

GOVERNMENTAL FINANCE

CHAPTER 193

H. B. No. 705

(Stockman, Baldwin, Boe,)
(Fitch, Aamoth)

1961 BOND VALIDATING ACT

AN ACT

Validating, ratifying, approving and confirming bonds and other instruments or obligations, heretofore issued by public bodies of this state, and all proceedings heretofore taken by such public bodies, to authorize and issue such bonds, instruments and other obligations, however described, and to provide funds for their payment; providing that this Act may be cited as "The 1961 Bond Validating Act", and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Citation.) This Act may be cited as "The 1961 Bond Validating Act".

§ 2. Definitions.) The following terms, wherever used or referred to in this Act, shall have the following meanings:

1. The term "public body" shall include any county, city, village, township, school district, irrigation district, drainage district, special improvement district, and any other political or governmental subdivision of the state of North Dakota, and any board, commission, agency or officer thereof.
2. The term "bonds" shall include bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, including all revenue bonds, special improvement warrants, refunding improvement bonds and warrants, and, without limitation by the enumeration of the foregoing, all other instruments and obligations, whether payable from a special fund or supported by a pledge of the full faith and credit of the public body issuing the same.

§ 3. Validation of Bonds and Incidental Proceedings.) All bonds heretofore issued by any public body for any purpose

and in any manner consistent with the Constitution of the state, and all proceedings heretofore taken by any such body for the authorization, issuance, sale, exchange, execution and delivery of its bonds, and for the performance of any conditions precedent thereto, and for the provision of taxes, special assessments and other funds to pay such bonds and interest thereon, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power of such public body, or of the governing board, council, commission or officers thereof, to authorize, issue, sell, exchange, execute or deliver the same, and notwithstanding any defects, irregularities or omissions in such proceedings or in such authorization, issuance, sale, exchange, execution or delivery; and all bonds heretofore issued by such public bodies, and all bonds hereafter issued by them under the authority of proceedings heretofore taken, are and shall be binding, legal and enforceable obligations of such public bodies respectively.

§ 4. Matters Validated.) It is the intent hereof that, without limiting the generality of the foregoing:

1. This Act shall apply to all defects, irregularities and omissions, other than constitutional, in the calling, notice or conduct of any election, any public hearing, or any meeting of a governing board, council or commission held for the purpose of authorizing bonds or any project financed by bonds; in the creation of an improvement district, the determination of the necessity and the making of contracts for the acquisition or construction of such project; in the levy of any tax or special assessment appropriated for the payment of bonds; in the establishment of rates and charges for the service of any project; in the pledge of net revenues derived therefrom to the payment of bonds, and in the making of covenants securing such payment.
2. This Act shall apply notwithstanding any lack of power, other than constitutional, to engage in a project or any portion thereof, or to finance the same by issuing bonds; to combine two or more projects or bond issues in the same proceedings; to conduct proceedings in the sequence actually followed; or to exercise jurisdiction over the site at which any project is located, within or without the corporate limits of the public body or of the county in which it is situated or of the state of North Dakota.

§ 5. Repeal.) All Acts and parts of Acts in conflict herewith are hereby repealed.

§ 6. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1961.

CHAPTER 194

S. B. No. 143

(Foss)

REAL ESTATE SERIES BONDS

AN ACT

To provide for the final payment of North Dakota Real Estate Series Bonds heretofore issued, and interest thereon, and to authorize delivery of properties and assets of the Real Estate Bond Trust to the custody and control of the manager of the Bank of North Dakota for the ultimate benefit of the state general fund.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Real Estate Bond Funds.) The real estate bond funds on deposit with the state treasurer shall be maintained in the sums needed to pay outstanding valid enforceable real estate series bonds of the state of North Dakota and lawful interest thereon. All money in said funds not needed for such bonds and interest shall upon the effective date of this Act be transferred by the state treasurer to the general fund in accordance with the provisions of subsection 2 of section 54-30-11 of the North Dakota Century Code.

§ 2. Transfer of Real Estate Bond Trust.) With the exception of funds controlled by the provisions of section 1 of this Act, all contracts for deed, tracts of real property, leases and miscellaneous assets and things of value belonging to the State Real Estate Bond Trust and owned and held in the name of the state treasurer, as trustee for the state of North Dakota, together with future increments, accruals and recoveries coming, arising or resulting from any of such things, or from dealing therewith in whatever form, are each and all hereby transferred, assigned, conveyed and granted and shall be by the state treasurer delivered to the manager of the Bank of North Dakota in Bismarck, North Dakota. This transfer is self-executing; no evidence other than the provisions of this Act shall ever be required to establish the fact of transfer of the title to the manager of the Bank of North Dakota thereunder. Proper and sufficient delivery of all title documents shall be presumed. Everything received by the manager of the

Bank of North Dakota under the provisions hereof shall be accepted and held by him in trust with power of sale. Further transfers or releases may be made by the manager of the Bank of North Dakota for and in the name of the state treasurer, as trustee for the state of North Dakota as his agent, substitute and total successor. The expense of protecting, managing and conducting the trust herein provided shall be a paramount charge on the whole thereof, subject to the needs of the real estate series bonds and interest thereon.

§ 3. Consideration.) In consideration of the transfer of such contracts for deed the Bank of North Dakota shall pay to the state treasurer, as trustee for the state of North Dakota, for deposit in the real estate bond payment funds and ultimate transfer to the general fund, a sum equal to the unpaid principal balance payable by the purchasers, adjusted for commissions and advances of the Bank of North Dakota, and the books and accounts relating to such contracts for deed shall be finally closed.

