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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2522

Session of  
1982

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INTRODUCED BY PERZEL, SALVATORE, MAIALE, McMONAGLE, BARBER,  
DEAL, WIGGINS, BELOFF, LEVIN, WESTON, OLIVER, EVANS, WOGAN,  
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McINTYRE, HARPER, PUCCIARELLI, EVANS AND J. D. WILLIAMS,  
JUNE 1, 1982

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, JUNE 1, 1982

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AN ACT

1 Relating to the incurrence of certain obligations in connection  
2 with the construction and operation of certain utilities  
3 owned, leased or operated by or on behalf of the City of  
4 Philadelphia.

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12 The General Assembly of the Commonwealth of Pennsylvania  
13 hereby enacts as follows:

14 Section 1. Short title.

15 This act shall be known and may be cited as "The City of  
16 Philadelphia Municipal Utility Inventory and Receivables  
17 Financing Act."

18 Section 2. Purpose of act.

19 It is the intention of this act to provide a comprehensive  
20 authorization for the issuance of special obligations  
21 represented by bonds which:

22 (1) shall be for the purpose of financing inventory or  
23 receivables or both or any part thereof;

24 (2) shall be payable from available utility revenues;  
25 and

26 (3) shall be excluded in ascertaining the debt incurring  
27 capacity of the city.

28 The provisions of this act shall be complete and full authority,  
29 any other act, general, special or local, to the contrary  
30 notwithstanding, governing all matters, procedural or

1 substantive, required or permitted hereby and no requirements of  
2 other acts or portions of acts need be observed.

3 Section 3. Definitions.

4 The following words and phrases when used in this act shall  
5 have, unless the context clearly indicates otherwise, the  
6 meanings given to them in this section:

7 "Bonds." The bonds or notes of the city authorized and  
8 issued pursuant to this act on behalf of any one of its  
9 municipal utilities to finance inventory or receivables or both  
10 of its municipal utilities or to refund outstanding bonds or  
11 notes or both.

12 "Bond committee." The mayor of the city, the city controller  
13 and the city solicitor, or any two of them.

14 "Bond resolution." A resolution duly passed by the bond  
15 committee authorizing the issuance of bonds pursuant to the  
16 terms of this act or taking other action permitted or required  
17 hereunder.

18 "City." The City of Philadelphia.

19 "City controller." The controller of the city including a  
20 person acting as controller under applicable law.

21 "City solicitor." The solicitor for the city including a  
22 person acting as solicitor under applicable law.

23 "Court." The Court of Common Pleas of Philadelphia County.

24 "Inventory." Any fuel, materials or supplies acquired by the  
25 municipal utility:

26 (1) used directly or indirectly by a municipal utility  
27 to provide a service to the public; and

28 (2) which would be shown as a current asset on a balance  
29 sheet prepared in accordance with generally accepted  
30 accounting principals.

1 "Mayor." The mayor of the city including a person acting as  
2 mayor under applicable law.

3 "Municipal utility." Any city-owned, leased or operated  
4 utility facility providing services to the public for a fee  
5 including, but not limited to, water facilities, sewer  
6 facilities, gas facilities, electric facilities, steam  
7 facilities, communications facilities and solid waste facilities  
8 which the city may now or hereafter be authorized to own, lease  
9 or operate.

10 "Project." Inventory or receivables or both of any one  
11 municipal utility.

12 "Project costs" or "cost of a project." All costs of  
13 acquisition or funding of a project including but not limited to  
14 costs of fees and expenses of financial advisors, attorneys and  
15 other experts engaged in connection with the project, financing  
16 costs including bond discount, additional security costs,  
17 including letter of credit, line of credit and insurance costs,  
18 interest on money borrowed to finance the project if  
19 capitalized, the repayment of temporary loans made in connection  
20 with the project and reimbursement for any of the foregoing  
21 costs incurred or paid prior to or after the issuance of bonds.

22 "Receivables." Accounts receivable billed to customers of  
23 the municipal utility, but not yet paid, as would be shown as a  
24 current asset on a balance sheet prepared in accordance with  
25 generally accepted accounting principles.

26 "Revenue bonds." Revenue bonds issued by the city pursuant  
27 to the act of October 18, 1972 (P.L.955, No.234), known as "The  
28 First Class City Revenue Bond Act."

