

**67A.883 Ordinance of bond authorization -- Trust indenture.**

- (1) Following compliance with the foregoing provisions of KRS 67A.871 to 67A.882, the urban-county council of the government may adopt an ordinance known as the ordinance of bond authorization. The ordinance of bond authorization shall make provision, for the following:
  - (a) Determining and confirming the nature and scope of the project, the real properties to be benefited thereby (which shall be all benefited properties identified in the ordinance of initiation and the ordinance of determination, excepting properties as to which lump sum payment of improvement benefit assessment levies has been made within the statutory period), the exact method of assessment of benefited properties and the costs of the projects;
  - (b) Authorizing the issuance of bonds of the government from time to time which shall be designated "improvement lien bonds" and which shall additionally identify the project by reference to its name or title;
  - (c) Determining the principal amount of the bond issue, subject to the provisions of KRS 67A.891;
  - (d) Establishing the denomination and maturity dates of the bonds, which may be term or serial maturities not to exceed thirty (30) years from date of issue, and providing for the issuance of the bonds in series, if so ordered, each such series to be equally secured on a pari passus basis by improvement benefit assessments levied on all benefited properties and by liens in respect thereto;
  - (e) Levying an annual improvement benefit assessment effective upon the benefited properties, except such properties for which lump sum payment of the improvement benefit assessment has been made pursuant to KRS 67A.882(3), pursuant to the assessed value basis according to either their respective assessed land values as determined for purposes of general ad valorem taxation, or upon a basis of equality by zones, pursuant to findings of fact by the urban-county council that benefited properties in particular zone classifications are to be treated equally for assessment purposes because of substantial equality of benefits conferred, such assessments to be made without regard to any constitutional or other limits otherwise applicable to taxation for general ad valorem purposes, the annual rate of such improvement assessment to be fixed when regular county ad valorem taxes are levied and to be sufficient in each year to provide for the payment of the bonds and interest coupons as they mature; and, in each year until accrual of the debt service reserve requirement, to be sufficient to provide in addition a sum equal to twenty percent (20%) of maximum annual principal and interest requirements, the same to constitute a debt service reserve fund as a precaution against possible default by reason of failures in the collection of the annual levies as hereinafter provided; provided, however, that in the event the government shall have provided that the debt service reserve requirement be financed from bond proceeds as one of the costs of the project, such additional levies to accrue, the debt service reserve requirement shall be omitted, but it shall be promptly instituted at any time in order to maintain the debt service reserve

- requirement at its prescribed level;
- (f) Covenanting with the holders of the bonds and coupons that until the payment in full thereof the government will levy annually an improvement benefit assessment upon each benefited property, as provided in the foregoing subsection (e) hereof; provided, that the government may provide by ordinance that certain benefited properties shall be omitted from assessment during initial periods not to exceed three (3) years because of construction scheduling;
  - (g) Covenanting with the holders of the bonds and coupons that until payment in full thereof, the government will pursue and exhaust at the expense of the government all remedies available to the government for the benefit and protection of the bondholders, including both termination of water service to delinquent real properties and enforcement of judgment and decretal sale of the liens upon benefited properties which are granted by KRS 67A.871 to 67A.894;
  - (h) Designating one or more places of payment of principal and interest within or without the Commonwealth;
  - (i) Specifying or omitting provisions for redemption and payment prior to stated maturities and the terms thereof;
  - (j) Providing for the payment by the government of any and all reasonable and customary charges for the services of trustees and paying agents to the end that the holders of the bonds and coupons will receive the sums therein stipulated without deduction for such charges; and
  - (k) Any other provisions not contrary to law. The government is expressly authorized and empowered to finance any particular project by an issue of bonds which may be sold and delivered in one or more series, each of which series is equally and indistinguishably secured, as provided in KRS 67A.871 to 67A.894, by improvement benefit assessments levied upon all benefited properties, except such properties for which lump sum payment of the improvement benefit assessment has been made pursuant to KRS 67A.882(3) and liens granted for the security of bondholders by KRS 67A.871 to 67A.894 on benefited properties shall apply to each such benefited property and in favor of every bond of each such series, whenever issued.
- (2) In the discretion of the urban-county council of the government, any improvement lien bonds or bond anticipation notes issued under the provisions of KRS 67A.871 to 67A.894 may be secured by a trust indenture by and between the government and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth of Kentucky. The trust indenture of the government providing for the issuance of improvement lien bonds or notes may pledge or assign for the security of improvement lien bonds or notes all or any part of the totality of improvement benefit assessments levied, collected, enforced and received by the government. The trust indenture shall contain provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable, proper and not in violation of law, including covenants and

provisions setting forth the duties of the government in relation to the purposes to which improvement lien bond proceeds may be applied; the disposition and pledging of receipts of improvement benefit assessments; and the custody, safeguarding and application of all improvement benefit assessment revenues. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds, notes or of government revenues, to furnish indemnity bonds or to pledge securities as may be required by the trust indenture of the government. Any trust indenture may set forth the rights and remedies of the bondholders and of the indenture trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, any trust indenture may contain any other provisions as the government may determine to be reasonable and proper for the further security of the holders of the bonds. All expenses incurred in carrying out the provisions of the trust indenture shall be treated as a part of the costs of the project and shall be paid from either the proceeds of the bonds or, during the life of the bond issue, from the proceeds of improvement benefit assessments levied against and collected from, benefited properties.

- (3) All bonds issued under the provisions of KRS 67A.871 to 67A.894 shall have and are hereby declared to possess all of the qualities and incidences of negotiable instruments under the laws of Kentucky. The bonds may be issued in coupon or in registered form or in both, as the government may determine, and provision may be made for the registration of any coupon bonds as to principal only and also as to both principal and interest and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The government may sell the bonds in any manner either at public or private sale, and for any price as it may determine will best effect the purposes of KRS 67A.871 to 67A.894.
- (4) Any government initiating a project pursuant to KRS 67A.871 to 67A.894 shall have and possess all powers and the authority set forth in KRS 58.150.

**Effective:** July 15, 1982

**History:** Amended 1982 Ky. Acts ch. 334, sec. 2, effective July 15, 1982. -- Created 1976 Ky. Acts ch. 371, sec. 13, effective March 30, 1976.