

SECOND CLASS CITIES, NON-DEBT BONDS
Act of Jul. 1, 1937, P.L. 2631, No. 507
AN ACT

Cl. 11

Authorizing and regulating the issuing, by cities of the second class, of non-debt revenue bonds for the construction or acquisition of waterworks, and for extensions and improvements to waterworks; providing for the redemption of such bonds and the payment of interest thereon from rentals and charges imposed upon consumers; and establishing the rights of bondholders.

Section 1. Be it enacted, &c., That for the purpose of financing the cost and expense of constructing or acquiring any waterworks or constructing extensions to or improving existing waterworks, any city of the second class may issue non-debt revenue bonds secured solely by a pledge in whole or in part of the annual rentals or charges imposed upon consumers of water. Said bonds shall not pledge the credit, not create any debt nor be a charge against the general revenues nor be a lien against any property of the city, but shall be a lien upon and payable solely from the annual rentals or charges imposed upon consumers.

Section 2. Whenever any city of the second class has enacted an ordinance or resolution imposing a water rental or charge upon consumers, and has pledged sufficient of the revenues to be derived therefrom for the payment of the interest and sinking fund charges on such non-debt revenue bonds, it shall have power to authorize the issue and sale of such non-debt revenue bonds from time to time as the work of construction proceeds, and sufficient additional non-debt revenue bonds as may be necessary may be issued and sold to provide for the interest and sinking fund charges accruing thereon, until said waterworks, extensions or improvements have been completed and have been in operation for not exceeding one year, in order to provide sufficient revenues until such time as rentals or charges may be collected from consumers.

Nothing in this section shall be construed to abridge or restrict or in any way impair the right of any city to create indebtedness in accordance with existing laws.

Section 3. When any city of the second class shall issue such non-debt revenue bonds, the authorities thereof may sell the same or any portion thereof at private sale to the United States of America or any agency, instrumentality or corporation thereof, or to the sinking fund of the city. Any bonds not so sold shall be sold to the highest responsible bidder after public notice by advertisement once a week for three weeks in at least one newspaper of general circulation published in the city. No bid for such bonds at less than par value shall be accepted. Where bonds shall be advertised for sale as herein provided and no bids have been received, then it shall be lawful for such city to sell the same at private sale for not less than par value and accrued interest.

Section 4. All such bonds shall be payable in not more than thirty years from the date of their issue, shall be issued in series payable in annual installments as may be determined by the city, and bear interest at a rate not exceeding six per centum per annum.

Section 5. Said bonds shall have all the qualities of negotiable instruments under the law merchant and the negotiable instruments law of the Commonwealth of Pennsylvania.

Section 6. Any city of the second class may enter into any deeds of trust, indentures or other agreements with any bank or trust company or other person or persons in the United States having power to enter into the same, including any Federal agency, as security for such bonds, and may assign and pledge all or any of the revenues or receipts of the waterworks thereunder. Such deed of trust, indenture or other agreement may contain such provisions as may be customary in such instruments or as the city may authorize, including (but without limitation) provisions as to--(1) the construction, improvement, operation, maintenance, and repair of the waterworks and the duties of the city with reference thereto, (2) the application of funds and the safeguarding of funds on hand or on deposit, (3) the rights and remedies of said trustee and the holders of the bonds (which may include restrictions upon the individual right of action of such bondholders), and (4) the terms and provisions of the bonds or the resolutions authorizing the issuance of the same.

Section 7. The rights and the remedies herein conferred upon or granted to the bondholders shall be in addition to, and not in limitation of, any rights and remedies lawfully granted to such bondholders by the resolution or resolutions or ordinance or ordinances providing for the issuance of bonds or by any deed of trust, indenture or other agreement under which the same may be issued. In the event that the city shall default in the payment of principal of or interest on any of the bonds after the said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the city shall fail or refuse to comply with the provisions of this act or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding by instrument or instruments filed in the office of the recorder of deeds of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders for the purposes herein provided. Such trustee, and any trustee under any deed of trust, indenture or other agreement may, and upon written request of the holders of twenty-five per centum (or such other percentage as may be specified in any deed of trust, indenture or other agreement aforesaid) in principal amount of the bonds then outstanding, shall in his or its own name--

(a) By mandamus or other suit, action or proceeding at law or in equity, enforce all rights of the bondholders, including the right to require the city to collect rates, rentals and other charges adequate to carry out any agreement as to or pledge of the revenues or receipts of the waterworks, and to

require the city to carry out any other agreements with or for the benefit of the bondholders, and to perform its and their duties under this act.

(b) Bring suit upon the bonds.

(c) By action or suit in equity, require the city to account as if it were the trustee of an express trust for the bondholders.

(d) By action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders.

(e) By notice in writing to the city declare all bonds due and payable, and if all defaults shall be made good, then, with the consent of the holders of twenty-five per centum (or such other percentage as may be specified in any deed of trust, indenture or other agreement aforesaid) of the principal amount of the bonds then outstanding, to annul such declaration and its consequences.

The court of common pleas of the county shall have jurisdiction of any suit, action or proceedings by the trustee on behalf of the bondholders. Any trustee, whether appointed as aforesaid or acting under a deed of trust, indenture or other agreement, and whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver who may enter and take possession of the waterworks or any part or parts thereof, the revenues or receipts from which are or may be applicable to the payment of the bonds so in default, and operate and maintain the same and collect and receive all rentals and other revenues thereafter arising therefrom, in the same manner as the city, and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct in any suit, action or proceeding by the trustee. The fees, counsel fees, and expenses of the trustee and of the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any revenues and receipts derived from the waterworks, the revenues or receipts from which are or may be applicable to the payment of the bonds so in default. Said trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

Section 8. This act shall become effective immediately upon its final enactment.