

Stricken language would be deleted from present law. Underlined language would be added to present law.

As Engrossed: H1/31/97

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 214 OF 1997
HOUSE BILL 1126

4
5 By: Representative Jones
6
7

For An Act To Be Entitled

8
9 "AN ACT TO REPEAL CERTAIN MUNICIPAL LAWS WHICH ARE
10 OBSOLETE OR UNCONSTITUTIONAL; AND FOR OTHER PURPOSES."

Subtitle

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13
14 "AN ACT TO REPEAL CERTAIN MUNICIPAL LAWS
15 WHICH ARE OBSOLETE OR UNCONSTITUTIONAL;
16 AND FOR OTHER PURPOSES."
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. The following provisions of the Arkansas Code are hereby
21 repealed: 14-40-1201(a)(1); 14-43-302; 14-53-104; 14-54-1001-1017; 14-58-102;
22 14-58-702-704; 14-231-101-116; 14-304-201-210.
23

24 ~~_____ (a)(1) Effective until July 1, 1995, when the inhabitants of any city~~
25 ~~or incorporated town adjoining or contiguous to another smaller municipal~~
26 ~~corporation of any class in the same county, municipal corporations separated~~
27 ~~by a river shall be deemed contiguous, shall desire that the city or~~
28 ~~incorporated town annex to it or consolidate with it the smaller municipal~~
29 ~~corporation, they may apply, by a petition in writing, signed by not less than~~
30 ~~fifty (50) qualified electors from each of the municipal corporations, to the~~
31 ~~city or town council of the larger municipal corporation.~~
32

33 ~~_____ § 14 43 302. Election of officers generally.~~

34 ~~_____ (a) The qualified voters of cities of the first class shall, in the~~
35 ~~year 1966, and on the Tuesday following the first Monday in November every two~~
36 ~~(2) years thereafter, elect one (1) mayor, and two (2) aldermen from each~~

1 ~~ward, as members of the city council, one (1) city treasurer, and one (1)~~
2 ~~police judge, all of whom except the aldermen shall hold their offices for the~~
3 ~~term of two (2) years, and until their successors are elected and qualified.~~

4 ~~_____ (b) These city officials shall have such powers and perform such duties~~
5 ~~as are required by this subtitle, or may be prescribed by any ordinance of the~~
6 ~~city not inconsistent with this subtitle, and which may not be incompatible~~
7 ~~with the nature of their respective offices.~~

8

9 ~~_____ § 14-53-104. Duty hours of employees.~~

10 ~~_____ In all cities of the first class, as indicated by the last federal~~
11 ~~census, which maintain an organized paid, or part-paid, fire department, no~~
12 ~~employee of the department shall be compelled to be on duty more than fourteen~~
13 ~~(14) consecutive hours, except when changing from one (1) tour of duty to the~~
14 ~~other, or in case of an epidemic among the members of the department or a~~
15 ~~conflagration requiring the service of more than one-half (1/2) of the force~~
16 ~~of the department.—~~

17

18 ~~_____ § 14-54-1001. Definitions.~~

19 ~~_____ As used in this subchapter, unless the context otherwise requires:~~

20 ~~_____ (1) 'Plumbing' means all work of every character connected with the~~
21 ~~installations or repairing of any plumbing fixtures and materials connected~~
22 ~~with the drainage of buildings and property, as well as all work requiring~~
23 ~~connection with street sewerage, water mains, and plumbing ventilation;~~

24 ~~_____ (2) 'Master plumber' means any person who, under a contract or~~
25 ~~agreement between himself and another, engages in or works at the business of~~
26 ~~plumbing, who installs or places any plumbing or plumbing material, or who~~
27 ~~directs or supervises the installing or placing of these things, within any~~
28 ~~building;~~

29 ~~_____ (3) 'Journeyman plumber' means any person who, under the direction of~~
30 ~~and in the employ of a master plumber, works at the business of plumbing, or~~
31 ~~who installs or places any plumbing, plumbing fixtures, or plumbing material~~
32 ~~within any building.~~

33

34 ~~_____ § 14-54-1002. Penalties.~~

35 ~~_____ (a) Any person, firm, or corporation violating any of the provisions of~~
36 ~~this subchapter, or any rule or regulation established and prescribed under~~

1 ~~the authority designated in it, shall be guilty of a misdemeanor and upon~~
2 ~~conviction shall be fined not less than five dollars (\$5.00) nor more than~~
3 ~~fifty dollars (\$50.00) for each and every violation of the law.~~

4 ~~_____ (b) In addition thereto, the certificate of all persons involved in~~
5 ~~such violation shall be revoked by the board as provided in this subchapter.~~

6

7 ~~_____ § 14-54-1003. Board of plumbing examiners.~~

8 ~~_____ (a)(1) There shall be in every city of the first and second class~~
9 ~~having a system of sanitary sewage in this state, a board of plumbing~~
10 ~~examiners. This board shall consist of four (4) members, two (2) of whom shall~~
11 ~~be master plumbers, one (1) a journeyman plumber, and one (1) the city~~
12 ~~engineer of the city or the chairman of the board of health of the city.~~

13 ~~_____ (2) The master plumbers and the journeyman plumber shall each have~~
14 ~~had ten (10) years of actual experience as a plumber prior to qualifying as~~
15 ~~members of the board.~~

16 ~~_____ (3)(A)(i) The master plumbers and journeyman plumber shall qualify~~
17 ~~as members of the board by filing the affidavit as provided by this subchapter~~
18 ~~with the clerk of the city, together with a fee of five dollars (\$5.00).~~