29 "Utility revenues." All operating and nonoperating revenues  
30 of a municipal utility.

1 Section 4. Authority to issue bonds.

2 The city is hereby authorized to issue bonds for the purpose  
3 of financing or refunding the cost of a project or any part  
4 thereof or of two or more projects combined for any one  
5 municipal utility and to issue its refunding bonds for the  
6 purpose of refunding any outstanding bonds issued under this  
7 act, all in accordance with and subject to the provisions and  
8 limitations of this act. The bonds shall not pledge the credit  
9 or taxing power nor create any debt or charge against the tax or  
10 general revenues of the city but shall be payable solely from  
11 utility revenues designated by the city and proceeds of bonds,  
12 nor create any lien against any property of the city, other than  
13 the aforesaid utility revenues. The bonds shall be authorized by  
14 ordinance which shall set forth the maximum amount of bonds  
15 which may be outstanding at any one time for any one municipal  
16 utility and the sources of payment for the bonds. Ordinances  
17 enacted pursuant to this act shall be enacted in accordance with  
18 the procedural laws applicable to the city.

19 Section 5. Form and terms of bonds.

20 (a) All bonds shall contain a brief statement of the  
21 priorities in the application of utility revenues and shall  
22 contain a covenant of the city to pay when due the amounts  
23 required to pay the interest on and the principal of the bonds  
24 and a statement as to the revenues and funds available for such  
25 payment.

26 (b) Bonds may be issued in such denominations, in bearer, or  
27 in fully registered form, shall bear such identifying  
28 designation or title; shall be dated; shall be payable at such  
29 rate or rates of interest, including supplemental, contingent or  
30 variable interest, payable on such dates; may be subject to such

1 provisions for redemption in whole or in part or both, at such  
2 prices, at such times and places; shall be stated to mature on  
3 such date or dates, not exceeding five years from the date of  
4 enactment of the ordinance, in such amounts; shall be payable as  
5 to principal or interest or both at such places by the city or  
6 by such paying agent or fiscal agent of the city as the city  
7 appoints; may provide for the payment by the city of such tax or  
8 taxes on the bonds and may contain such other terms, provisions,  
9 statements or covenants, not inconsistent with this act, as the  
10 city may determine.

11 Section 6. Execution of bonds.

12 Bonds shall be executed in the same manner as shall be  
13 provided by law in the case of other city bonds.

14 Section 7. Contents of authorization of bonds.

15 (a) Unless otherwise provided in the ordinance, the bond  
16 committee shall determine by bond resolution the matters set  
17 forth in section 5 and either the ordinance or the bond  
18 resolution shall contain in substance:

19 (1) A statement of the aggregate principal amount of  
20 bonds to be outstanding at any time under the bond  
21 resolution.

22 (2) A statement of the priority or priorities in the  
23 application of utility revenues and a statement as to the  
24 revenues and funds available for such payment.

25 (3) A covenant with the obligees of the bonds to pay on  
26 the respective due dates the amounts required to pay the  
27 interest on and principal of the bonds as specified in such  
28 bonds.

29 (4) A covenant that the principal amount of bonds  
30 outstanding for the municipal utility will not exceed the

1 aggregate of project costs on the date of issuance of the  
2 bonds.

3 (5) A finding based on the report of the chief fiscal  
4 officer of the municipal utility required by section 8 that  
5 utility revenues will be sufficient to pay the principal of  
6 and interest on the bonds.

7 (6) The determination of the form, terms and provisions  
8 of the bonds permitted by section 5 and of the method of  
9 sale, the terms upon which or the prices for which the bonds  
10 are to be sold or exchanged including, if desired,  
11 competitive bidding specifications.

12 (7) Provisions for a sinking fund complying with section  
13 9.

14 (8) Provisions, if any, for granting a security interest  
15 in utility revenues which security interest shall be subject  
16 to any prior lien thereon of revenue bonds, which provisions  
17 may incorporate by reference the procedures which would  
18 otherwise be applicable if the city were a private  
19 corporation for profit.

20 (9) The name of a fiscal agent who shall authenticate  
21 the bonds and a specification of the terms and conditions  
22 upon which the fiscal agent is authorized to authenticate the  
23 bonds.

