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Economic Development Bonds

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Economic Development Bonds

Reference Number: CTAS-1732

There are several statutes that provide for commercial or industrial development within counties through the issuance of county bonds. Counties may use the Local Government Public Obligations Act to issue such bonds. T.C.A. § 9-21-101 *et seq*. However, counties frequently use the authority granted to industrial development corporations or through the Industrial Building Bond Act of 1955.

Industrial Development Corporations—Bonds

Reference Number: CTAS-1733

Most bonds for economic development at the city and county level are issued under the authority of industrial development corporations. The statutory authority for this type of bond issue is T.C.A. §§ 7-53-101 through 7-53-311. It is important to note that the Federal Tax Reform Act of 1986 limited the use of economic development bonds, which exempt interest from federal income taxation. *See* also T.C.A. §§ 9-20-101 through 9-20-106 for the state law on allocation of private activity bonds.

A county may authorize an industrial development corporation through a resolution of the county legislative body. T.C.A. §§ 7-53-201 through 7-53-204. Then the county legislative body appoints at least seven directors to the county-sponsored board who are responsible for authorizing all industrial development bonds and notes. T.C.A. § 7-53-301. An officer of a municipality, city manager, or other comparable chief administrative officer of a municipality may serve on the board of directors of a joint industrial development corporation, however, no other employee is eligible to serve.

The county is not liable for the principal or interest on any bonds issued through the corporation; however, the county may pledge its full faith and credit as surety on a bond issue, provided three-fourths of the county's voters approve the pledge. T.C.A. § 7-53-306. The pledge cannot exceed 10 percent of the total assessed valuation of the property of the county. T.C.A. § 7-53-307. Additionally, industrial development corporations may secure debt or obligations of their lessees. T.C.A. § 7-53-302.

After the corporation is established, a business or manufacturer desiring to move to the county or expand its facilities there contacts the industrial development board, usually through an attorney. Normally this contact is made after the business has a commitment from a financial institution to authorize the issuance of notes or bonds. Then, with the approval of the financial institution, a trustee is set up to receive the proceeds from the issue and to disburse the funds for the intended purpose. Once the project is completed, the borrower business makes regular payments to the trustee to amortize the principal and interest. The reason for issuing the bonds through a nonprofit governmental corporation is that the interest income to the lender is tax exempt. This feature will reduce the cost to the business for interest expense.

The business seeking the loan may borrow the principal through the corporation as a loan, or it may lease the property through the corporation. T.C.A. § 7-53-101. If the business borrows the principal through the industrial development corporation, then the property is owned in the name of the business, and property taxes are paid by the business as with any other commercial or industrial taxpayer. If it is a lease arrangement, the ownership of the property may be transferred to the business upon payment of the outstanding debt. In a lease arrangement through the corporation, the business does not pay real property taxes since the property is owned by the tax- exempt industrial development corporation, although the county may receive payments in lieu of property taxes. T.C.A. § 7-53-305.

Industrial development bonds may be issued for almost any industrial or business purpose as long as it complies with federal Internal Revenue regulations and T.C.A. § 7-53-101(13), and with the allocation limitation established by the state Department of Economic and Community Development under federal guidelines for income tax exempt bonds.

Industrial development corporations are required to maintain an aggregate listing of current debt, including conduit debt obligations and to file the listing with the state funding board at the end of each fiscal year. Industrial development corporations must also file notice of default on any debt 29 obligations with the state funding board within 15 days of the default. T.C.A. § 7-53-304.

Industrial Building Bond Act of 1955

Reference Number: CTAS-1734

Bonds issued under this act are general obligation bonds of the county for which the full faith and credit and unlimited taxing power of the county are pledged in the event that rental income from the business is not sufficient to retire the debt. T.C.A. § 7-55-111. Before the bonds are issued, however, they must be approved by a three-fourths majority of the county's registered voters. T.C.A. § 7-55-107. The authority for this type of bond issue is found in T.C.A. §§ 7-55-101 through 7-55-116.

Industrial Building Revenue Bond Act

Reference Number: CTAS-1735

This act, found in T.C.A. §§ 7-37-101 through 7-37-116, allows the county to issue industrial bonds by pledging only the rental income from the business. Although there is no liability to the county, the voters must approve the issue by a three-fourths majority.

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