19 ~~_____ (ii) A certificate of competency from the clerk showing the~~
20 ~~filing of the affidavit and the payment of the fee qualifies the plumbers to~~
21 ~~act as members of the board.~~

22 ~~_____ (B) If any plumber is appointed to the board and at the time of~~
23 ~~his appointment holds a certificate of competency as provided by this~~
24 ~~subchapter and has been a plumber for more than ten (10) years, he is~~
25 ~~qualified to serve as a member of the board without filing the affidavit and~~
26 ~~fee as provided in this section.~~

27 ~~_____ (b) The board shall be appointed by the mayor and approved by the city~~
28 ~~council of the city for a term of two (2) years from May 1 of the year of~~
29 ~~appointment, and thereafter biennially commencing May 1.~~

30 ~~_____ (c) The board members shall be paid from the treasury of the city the~~
31 ~~same as other officers in such sums as the authorities may designate. However,~~
32 ~~in no case shall the salaries or fees of members of the board exceed fifty~~
33 ~~percent (50%) of the fees collected for the examination and permit as provided~~
34 ~~in this subchapter.~~

35 ~~_____ (d) All members of the board shall be citizens and actual residents of~~
36 ~~the city in which they serve as board members.~~

1

2 ~~_____ § 14-54-1004. Certificate of competency.~~

3 ~~_____ (a) Any persons engaged in or working at the business of plumbing in a~~
4 ~~city of the first or second class within the State of Arkansas having a system~~
5 ~~of sanitary sewerage, either as master plumber or journeyman plumber, or any~~
6 ~~person installing or placing any plumbing fixtures or materials, shall first~~
7 ~~receive a certificate of competency in accordance with the provisions of this~~
8 ~~subchapter.~~

9 ~~_____ (b) The certificate of competency issued by the board of plumbing~~
10 ~~examiners to applicants who pass the examination as provided in this~~
11 ~~subchapter, or otherwise qualify, is the license permitting the practice of~~
12 ~~plumbing as provided by this subchapter.~~

13 ~~_____ (c) It shall be unlawful for any plumber to work in this capacity~~
14 ~~either as master plumber or journeyman plumber and install plumbing fixtures~~
15 ~~or materials unless he shall first obtain a certificate of competency as~~
16 ~~provided by this subchapter.~~

17 ~~_____ (d) For each certificate, the board shall collect five dollars (\$5.00)~~
18 ~~to be paid into the treasury of the city.~~

19

20 ~~_____ § 14-54-1005. Examination required.~~

21 ~~_____ (a) All persons engaging in, or working at, the business of plumbing in~~
22 ~~this state, either as journeyman plumber or as master plumber, or any person~~
23 ~~installing or placing plumbing fixtures or materials shall make application~~
24 ~~either to the board of plumbing examiners as provided for in this subchapter~~
25 ~~or to the board of health in the city in which they may be engaged and, at~~
26 ~~such time and place as either of the boards may designate, be required to pass~~
27 ~~an examination as to his qualifications and competency either as a journeyman~~
28 ~~plumber or master plumber as the respective board may prescribe.~~

29 ~~_____ (b)(1) The examination shall be of such character as to thoroughly test~~
30 ~~the applicant's ability or knowledge of the plumbing trade.~~

31 ~~_____ (2) The examination shall be based upon the practical work to be~~
32 ~~done by the plumber and shall not be based on theoretical plumbing.~~

33

34 ~~_____ § 14-54-1006. Persons exempt from examination.~~

35 ~~_____ (a) A person who has engaged in the active practice and business of~~
36 ~~plumbing as a master plumber or journeyman plumber continuously for a period~~

1 ~~of ten (10) years prior to making an application for a plumbers' license to~~
2 ~~practice the business of plumbing in his respective city shall not be required~~
3 ~~to stand an examination of his qualifications if he provides an affidavit of~~
4 ~~his actual continuous practice as master plumber or journeyman plumber, as the~~
5 ~~case may be, for the time provided by this subchapter.~~

6 ~~—— (b) If the affidavit shall be attested to by two (2) supporting~~
7 ~~witnesses as to its truth, the board of plumbing examiners shall issue a~~
8 ~~certificate of competency to the applicant granting him the right and~~
9 ~~privilege to practice and follow the business of plumbing in the city.~~

10

11 ~~—— § 14-54-1007. Persons requiring examination.~~

12 ~~—— All persons, either master plumbers or journeyman plumbers, not having~~
13 ~~had ten (10) years' continuous practice and experience as a plumber, as~~
14 ~~provided by this subchapter, shall be required to stand an examination given~~
15 ~~by the board of plumbing examiners testing the applicant as to his practical~~
16 ~~knowledge of plumbing and house drainage.~~

17

18 ~~—— § 14-54-1008. Time and manner of examination.~~

19 ~~—— (a) The examination required by § 14-54-1005 must be held within thirty~~
20 ~~(30) days after the application is filed, and it must not be conducted in an~~
21 ~~arbitrary manner but given in such a manner only as to test the applicant's~~
22 ~~practical ability to perform the duties of a plumber.~~

23 ~~—— (b) Any member of the board of plumbing examiners who shall willfully~~
24 ~~refuse to grant the examination of any applicant within thirty (30) days from~~
25 ~~the date of filing of the application with the board shall be deemed guilty of~~
26 ~~a misdemeanor and upon conviction shall be fined in any sum not less than ten~~
27 ~~dollars (\$10.00) nor more than one hundred dollars (\$100).~~