24 (b) Subject to currently applicable constitutional  
25 provisions prohibiting the delegation to any special commission,  
26 private corporation or association of any power to make,  
27 supervise or interfere with any improvement, money, property or  
28 effect of the city or perform any municipal function whatsoever  
29 and subject to other applicable provisions of this act, the  
30 ordinance or bond resolution may also contain:

1           (1) Covenants with the obligees of the bonds or other  
2 provisions governing the issuance of additional bonds; the  
3 rights and remedies of obligees upon default and such other  
4 provisions as are deemed necessary or desirable in the  
5 interest of or for the protection of the city or of such  
6 obligees.

7           (2) Agreements with any bank, bank and trust company or  
8 trust company appointing the same as paying agent or fiscal  
9 agent and containing appropriate provisions governing the  
10 deposit, custody and payment of moneys, the maintenance of  
11 accounts and records, the authentication, registration,  
12 transfer and exchange of bonds, the payment of principal of  
13 and interest on the bonds, the cremation or other disposal of  
14 cancelled bonds, the rights, duties, privileges and  
15 immunities of the paying agent or fiscal agent and such other  
16 matters as are customary or appropriate.

17           (3) Agreements with any bank, insurance company or other  
18 appropriate entity providing additional credit or payment  
19 sources for the bonds including, without limitation, letters  
20 of credit, lines of credit and insurance. Such agreement may  
21 provide for payment or acquisition of the bonds if the city  
22 does not pay the bonds when due and may provide for repayment  
23 to the bank or other institution for a period of up to five  
24 years from the date of such payment or acquisition.

25       (c) The covenants, terms and provisions made under  
26 subsections (a) and (b) for the benefit of the obligees of the  
27 bonds shall constitute contractual obligations of the city  
28 subject to modification (with such limitations as may be  
29 specified in the ordinance or bond resolution) by agreement with  
30 a majority in interest of the holders or registered owners of



1 the bonds affected or such larger portion thereof as may be  
2 provided in the ordinance or bond resolution.

3 Section 8. Financial report and legal opinion.

4 Prior to the issuance of any bonds, there shall have been  
5 filed with the bond committee by the chief fiscal officer of the  
6 municipal utility:

7 (1) A financial report by such chief fiscal officer  
8 supported by appropriate schedules and summaries, containing  
9 a statement:

10 (i) identifying the sources of funds from which the  
11 bonds are to be paid; and

12 (ii) that, on the basis of actual, if appropriate  
13 and estimated future annual financial operations of the  
14 municipal utility, in the opinion of the chief fiscal  
15 officer, utility revenues of the municipal utility will  
16 be available to pay the principal of and interest on all  
17 bonds, as the same shall become due and payable for the  
18 particular municipal utility. Where a bank or other  
19 institution has entered into an agreement with the city  
20 to pay bonds or to acquire the bonds from the holders  
21 thereof if the city does not pay the bonds when due and  
22 the agreement requires the city to repay the bank or  
23 institution over a fixed period of time, such period of  
24 time may be included in calculating utility revenues  
25 available to pay the bonds. The statements and opinion of  
26 the chief fiscal officer contained in such financial  
27 report with respect to expenses and revenues may be based  
28 upon statements or data contained in and appropriate  
29 schedules and summaries may be incorporated by reference  
30 to, certificates of any registered engineer, registered

1 architect, certified public accountant or other qualified  
2 expert who shall have been engaged to compile the  
3 relevant data, in which case each such financial report  
4 or certificates shall be attached to the report of the  
5 chief fiscal officer.

6 (2) An opinion of the city solicitor dated at any time  
7 after the enactment of the ordinance or the passage of the  
8 bond resolution and prior to the issuance of any bonds to the  
9 effect that, under the ordinance and the bond resolution, the  
10 holders or registered owners of the bonds to be issued will  
11 have no claim upon the taxing power or general revenues of  
12 the city nor any lien upon any of the property of the city  
13 except for utility revenues.

14 Section 9. Sinking fund investments.

15 (a) The ordinance or bond resolution shall provide for the  
16 establishment and maintenance of a sinking fund for the payment  
17 of interest on and the principal of the bonds at stated maturity  
18 or upon mandatory or optional redemption. Such sinking fund may  
19 be an aggregate fund for some or all series of bonds in which  
20 case each series shall participate proportionately therein or a  
21 separate sinking fund may be established for any particular  
22 series.