§ 4. Management of the Trust.) During the intervals between remittances to the state treasurer for the state general fund, funds available therefor may be invested as other moneys of the Bank of North Dakota are invested. The manager of the Bank of North Dakota shall collect upon and enforce to the fullest extent all rights, things and properties belonging or accruing to the trust in his custody. He may foreclose mortgages by advertisement under power of sale in the manner that mortgages of the state school funds are foreclosed, and all remedies and procedures available to the state or any department thereof shall be available to him to protect, manage and conduct the trust. No special power of attorney nor affidavit as to attorney's fees shall be required.

§ 5. Remittances to the State General Fund.) Following each calendar quarter for which the manager of the Bank of North Dakota receives funds of said trust over and above costs and expenses of the Bank of North Dakota incident thereto and exceeding a proper portion of the regular bank appropriation and a reasonable reserve for contingencies, the Bank of North Dakota shall remit such funds to the state treasurer for deposit in the general fund of the state. Such remittances shall be deemed credited against money borrowed to service and pay real estate bonds of the state of North Dakota heretofore issued.

Approved February 28, 1961.

CHAPTER 195

S. B. No. 60

(Gefreh)

BORROWING MONEY AND ISSUING BONDS BY COUNTY

AN ACT

To amend and reenact subsection 1 of section 21-03-06 of the North Dakota Century Code, relating to the borrowing of money and the issuance of bonds by a county.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Subsection 1 of section 21-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. By any county:

- a. To provide county buildings, but all outstanding unpaid bonds, for this purpose shall not exceed in amount at any one time one and one-half percent of the value of the taxable property in such county, except that any county maintaining a county agricultural and training school may issue bonds in excess of such limit to provide buildings for such school but all outstanding unpaid bonds for such purpose shall not exceed in amount at any one time one percent of the value of the taxable property in such county;
- b. To construct or aid in the construction of bridges within or without such county, but all outstanding unpaid bonds for such purpose shall not exceed in amount at any one time one percent of the value of the taxable property in such county; and
- c. To provide funds for the original construction and for the improvement and maintenance of highways, but all outstanding unpaid bonds for these purposes shall not exceed in amount at any one time one percent of the value of the taxable property in such county.

Approved February 28, 1961.

CHAPTER 196

S. B. No. 171
(Meidinger)

TAXES FOR MUNICIPAL BONDS

AN ACT

To amend and reenact section 21-03-15 of the North Dakota Century Code, relating to taxes for municipal bonds.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 21-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-15. Direct, Annual, Irrepealable Tax.) The governing body of every municipality issuing bonds under the authority of this chapter, after the sale of such bonds and before the delivery thereof, shall levy by recorded resolution or ordinance a direct, annual tax sufficient in amount to pay, and for the express purpose of paying, the interest on such bonds as it falls due, and also to pay and discharge the principal thereof at maturity. The municipality shall be and continue without power to repeal such levy or to obstruct the collection of said tax until such payments have been made or provided for. A copy of such resolution or ordinance shall be certified to and filed with the county auditor, and after the issuance of such bonds, such tax from year to year shall be carried into the tax roll of the municipality and collected as other taxes are collected. No further annual levy for that purpose shall be necessary. When insufficient funds are available to pay the matured bonds, the county auditor shall notify the governing body of such municipality of such deficiency and the governing body thereupon may levy a direct tax to pay said deficiency and interest thereon. If the governing body of the issuing municipality no longer exists, the county auditor shall levy a direct tax against the taxable property in the original issuing municipality to pay said deficiency and the interest thereon. The manner of levy, certification and collection of said tax shall be the same as provided by this section for the levy, certification and collection of taxes by this section. When such bonds are further sustained by revenue of a revenue producing utility, industry, or enterprise, said resolution or ordinance may provide that the tax to be levied and assessed may be reduced by such amount and under such conditions as shall be determined

in said resolution or ordinance so long as adequate provision is always made for the payment of such bonds and interest thereon.

Approved March 15, 1961.

CHAPTER 197

S. B. No. 297

(Morgan, Hernett, Nesvig, Garaas, Redlin)

BOND PROCEEDS

AN ACT

To amend and reenact section 21-03-38 of the North Dakota Century Code, relating to proceeds from bond issue kept in separate fund for protection of purchaser and to authorize investment thereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 21-03-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-38. Bond Proceeds—Kept in Separate Fund—Protection of Purchaser.) All borrowed money shall be paid into the treasury of the municipality borrowing it, shall be kept there until used, in a fund separate and distinct from all other funds, to be used for the purpose for which it was borrowed and for no other purpose except that such funds may be temporarily invested in securities as shall be approved by the governing board in accordance with the provisions of 21-03-43 and as otherwise provided by section 21-03-42, and shall be withdrawn only upon order or warrants made payable out of said fund and expressing the purpose for which they were drawn. The purchaser of any bonds issued pursuant to this chapter shall not be obliged to see to the application of the purchase price thereof, but shall be protected fully in paying for such bonds by the receipt of the county treasurer or of the officer delivering such bonds as provided by section 21-03-22. Income from the temporary investing of receipts from bond issues shall be available for use for such purpose as such bond issue was approved or upon resolution of the governing body of the municipality, shall be paid into the sinking fund for use in payment of bonds issued.

Approved March 3, 1961.