28

29 ~~—— § 14-54-1009. Record of examiners.~~

30 ~~—— The board of plumbing examiners shall keep and preserve a record of all~~
31 ~~plumbers examined by them and to whom a certificate has been issued.~~

32

33 ~~—— § 14-54-1010. Issuance of certificate.~~

34 ~~—— After being satisfied as to each examination applicant's ability, the~~
35 ~~board of plumbing examiners shall thereupon issue a certificate of competency~~
36 ~~to the applicant authorizing him to work in the business of plumbing and to~~

1 ~~place and install plumbing fixtures and materials.~~

2

3 ~~_____ § 14-54-1011. Renewal of certificates.~~

4 ~~_____ (a) All certificates of competency issued under the provisions of this~~
5 ~~subchapter must be renewed by the holder thereof after five (5) years.~~

6 ~~However, upon renewal, no examination shall be required.~~

7 ~~_____ (b) For each certificate of renewal, the board shall collect five~~
8 ~~dollars (\$5.00) to be paid into the treasury of the city.~~

9 ~~_____ (c) Applicants for renewals must be actively engaged in the business of~~
10 ~~plumbing at the time of application for renewal of certificates.~~

11

12 ~~_____ § 14-54-1012. Rules and regulations.~~

13 ~~_____ (a)(1)(A) Either of the boards constituted as set out in § 14-54-1005~~
14 ~~shall be charged with the duty and vested with the power to formulate a code~~
15 ~~of rules and regulations regarding the work of plumbing and drainage in the~~
16 ~~city for which the board is appointed and serves.~~

17 ~~_____ (B) The rules and regulations shall include material and~~
18 ~~workmanship and manner of executing the work of plumbing and drainage.~~

19 ~~_____ (2) The board may, from time to time, amend and alter the rules and~~
20 ~~regulations.~~

21 ~~_____ (b)(1) After the board has prepared its code of rules and regulations,~~
22 ~~or any amendment or alteration thereto, the code shall be committed to the~~
23 ~~city council in which the board is appointed and operates.~~

24 ~~_____ (2)(A) Within ninety (90) days after the code has been submitted to~~
25 ~~the council, that body shall, by proper action, either accept the rules and~~
26 ~~regulations and incorporate as part of the municipal law or, by proper~~
27 ~~resolution, expressly reject them. (B) In the event that the council rejects~~
28 ~~the code of rules and regulations, or any part thereof, as reported by the~~
29 ~~board, the council must adopt other rules and regulations prescribing the~~
30 ~~material, construction, repairs, and installation of all plumbing, sewerage,~~
31 ~~and drainage placed in, or in connection with, any building in the city.~~

32

33 ~~_____ § 14-54-1013. Defective or unsafe material prohibited.~~

34 ~~_____ The use of any defective or unsafe material in the work of plumbing and~~
35 ~~drainage is expressly prohibited and only the best known method of~~
36 ~~installation and the best known materials and fixtures, including supply~~

1 ~~pipes, ventilation soil pipes, and sewerage, shall be employed.~~

2

3 ~~_____ § 14-54-1014. Chief plumbing inspector and deputies.~~

4 ~~_____ (a)(1) In all cities having a system of sanitary sewerage, there shall~~
5 ~~be appointed by the mayor of the city one (1) chief plumbing inspector and~~
6 ~~such number of deputy plumbing inspectors as the city council may designate.~~

7 ~~_____ (2) The city plumbing inspector and deputy plumbing inspectors shall~~
8 ~~be appointed by the mayor and approved by the city council of the city for a~~
9 ~~period of two (2) years from May 1 of the year of their appointment, and~~
10 ~~thereafter biennially before May 1.~~

11 ~~_____ (b) These officers shall be paid from the treasury of the city at such~~
12 ~~salaries as the authorities may designate.~~

13 ~~_____ (c) The duty of these officers shall be to:~~

14 ~~_____ (1) Inspect all plumbing and drainage done in their respective~~
15 ~~cities;~~

16 ~~_____ (2) Enforce the provisions of this subchapter; and~~

17 ~~_____ (3) Secure the proper performance of this work.~~

18 ~~_____ (d)(1) The chief inspector shall preside at all meetings of the board~~
19 ~~of health and shall take part in the proceedings whenever the board may have~~
20 ~~under consideration the formation and submission of rules and regulations~~
21 ~~governing the work of plumbing and drainage to be submitted to the city~~
22 ~~council.~~

23 ~~_____ (2) The chief inspector shall also have the deciding voice and vote~~
24 ~~in all matters pertaining to the examination of applicants and the granting of~~
25 ~~certificates whenever the remaining number of the board fails to agree.~~

26 ~~_____ (e) No person shall be eligible for the office of plumbing inspector~~
27 ~~unless he shall have had at least ten (10) years' practical experience in the~~
28 ~~business of plumbing. He shall not be connected in any way with any firm or~~
29 ~~corporation, directly or indirectly, in the business of plumbing. He shall~~
30 ~~also be a citizen and actual resident of the city in which he serves.~~

31

32 ~~_____ § 14-54-1015. Examination of buildings.~~

33 ~~_____ The plumbing and drainage of all buildings, both public and private,~~
34 ~~shall be examined in accordance with the provisions of this subchapter and the~~
35 ~~rules and regulations adopted by the city or board as provided in this~~
36 ~~subchapter.~~

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~~_____ § 14-54-1016. Repairs and alterations.~~

~~_____ All repairs and alterations in the plumbing and drainage of all buildings shall be executed in accordance with the provisions of this subchapter and the rules and regulations adopted by the city or board as provided in this subchapter.~~