23 (b) Each such sinking fund and any other funds or accounts  
24 established by the ordinance or bond resolution shall be managed  
25 in accordance with the covenants of the city contained in the  
26 ordinance or bond resolution and unless stricter requirements  
27 are imposed by the ordinance or bond resolution, the moneys  
28 therein to the extent not currently required shall be invested  
29 from time to time in such securities as may at the time of  
30 investment be authorized by law for investment of moneys of the

1 Commonwealth or any of its instrumentalities or shall be  
2 deposited in interest-bearing deposits with any bank, bank and  
3 trust company or trust company or in shares of building and loan  
4 associations or Federal Savings and Loan Associations. All  
5 deposits, including interest-bearing deposits, of moneys in the  
6 sinking or other funds, to the extent that the same are not  
7 insured by the Federal Deposit Insurance Corporation or the  
8 Federal Savings and Loan Insurance Corporation or other  
9 Federally authorized corporation or agency, shall be secured  
10 either as required by law requiring depositories of the city to  
11 give bond or as authorized by law for the securing of public  
12 money, or in accordance with such stricter requirements as the  
13 ordinance or bond resolution shall provide. Each bank, bank and  
14 trust company, trust company and building and loan association  
15 is hereby authorized to so secure such deposits.

16 (c) Interest and profits received from investments and  
17 deposits of moneys in the sinking fund and other funds shall be  
18 added to such fund and may be applied in reduction of or to  
19 complete required deposits. Excess moneys in the sinking fund,  
20 including moneys for the payment of interest, principal or  
21 premiums of bonds unclaimed after the due date of two years and  
22 excess moneys in other funds shall be repaid to the municipal  
23 utility for its general purposes or applied as may be provided  
24 in the ordinance or bond resolution but such repayments of  
25 unclaimed moneys shall not discharge such claim which shall  
26 continue subject to applicable law.

27 Section 10. Sale or exchange of bonds.

28 Bonds may be sold by the city at public or private sale or  
29 may be exchanged upon such terms not inconsistent with this act  
30 and at such prices as the city may determine in accordance with

1 section 7.

2 Section 11. Filing of transcript of proceedings.

3 Prior to the delivery of bonds, the city shall file with the  
4 court a transcript of the proceedings authorizing their issuance  
5 consisting of a certified copy of the ordinance and bond  
6 resolution or resolutions, if any, an executed or certified copy  
7 of the report of the chief fiscal officer of the municipal  
8 utility required by section 8 and an executed copy of the  
9 opinion of the city solicitor required by section 8.

10 Section 12. Approval by the court.

11 (a) No bonds shall be issued under this act until the  
12 transcript of the proceedings authorizing their issuance shall  
13 have been approved by the court either under this section or  
14 under section 13.

15 (b) Prior to the filing of the transcript with the court  
16 under section 11 notice of intention to file the same shall be  
17 published once a week for two successive weeks in a newspaper of  
18 general circulation and also in the legal journal, if any,  
19 published in the city. Publication shall be completed at least  
20 two days prior to the filing of the transcript and proof of such  
21 publication shall be attached to the transcript when filed.

22 (c) If no petition for a declaratory order or complaint  
23 under section 13 is filed with the court with respect to a  
24 transcript within 20 days after the date of the first  
25 publication of notice under subsection (b), or within ten days  
26 after the filing of the transcript, whichever is later, the  
27 office of clerk of the court shall, on the praecipe of the city,  
28 file as of course a final order approving the transcript. Such  
29 order shall have the effect of a finding of irrevocable and  
30 conclusive waiver of any claim or issue which might have been

1 raised under section 13 and shall be deemed a final order under  
2 a statute relating to the authorization of public debt within  
3 the meaning of Rule 903(c)(3) of the Pennsylvania Rules of  
4 Appellate Procedure.

