at public or private sale, and for such price, as the commission may determine. In the event the revenue bonds are sold at private, negotiated sale, the commission shall publish in accordance with the requirements of KRS Chapter 424 a notice of the intent of the commission to negotiate the sale of such revenue bonds within thirty (30) days of such proposed sale, which notice shall include the identification and description of such revenue bonds, an estimate of the week during which the negotiated sale is expected to occur and the identity of the state officer or agency and the fiscal advisor or managing underwriter from whom further information regarding the revenue bonds may be obtained. Revenue bonds, notes, or other obligations issued by the commission under this chapter, the income thereon, and the transfer thereof, including any profit made on the sale thereof, shall at all times be exempt from taxation or assessment of any type by the Commonwealth, its agencies and departments, and by all political subdivisions within the state. Nothing contained in this section shall preclude or prevent the authorization and issuance by the commission from time to time of revenue bonds, notes, or other obligations, the receipt of interest on which may be subject to federal income taxation.

- (4) The payment of revenue bonds issued to pay the cost of an industrial development project or building project, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental, financing, or operation of the industrial development projects or building projects involved, including rentals and financing payments made by the Finance and Administration Cabinet from appropriated funds on a biennial basis, pursuant to lease agreements or financing agreements between the Finance and Administration Cabinet and the commission. Neither the payment of any revenue bond, nor the interest thereon, issued under the authority of this section shall constitute an indebtedness of the Commonwealth of Kentucky, nor shall any revenue bond or interest thereon be payable out of any fund except funds derived from rentals, financing payments, or other revenues derived from the operation of the industrial development projects or building projects or from revenues as are available for the purpose by law.
- (5) If revenue bonds are sold at public, competitive sale, the revenue bonds issued by the commission under the provisions of this section shall be sold after notice adequate to inform the public of the sale. Notice may include posting on the Internet or newspaper advertising.
- (6) If revenue bonds are sold at public, competitive sale, competitive bids for the sale of the revenue bonds shall be opened and read publicly by the secretary of the Finance and Administration Cabinet or the secretary's representative at a designated place, day, and hour, all of which shall be announced in the notice made relative thereto.
- (7) All money from the sale of revenue bonds issued pursuant to this section shall be deposited in the State Treasury and shall be credited to a special account to be designated as directed by the Finance and Administration Cabinet, and no part thereof shall be withdrawn from the State Treasury except for the purposes authorized by this chapter, together with the cost incidental to the issuing and selling of the revenue bonds and other expenses directly related thereto. The commission may provide in any trust indenture securing revenue bonds for additional terms and conditions thereof, or for other restrictions not in conflict with this chapter.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 120, sec. 25, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 395, sec. 2, effective July 15, 1988. -- Created 1986 Ky. Acts ch. 350, sec. 5, effective April 8, 1986.