~~_____ § 14-54-1017. Supervision of plumbing department.~~

~~_____ (a) The plumbing department in every city having a sanitary system of sewerage, consisting of the plumbing examiners board or board of health and the chief inspector and his deputies, shall be under the supervision of the entire board of health of the city.~~

~~_____ (b) The chief inspector shall make a complete report of this department to the board of health at the end of each year.~~

~~_____ § 14-58-102. Transfer of balances in bond redemption fund to general revenue fund.~~

~~_____ (a) In all cases where Amendment 49 [Repealed] bonds have been issued by any city or town, as authorized by Arkansas Constitution, Amendment 49 [Repealed], and all bonds issued for these purposes by the city or town have been wholly retired, the municipal governing body may, by appropriate order, transfer any balances remaining unexpended in the bond redemption fund to the city or town general fund. When so transferred, the funds may be used for any and all purposes for which other funds in the general revenue fund of the city or town may be used.~~

~~_____ (b) Where bonds issued pursuant to the provisions of Arkansas Constitution, Amendment 13 [Repealed], have been wholly retired, the municipal governing body may by appropriate ordinance transfer any balances remaining unexpended in the bond redemption fund for taxes collected that relate to the year in which the bonds are wholly retired to the municipal general revenue fund. When so transferred, the funds may be used for any and all purposes for which other funds in the general revenue fund of the municipality may be used. However, no funds may be assessed, levied, and collected for the redemption of bonds which have been wholly retired.~~

~~_____ § 14-58-702. Deposit in bank.~~

1 ~~_____ The revolving cash fund authorized by this subchapter shall be deposited~~
2 ~~in a local bank and maintained in a checking account.~~

3

4 ~~_____ § 14-58-703. Disbursements from fund.~~

5 ~~_____ (a) The disbursements made from the revolving cash fund shall be by~~
6 ~~check signed by the mayor and countersigned by the city clerk.~~

7 ~~_____ (b) Disbursements shall not exceed the sum of five hundred dollars~~
8 ~~(\$500).~~

9

10 ~~_____ § 14-58-704. Appropriations for fund.~~

11 ~~_____ After the initial appropriation for the revolving cash fund, any~~
12 ~~subsequent appropriation to replenish the cash in the fund shall be made by~~
13 ~~appropriation by the city council specifying the items that have been paid~~
14 ~~from the fund.~~

15

16 ~~_____ § 14-231-101. Title.~~

17 ~~_____ This chapter may be cited as "The Revenue Bond Refinancing Act of 1937."~~

18 ~~_____ § 14-231-102. Definitions.~~

19 ~~_____ (a) As used in this chapter, unless the context otherwise requires:~~

20 ~~_____ (1) 'Municipality' means any city or incorporated town;~~

21 ~~_____ (2) 'Governing body' means the bodies and boards, by whatsoever name~~
22 ~~they may be known, having power to borrow money on behalf of the municipality;~~

23 ~~_____ (3) 'Law' means any act or statute, general, special, or local, of~~
24 ~~this state including, without being limited to, the charter of any~~
25 ~~municipality;~~

26 ~~_____ (4) 'Enterprise' means any waterworks or sewer project constructed,~~
27 ~~improved, extended, or financed by any municipality under authority of~~
28 ~~subchapter 2 of chapter 234 of this title and subchapter 2 of chapter 235 of~~
29 ~~this title. "Enterprise" includes all improvements, betterments, extensions,~~
30 ~~and replacements thereto, and all appurtenances, facilities, lands, rights in~~
31 ~~land, water rights, franchises, and structures in connection therewith or~~
32 ~~incidental thereto;~~

33 ~~_____ (5) 'Federal agency' means the United States of America, the President~~
34 ~~of the United States of America, the General Services Administrator, the~~
35 ~~Housing and Home Finance Administrator, or any agency, instrumentality, or~~
36 ~~corporation of the United States of America, which has been designated or~~

1 ~~created by or pursuant to any act or joint resolution of the Congress of the~~
2 ~~United States of America, or which may be owned or controlled, directly or~~
3 ~~indirectly, by the United States of America;~~

4 ~~—— (6) 'Improving' means reconstructing, replacing, extending, repairing,~~
5 ~~bettering, equipping, developing, embellishing, or improving any waterworks or~~
6 ~~sewer projects constructed, improved, extended, or financed by any~~
7 ~~municipality under authority of subchapter 2 of chapter 234 of this title and~~
8 ~~subchapter 2 of chapter 235 of this title or any one (1) or more or all of the~~
9 ~~foregoing;~~

10 ~~—— (7) 'Refunding bonds'; means bonds of a municipality issued pursuant to~~
11 ~~this chapter, or pursuant to any other law, as supplemented by, or in~~
12 ~~conjunction with, this chapter;~~

13 ~~—— (8) 'Refinancing' means funding, refunding, paying, or discharging, by~~
14 ~~means of refunding bonds or the proceeds received from the sale of bonds, all~~
15 ~~or any part of any bonds issued under subchapter 2 of chapter 234 of this~~
16 ~~title and subchapter 2 of chapter 235 of this title and payable solely from~~
17 ~~all or any part of the revenues thereof, including interest thereon in arrears~~
18 ~~or about to become due, whether or not represented by coupons or interest~~
19 ~~certificates;~~

20 ~~—— (9) 'Revenues' means all fees, tolls, rates, rentals, and charges to be~~
21 ~~levied and collected in connection with and all other income and receipts of~~
22 ~~whatever kind or character derived by the municipality from the operation of~~
23 ~~any enterprise or arising from any enterprise;~~