5 (d) If any bonds shall be sold, or executed and delivered,  
6 in violation of subsection (a), such bonds shall be invalid in  
7 the hands of or for the security of the holder of such bonds,  
8 except to the extent provided in this subsection. If the bonds  
9 shall be held by a bona fide purchaser (other than an initial  
10 purchaser or member of an underwriting or selling group) for  
11 value without actual notice of the violation and if such bonds  
12 shall contain a recital that such prior approval has been  
13 obtained, then such bonds shall be valid and enforceable in  
14 accordance with their terms to the extent necessary to validate  
15 and keep valid such bonds, but not for the purpose of reducing  
16 the liability of any person under this section. The city shall  
17 be entitled to recover all interest and principal or other  
18 amounts payable thereon or thereunder from the initial  
19 purchasers and the persons, including the officers of the city,  
20 responsible for making the unapproved or unauthorized delivery.  
21 Notwithstanding the invalidity of the instruments as to them,  
22 the initial purchasers and such other persons shall be entitled  
23 to credit, in any action determining such invalidity or for the  
24 recovery provided by the preceding sentence, for the amount of:

25 (1) any proceeds of the sale of the instruments still  
26 held unexpended by the city; and

27 (2) the cost or fair market value, whichever is the  
28 lesser, of any project or part thereof or interest therein  
29 acquired by the city by an expenditure of a portion or all of  
30 the proceeds of such bonds.

1 (e) When no petition for a declaratory order or complaint  
2 has been filed within the period specified in subsection (c), or  
3 when after a petition for a declaratory order or complaint has  
4 been filed the transcript shall have been approved finally by  
5 the court, the validity of the proceedings, the right of the  
6 city lawfully to issue its bonds pursuant to such proceedings  
7 and the validity, and due enforceability of the bonds in  
8 accordance with their terms, shall not thereafter be inquired  
9 into judicially, in equity, at law, or by civil or criminal  
10 proceedings, or otherwise, either directly or collaterally. The  
11 effect of the approval by the court or by a court on appeal,  
12 shall be to ratify, validate and confirm such proceedings  
13 absolutely, including the lawful nature of the project  
14 notwithstanding the defect or error in such proceedings, except  
15 as provided in subsection (f), and any limit imposed by this act  
16 on the principal amount of bonds which may be issued shall be  
17 deemed increased to the extent necessary to validate such debt  
18 or other obligation.

19 (f) Nothing contained in subsection (e) shall:

20 (1) free an initial purchaser of bonds from liability to  
21 the city for the payment of the consideration agreed in the  
22 contract of sale, or make all such bonds valid and  
23 enforceable in the hands of an initial purchaser unless the  
24 city shall have received a substantial consideration for the  
25 series as a whole; or

26 (2) relieve any person participating in such proceedings  
27 from liability for knowingly participating in an ultra vires  
28 act of the city or from any civil or criminal liability for  
29 false statements in any certificates filed or delivered in  
30 such proceedings.

1 Section 13. Complaints and petitions for declaratory orders.

2 (a) Where proceedings for the incurring of debt or other  
3 obligations represented by bonds have been taken by the city  
4 hereunder, the city or any taxpayer of the city, or other  
5 interested party, may file with the court a petition for a  
6 declaratory order asserting the validity or a complaint  
7 asserting the invalidity of such proceedings, or any part  
8 thereof. Any such complaint asserting the invalidity of any such  
9 proceedings or part thereof, may be filed within the period  
10 specified by section 12(c) and not thereafter. If a petition for  
11 a declaratory order shall be filed in respect of any transcript,  
12 the court shall not act thereon within the period specified by  
13 section 12(c) and if a complaint is filed during such period  
14 with respect to such transcript, the court shall not approve the  
15 transcript during the pendency of the complaint before the  
16 court.

17 (b) The jurisdiction of the court to hear and determine all  
18 procedural and substantive matters arising from the proceedings  
19 of the city taken pursuant to this act, including without  
20 limitation, the regularity of the proceedings, the validity of  
21 the bonds and the legality of the purpose for which such  
22 obligations are to be issued, shall be exclusive. If the city  
23 shall file a petition for a declaratory order with the court,  
24 relating to such proceedings, the court may require such service  
25 by publication on taxpayers as the circumstances warrant. In all  
26 other respects the proceedings before the court shall be  
27 governed by rules or orders of the court. The court shall have  
28 the power, after appropriate proceedings in accordance with such  
29 rules or orders, to approve or disapprove the proceedings of the  
30 city under this act or to direct correction thereof. A final

1 determination under this act by the court, or of an appellate  
2 court, in the case of appeal, shall be conclusive and binding as  
3 to all procedural and substantive matters which were or could  
4 have been presented to the court hereunder. A determination in  
5 favor of the city under this section shall have the effect  
6 provided in section 12(e).