24 ~~—— (10) 'Holder of bonds'; or 'bondholder' or any similar term means any~~
25 ~~person who shall be the bearer of any outstanding refunding bond or refunding~~
26 ~~bonds registered to bearer or not registered, or the registered owner of any~~
27 ~~such outstanding bond or bonds which shall at the time be registered other~~
28 ~~than to bearer.~~

29 ~~—— (b) Words importing the singular number shall include the plural~~
30 ~~number in each case and vice versa, and words importing persons shall include~~
31 ~~firms and corporations.~~

32

33 ~~—— ^A 14-231-103. Construction.~~

34 ~~—— (a) This chapter constitutes full and complete authority for the~~
35 ~~issuance of refunding bonds.~~

36 ~~—— (b) No procedure or proceedings, publications, notices, consents,~~

1 ~~approvals, orders, acts, or things by any governing body of any municipality,~~
2 ~~the Arkansas Public Service Commission or any other board, officer,~~
3 ~~commission, department, agency, or instrumentality of this state or any~~
4 ~~municipality shall be required to issue any refunding bonds to or do any act~~
5 ~~or perform any thing under this chapter, except as may be prescribed in this~~
6 ~~chapter.~~

7 ~~—— (c) The powers conferred by this chapter shall be in addition and~~
8 ~~supplemental to, and not in substitution for, and the limitations imposed by~~
9 ~~this chapter shall not affect, the powers conferred by any other law.~~

10 ~~—— (d) This chapter is remedial in nature and shall be liberally~~
11 ~~construed.~~

12

13 ~~—— § 14-231-104. Municipal authority to refinance waterworks or sewer~~
14 ~~project.~~

15 ~~—— (a) Any municipality shall have power and is authorized to refinance or~~
16 ~~to refinance and improve any waterworks or sewer project constructed,~~
17 ~~improved, extended, or financed by any municipality under authority of~~
18 ~~subchapter 2 of chapter 234 of this title and subchapter 2 of chapter 235 of~~
19 ~~this title, and, for such purposes, to borrow money and issue refunding bonds.~~

20 ~~—— (b) The power and authority granted by this chapter may be exercised~~
21 ~~successively. Any project which may have been refinanced or refinanced and~~
22 ~~improved under this chapter may be refinanced or refinanced and improved under~~
23 ~~this chapter.~~

24

25 ~~—— § 14-231-105. Procedure for authorization of refunding bonds.~~

26 ~~—— (a) The refunding bonds shall be authorized by resolution or~~
27 ~~resolutions of the governing body of the municipality.~~

28 ~~—— (b) The resolution or resolutions may be adopted at a regular or~~
29 ~~special meeting and at the same meeting at which they are introduced by a~~
30 ~~majority of all the members of the governing body then in office.~~

31 ~~—— (c) The resolution or resolutions shall take effect immediately upon~~
32 ~~their adoption.~~

33 ~~—— (d) No other proceedings or procedure of any character whatever shall~~
34 ~~be required for the issuance of refunding bonds by the municipality.~~

35

36 ~~—— § 14-231-106. Additional provisions in authorizing resolution.~~

1 ~~—— (a) The governing body of any municipality shall have power, in~~
2 ~~addition to the other powers conferred by this chapter, to insert provisions~~
3 ~~in any resolution authorizing the issuance of refunding bonds, which shall be~~
4 ~~a part of the contract with the holders of the refunding bonds, as to:~~
5 ~~—— (1) Limitations on the purpose to which the proceeds of sale of any~~
6 ~~issue of refunding bond or any notes, bonds, or other obligations issued to~~
7 ~~finance the improving of the enterprise may be applied;~~
8 ~~—— (2) Limitations on the issuance and on the lien of additional refunding~~
9 ~~bonds or additional notes, bonds, or other obligations to finance the~~
10 ~~improving of the enterprise which are secured by or payable from the revenues~~
11 ~~of the enterprise;~~
12 ~~—— (3) Limitations on the right of the municipality or its governing body~~
13 ~~to restrict and regulate the use of the enterprise;~~
14 ~~—— (4) The amount and kind of insurance to be maintained on the enterprise~~
15 ~~and the use and disposition of insurance moneys;~~
16 ~~—— (5) Pledging all or any part of the revenues of the enterprise to which~~
17 ~~its right then exists or the right to which may thereafter come into~~
18 ~~existence;~~
19 ~~—— (6) Covenanting against pledging all or any part of the revenues of the~~
20 ~~enterprise to which its right then exists or the right to which may thereafter~~
21 ~~come into existence;~~
22 ~~—— (7) Events of default and terms and conditions upon which any or all of~~
23 ~~the refunding bonds shall become or may be declared due before maturity and as~~
24 ~~to the terms and conditions upon which the declaration and its consequences~~
25 ~~may be waived;~~
26 ~~—— (8) The rights, liabilities, powers, and duties arising upon the breach~~
27 ~~by it of any covenants, conditions, or obligations;~~
28 ~~—— (9) Vesting in a trustee or trustees the right to enforce any covenants~~
29 ~~made to secure, to pay, or in relation to, the refunding bonds, as to the~~
30 ~~powers and duties of the trustee or trustees and the limitation of liabilities~~
31 ~~thereof, and as to the terms and conditions upon which the holders of the~~
32 ~~refunding bonds or any proportion or percentage of them may enforce any~~
33 ~~covenants made under this chapter or duties imposed by this chapter;~~
34 ~~—— (10) A procedure by which the terms of any resolution authorizing~~
35 ~~refunding bonds or any other contract with bondholders including, but not~~
36 ~~limited to, an indenture of trust or similar instrument may be amended or~~

1 ~~abrogated and as to the amount of refunding bonds the holders of which must~~
2 ~~consent thereto and the manner in which such consent may be given;~~

3 ~~—— (11) The execution of all instruments necessary or convenient in the~~
4 ~~exercise of the powers granted by this chapter or in the performance of the~~
5 ~~duties of the municipality and its officers, agents, and employees;~~

6 ~~—— (12) Refraining from pledging or in any manner whatever claiming or~~
7 ~~taking the benefit or advantage of any stay or extension law whenever enacted,~~
8 ~~nor at any time hereafter in force, which may affect the duties or covenants~~
9 ~~of the municipality in relation to the refunding bonds, or the performance~~
10 ~~thereof, or the lien of the refunding bonds;~~

11 ~~—— (13) The purchase out of any funds available therefor, including, but~~
12 ~~not limited to, the proceeds of refunding bonds, of any outstanding notes,~~
13 ~~bonds, or obligations, including, but not limited to refunding bonds, and the~~
14 ~~price or prices at which and the manner in which the purchases may be made;~~

15 ~~—— (14) Any other acts and things as may be necessary or convenient or~~
16 ~~desirable in order to secure the refunding bonds or as may tend to make the~~
17 ~~refunding bonds more marketable;~~

18 ~~—— (15) The manner of collecting the fees, tolls, rates, rentals, or other~~
19 ~~charges for the services, facilities, or commodities of the enterprise, and~~
20 ~~the combining in one (1) bill of the fees, tolls, rates, rentals, or other~~
21 ~~charges for the services, facilities, or commodities of the enterprise with~~
22 ~~the fees, tolls, rates, rentals, or charges for other services, facilities, or~~
23 ~~commodities afforded by the municipality; and~~

24 ~~—— (16) The discontinuance of the services, facilities, or commodities of~~
25 ~~the enterprise as well as any other services, facilities, or commodities~~
26 ~~afforded by the municipality, in the event that the fees, tolls, rates,~~
27 ~~rentals, or other charges for the services, facilities, or commodities of the~~
28 ~~enterprise are not paid.~~

29 ~~—— (b) Nothing in this section shall be construed to authorize any~~
30 ~~municipality to make any covenants, to perform any act, or to do any thing~~
31 ~~which shall require the expenditure in any manner or for any purposes by the~~
32 ~~municipality of any funds other than revenues received or receivable from the~~
33 ~~enterprise.~~

34

35 ~~—— § 14-231-107. Terms of refunding bonds - Negotiability.~~

36 ~~—— (a) The refunding bonds may be issued in one (1) or more series, may~~

1 ~~bear such date or dates, may mature at such time or times not exceeding the~~
2 ~~period of usefulness of the enterprise, as determined by the governing body in~~
3 ~~its discretion or, in any event, not exceeding forty (40) years from their~~
4 ~~respective dates, may bear interest at such rate or rates not exceeding the~~
5 ~~maximum rate of interest borne by the notes, bonds, or other obligations~~
6 ~~refinanced by them, may be in such denomination or denominations, may be in~~
7 ~~such form, either coupon or registered, may carry such registration and~~
8 ~~conversion privileges, may be executed in such manner, may be payable in such~~
9 ~~medium of payment at such place or places, may be subject to such terms of~~
10 ~~redemption, with or without a premium, may be declared or become due before~~
11 ~~the maturity date thereof, may provide for the replacement of mutilated,~~
12 ~~destroyed, stolen, or lost bonds, may be authenticated in such manner and upon~~
13 ~~compliance with such conditions, and may contain such other terms and~~
14 ~~covenants as may be provided by resolution or resolutions of the governing~~
15 ~~body of the municipality.~~

16 ~~—— (b) Notwithstanding the form or tenor of the bond, and in the absence~~
17 ~~of an express recital on the face of the bond that it is nonnegotiable, all~~
18 ~~refunding bonds shall at all times be, and shall be treated as, negotiable~~
19 ~~instruments for all purposes.~~

20

21 ~~—— § 14-231-108. Validity of refunding bonds.~~

22 ~~—— (a) Refunding bonds bearing the signature of officers of the~~
23 ~~municipality in office on the date of the signing of the bonds shall be valid~~
24 ~~and binding obligations of the municipality for all purposes, notwithstanding~~
25 ~~that before the delivery of the bonds any or all of the persons whose~~
26 ~~signatures appear thereon shall have ceased to be officers of the municipality~~
27 ~~the same as if they had continued to be officers of the municipality until~~
28 ~~after the delivery thereof.~~

29 ~~—— (b) The validity of the authorization and issuance of the refunding~~
30 ~~bonds shall not be dependent on or affected in any way by proceedings taken~~
31 ~~for the improving of any enterprise for the refinancing and improving of which~~
32 ~~the refunding bonds are to be issued, or by the contracts made in connection~~
33 ~~with the improving of the enterprise.~~

34 ~~—— (c) Any resolution authorizing refunding bonds may provide that the~~
35 ~~refunding bond may contain a recital that the refunding bond is issued~~
36 ~~pursuant to this chapter. Any refunding bond containing a recital under~~

1 authority of a resolution shall be conclusively deemed to be valid and to have
2 been issued in conformity with the provisions of this chapter.