7 Section 14. Lost, stolen, destroyed or mutilated bonds.

8 If any bond issued under this act shall become mutilated or  
9 be destroyed, stolen or lost, the city shall execute and any  
10 sinking fund depository, fiscal agent or trustee for bondholders  
11 shall, if required, authenticate and deliver a new bond of like  
12 series and principal as the bond so mutilated, destroyed, stolen  
13 or lost, upon surrender and cancellation of such mutilated bond,  
14 if any, or in lieu of and in substitution for the bond  
15 destroyed, stolen or lost, upon filing with the fiscal agent or  
16 trustee, evidence satisfactory to it, that such bond has been  
17 destroyed, stolen or lost and proof of ownership thereof and  
18 upon furnishing of satisfactory indemnity and complying with  
19 such other reasonable regulations as the city shall prescribe,  
20 and paying any reasonable expenses, including counsel fees, as  
21 the city or the fiscal agent or trustee may incur. Mutilated  
22 bonds, if surrendered, shall be cancelled.

23 Section 15. Negotiable qualities of bonds.

24 Bonds issued pursuant to this act shall be negotiable  
25 instruments notwithstanding any other provisions of law.

26 Section 16. Bonds excluded from debt of the city.

27 (a) It is the intention of this act to provide a  
28 comprehensive authorization for the issuance of special  
29 obligations of the city which, to the extent any such obligation  
30 constitutes debt of the city, shall be self-supporting revenue



1 debt of the city the proceeds of which may be expended for the  
2 payment or reimbursement of the cost of the purchase or  
3 construction of any municipal utility or part of such municipal  
4 utility, or facility therefor, which debt shall be deducted from  
5 the debt of the city for the purpose of ascertaining the debt-  
6 incurring capacity of the city for the purposes of section 12 of  
7 Article IX of the Constitution of Pennsylvania.

8 (b) The determination by ordinance or bond resolution as set  
9 forth in section 7(a)(5) shall constitute a determination that  
10 the obligation of any bonds with respect to which the  
11 determination is made which constitute debt of the city shall be  
12 deducted from the debt of the city for the purposes of  
13 ascertaining the debt-incurring capacity of the city under the  
14 Constitution of Pennsylvania.

15 Section 17. Exemption of bonds from taxation in Pennsylvania.

16 The Commonwealth hereby pledges to and agrees with any  
17 person, firm or corporation or Federal agency subscribing to or  
18 acquiring any bonds issued by the city pursuant to the  
19 provisions of this act, that such bonds, their transfer and the  
20 income therefrom including any gains made on the sale thereof  
21 (other than underwriting profits in a distribution thereof)  
22 shall at all times be free from taxation within and by the  
23 Commonwealth of Pennsylvania, but this exemption shall not  
24 extend to underwriting profits or to gift, succession or  
25 inheritance taxes or any other taxes not levied directly on the  
26 bonds, the receipt of the income therefrom, or the realization  
27 of gains on the sale thereof.

28 Section 18. Remedies of bondholders.

29 (a) If the city fails or neglects to pay or cause to be paid  
30 the principal of or the interest on any bond as the same shall

1 become due, whether at the stated maturity or upon call for  
2 prior redemption, the holder thereof shall, subject to  
3 subsection (b) of this section, and to any reasonable  
4 limitations upon individual rights of action properly provided  
5 in the ordinance or bond resolution, have the right to recover  
6 the amount due in an action in a court of competent  
7 jurisdiction, but the judgment shall be limited to payment out  
8 of the revenues of the municipal utility for whose benefit the  
9 bonds were issued.