3

4 ~~_____ § 14-231-109. Sale or exchange of refunding bonds.~~

5 ~~_____ (a) The refunding bonds may be sold or exchanged in installments at
6 different times or an entire issue or series may be sold or exchanged at one
7 time. Any issue or series of refunding bonds may be exchanged in part or sold
8 in part in installments at different times or at one time. The refunding bonds
9 may be sold or exchanged at any time on, before, or after the maturity of, any
10 of the outstanding notes, bonds, certificates, or other obligations to be
11 refinanced.~~

12 ~~_____ (b)(1) If the governing body determines to exchange any refunding
13 bonds, the refunding bonds may be exchanged privately for and in payment and
14 discharge of any of the outstanding bonds of the municipality issued to
15 finance or to aid in financing the acquisition, the construction, the
16 improving, the refinancing, or the improving and refinancing of an enterprise.~~

17 ~~_____ (2) The refunding bonds may be exchanged for a like or greater
18 principal amount of bonds of the municipality, except that the principal
19 amount of the refunding bonds may exceed the principal amount of such
20 outstanding bonds to the extent necessary or advisable, in the discretion of
21 the governing body, to fund interest in arrears or about to become due.~~

22 ~~_____ (3) The holder or holders of outstanding bonds need not pay accrued
23 interest on the refunding bonds to be delivered in exchange therefor if and to
24 the extent that interest is due or accrued and unpaid on the bonds to be
25 surrendered.~~

26 ~~_____ (c)(1) If the governing body determines to sell any refunding bonds,
27 such refunding bonds shall be sold at public or private sale in such manner
28 and upon such terms as the governing body shall deem best for the interests of
29 the municipality.~~

30 ~~_____ (2) No bonds shall be sold for less than par on the basis of bonds
31 bearing the interest rate borne by the bonds to be refunded, but bonds bearing
32 a lesser rate of interest may be sold at a discount. Bonds may be sold with
33 the privilege of conversion into bonds bearing a lower rate of interest.
34 However, the terms of sale on any bonds sold at a discount or converted in
35 pursuance of the privilege of conversion shall be such that the municipality
36 shall receive no less and would pay no more than substantially the same as par~~

1 ~~for bonds bearing interest at the rate borne by the bonds to be refunded.~~

2

3 ~~_____ § 14-231-110. Security of refunding bonds - Extent of municipal~~
4 ~~authority.~~

5 ~~_____ (a) The refunding bonds shall be special obligations of the~~
6 ~~municipality. They shall be payable from and secured by a lien upon the~~
7 ~~revenues of the enterprise, as shall be more fully described in the resolution~~
8 ~~or resolutions of the governing body authorizing the issuance of the refunding~~
9 ~~bonds. Having due regard to the cost of operation and maintenance of the~~
10 ~~enterprise and the amount or proportion, if any, of the revenues of the~~
11 ~~enterprise previously pledged, any municipality shall have power by resolution~~
12 ~~of its governing body to pledge for the security of the refunding bonds a~~
13 ~~fixed amount without regard to any fixed proportion of the gross revenues of~~
14 ~~the enterprise.~~

15 ~~_____ (b)(1) As additional security for any issue of refunding bonds under~~
16 ~~this chapter, or any part thereof, any municipality shall have power, by~~
17 ~~resolution of its governing body, to confer upon the holders of the refunding~~
18 ~~bonds all rights, powers, and remedies to which the holders would be entitled~~
19 ~~if they were the owners and had possession of the notes, bonds, or other~~
20 ~~obligations for the refinancing of which the refunding bonds shall have been~~
21 ~~issued including, but not limited to, the preservation of the lien of the~~
22 ~~notes, bonds, or other obligations without extinguishment, impairment, or~~
23 ~~diminution thereof.~~

24 ~~_____ (2) In the event any municipality exercises the power conferred by~~
25 ~~this subsection:~~

26 ~~_____ (A) Each refunding bond shall contain a recital to the effect~~
27 ~~that the holder has been granted the additional security provided by this~~
28 ~~subsection; and~~

29 ~~_____ (B) Each note, bond, certificate, or other obligation of the~~
30 ~~municipality to be refinanced by any such refunding bonds shall be kept intact~~
31 ~~and shall not be cancelled or destroyed until the refunding bonds and interest~~
32 ~~thereon, have been finally paid and discharged but shall be stamped with a~~
33 ~~legend to the effect that such note, bond, certificate, or other obligation~~
34 ~~has been refunded pursuant to this chapter.~~

35 ~~_____ (c) All refunding bonds of the same issue shall be equally and ratably~~
36 ~~secured, without priority by reason of number, date of bonds, of sale, of~~

1 ~~execution, or of delivery, by a lien upon the revenues of the enterprise in~~
2 ~~accordance with the provisions of this section and the resolution or~~
3 ~~resolutions authorizing the issuance of the refunding bonds.~~

4 ~~—— (d) Nothing in this section or in any other section of this chapter~~
5 ~~shall be deemed in any way to alter the terms of any agreements made with the~~
6 ~~holders of any outstanding notes, bonds, or other obligations of the~~
7 ~~municipality or to authorize the municipality to alter the terms of any~~
8 ~~agreements or to impair, or to authorize the municipality to impair, the~~
9 ~~rights and remedies of any creditors of the municipality.~~

10 ~~—— (e) Nothing in this section or in any other section of this chapter~~
11 ~~shall be deemed in any way to authorize any municipality to do anything in any~~
12 ~~manner or for any purpose which would result in the creation or incurring of a~~
13 ~~debt or indebtedness or the issuance of any instrument which would constitute~~
14 ~~a bond or debt within the meaning of any provision, limitation, or restriction~~
15 ~~of the Constitution relating to the creation or incurring of a debt or~~
16 ~~indebtedness or the issuance of an instrument constituting a bond or a debt.~~