10 (b) Notwithstanding any provision in the bonds, the  
11 ordinance, or in the bond resolution, if the city shall default  
12 in the payment of the principal of or the interest on any series  
13 of bonds after the same shall become due, whether at the stated  
14 maturity or upon call for prior redemption, and such default  
15 shall continue for 30 days, or if the city shall fail to comply  
16 with any provision of the bonds, the ordinance or in any bond  
17 resolution, the holders of 25% in aggregate principal amount of  
18 the bonds of such series then outstanding, by an instrument or  
19 instruments filed in the Department of Records in the city  
20 signed and acknowledged in the same manner as a deed to be  
21 recorded, may appoint a trustee, who may be the sinking fund  
22 depository, to represent the holders of all such bonds and such  
23 representation shall be exclusive for the purposes herein  
24 provided. Such trustee may, and upon written request of the  
25 holders of 25% in principal amount of such bonds then  
26 outstanding and upon being furnished with indemnity satisfactory  
27 to it, shall, in its own name, take one or more of the actions  
28 set forth below and the taking of such actions shall preclude  
29 similar action whether previously or subsequently initiated by  
30 individual holders of bonds:

1           (1) By mandamus or other action or proceeding at law or  
2 in equity enforce all rights of the holders of the bonds.

3           (2) Bring an action on the bonds without the necessity  
4 for producing the bonds and with same effect as a suit by any  
5 holder.

6           (3) Bring an action in equity to require the city to  
7 account as if it were the trustee of an express trust for the  
8 holders of such bonds for any revenues received or enjoin any  
9 acts or things which may be unlawful or in violation of the  
10 rights of the holders of any bonds or both.

11           (4) After 30 days prior written notice to the city, and  
12 subject to any limitations in the ordinance or bond  
13 resolution, declare the unpaid principal of all bonds to be,  
14 and it shall thereby become forthwith, due and payable with  
15 interest at the rates stated in the bonds until final payment  
16 and, if all defaults shall be made good, then to annul such  
17 declaration and its consequences.

18       (c) The court in cases of extreme hardship may provide for  
19 the payment of sums levied in five or less annual installments  
20 with interest at a rate sufficient to cover the interest  
21 accruing on the bonds.

22 Section 19. Costs of proceedings.

23       In any action or proceeding by or on behalf of the holders of  
24 defaulted bonds of the city brought under this act, the fees and  
25 expenses of a trustee, including reasonable counsel fees, shall  
26 constitute taxable costs, and all such costs and disbursements  
27 allowed by the court shall be deemed additional principal due on  
28 the bonds, and shall be paid in full from any recovery prior to  
29 any distribution to the holders of the bonds.

30 Section 20. Distribution of moneys realized for bondholders.

1 Moneys or funds collected for the holders of defaulted bonds  
2 entitled to share equally and ratably therein shall, after the  
3 payment of costs and fees as provided in section 19, be applied  
4 by the trustee, unless the terms of the bonds provide otherwise,  
5 as follows:

6 (1) Unless the principal of all of the bonds represented  
7 shall have become or have been declared due and payable, to  
8 the payment to the persons entitled thereto of the unpaid  
9 principal and interest on any bonds which shall have become  
10 due, whether at stated maturity dates or by call for  
11 redemption, in the order of their respective due dates, and  
12 if the amount available shall not be sufficient to pay in  
13 full all bonds due on any date, then to the payment ratably,  
14 according to the amounts of principal and interest due on  
15 such dates, to the persons entitled thereto without any  
16 discrimination or preference.

17 (2) If the principal of all of the bonds entitled to  
18 share equally in such moneys shall have become or shall have  
19 been declared due and payable, to the payment of the  
20 principal and interest then due and unpaid upon the bonds  
21 without preference or priority of principal over interest or  
22 interest over principal, or of any installment of interest  
23 over any other installment of interest, or of any bond over  
24 any other bond ratably according to the amounts due  
25 respectively for principal and interest, to the persons  
26 entitled thereto without any discrimination or preference  
27 except as to any difference in the respective rates of  
28 interest specified in the bonds.

29 (3) If more than one series is involved and the  
30 principal of all bonds of one or more series has become or

1 has been declared due and payable, and if one or more others  
2 has not, the funds available shall be apportioned to each  
3 series then outstanding less, as to each series, any amounts  
4 held earmarked for such series and distribution to the  
5 holders of the bonds of each series shall be made according  
6 to whichever of paragraphs (1) and (2) of this section may be  
7 applicable.

8 Section 21. Repealer.

9 All acts and parts of acts inconsistent with this act are  
10 hereby repealed to the extent of such inconsistency but nothing  
11 in this act shall be deemed or construed to enlarge or curtail  
12 the purposes for which the city may now or hereafter be  
13 authorized to borrow money nor prevent the financing of projects  
14 under other applicable statutes.

15 Section 22. Effective date.

16 This act shall take effect immediately.