17

18 ~~—— § 14-231-111. Bonds - Nature of indebtedness.~~

19 ~~—— (a) No recourse shall be had for the payment of the refunding bonds or~~
20 ~~interest thereon, or any part thereof, against the general fund of any~~
21 ~~municipality, nor shall the credit or taxing power of any municipality be~~
22 ~~deemed to be pledged thereto.~~

23 ~~—— (b)(1) The refunding bonds and interest on them shall not be a debt of~~
24 ~~the municipality, nor a charge, lien, or encumbrance, legal or equitable, upon~~
25 ~~any property of the municipality or upon any income, receipts, or revenues of~~
26 ~~the municipality other than such of the revenues of the enterprise as shall~~
27 ~~have been pledged to the payment thereof.~~

28 ~~—— (2) Every refunding bond shall recite in substance that the bond,~~
29 ~~including interest thereon, is payable solely from the revenues pledged to its~~
30 ~~payment and that the municipality is under no obligation to pay the bond or~~
31 ~~interest except from the revenues.~~

32

33 ~~—— § 14-231-112. Bonds - Tax exemption.~~

34 ~~—— All bonds authorized to be issued by this chapter and the income from~~
35 ~~them shall be exempt from all taxation.~~

36

1 ~~§ 14-231-113. Fiscal agent.~~

2 ~~Any municipality shall have power in connection with the issuance of~~
3 ~~refunding bonds to:~~

4 ~~(1) Appoint a fiscal agent;~~

5 ~~(2) Provide for the powers, duties, functions, and compensation of the~~
6 ~~fiscal agent;~~

7 ~~(3) Limit the liabilities of the fiscal agent;~~

8 ~~(4) Prescribe a method for the resignation, removal, merger, or~~
9 ~~consolidation of the fiscal agent, the appointment of a successor fiscal~~
10 ~~agent, and the transfer of rights and properties to the successor fiscal~~
11 ~~agent.~~

12

13 ~~§ 14-231-114. Duties of municipality concerning operation of waterworks~~
14 ~~and payment of bonds.~~

15 ~~(a) In order that the payment of the refunding bonds, and interest~~
16 ~~thereon, shall be adequately secured, any municipality issuing refunding bonds~~
17 ~~pursuant to this chapter, and its proper officers, agents, and employees are~~
18 ~~directed, and it shall be the mandatory duty of the municipality and the~~
19 ~~officers, agents, and employees under this chapter, and it shall further be of~~
20 ~~the essence of the contract of the municipality with the bondholders, at all~~
21 ~~times:~~

22 ~~(1) To pay or cause to be paid punctually the principal of every~~
23 ~~refunding bond, and the interest thereon, on the date or dates, at the place~~
24 ~~or places, in the manner, and out of the funds mentioned in the refunding~~
25 ~~bonds and in the coupons thereto appertaining and in accordance with the~~
26 ~~resolution authorizing their issuance;~~

27 ~~(2) To operate the enterprise in an efficient and economical manner and~~
28 ~~to establish, levy, maintain, and collect such fees, tolls, rentals, rates,~~
29 ~~and other charges in connection therewith as may be necessary or proper. The~~
30 ~~fees, tolls, rates, rentals, and other charges shall be at least sufficient~~
31 ~~after making due and reasonable allowances for contingencies and for a margin~~
32 ~~of error in the estimates to:~~

33 ~~(A) Pay all current expenses of operation and maintenance of the~~
34 ~~enterprise;~~

35 ~~(B) Pay the interest on and principal of the refunding bonds as they~~
36 ~~shall become due and payable;~~

1 ~~_____ (C) Comply in all respects with the terms of the resolution or~~
2 ~~resolutions authorizing the issuance of refunding bonds or any other contract~~
3 ~~or agreement with the holders of the refunding bonds;~~

4 ~~_____ (D) Meet any other obligations of the municipality which are charges,~~
5 ~~liens, or encumbrances upon the revenues of the enterprise;~~

6 ~~_____ (3) To operate, maintain, preserve, and keep, or cause to be operated,~~
7 ~~maintained, preserved, and kept, the enterprise and every part and parcel of~~
8 ~~it in good repair, working order, and condition;~~

9 ~~_____ (4) To preserve and protect the security of the refunding bonds and the~~
10 ~~rights of their holders and to warrant and defend those rights against all~~
11 ~~claims and demands of all persons whomsoever;~~

12 ~~_____ (5) To pay and discharge, or cause to be paid or discharged, any and~~
13 ~~all lawful claims for labor, materials, and supplies which, if unpaid, might~~
14 ~~by law become a lien or charge upon the revenues, or any part of them prior or~~
15 ~~superior to the lien of the refunding bonds or which might impair the security~~
16 ~~of the refunding bonds, to the end that the priority and security of the~~
17 ~~refunding bonds shall be fully preserved and protected;~~

18 ~~_____ (6) To hold in trust the revenues pledged to the payment of the~~
19 ~~refunding bonds for the benefit of the holders of the refunding bonds and to~~
20 ~~apply the revenues only as provided by the resolution or resolutions~~
21 ~~authorizing the issuance of the refunding bonds or, if the resolution or~~
22 ~~resolutions shall thereafter be modified in the manner provided therein or~~
23 ~~herein, only as provided in the resolution or resolutions as modified;~~

24 ~~_____ (7) To keep proper books of record and accounts of the enterprise,~~
25 ~~separate from all other records and accounts, in which complete and correct~~
26 ~~entries shall be made of all transactions relating to the enterprise or any~~
27 ~~part of it, and which, together with all other books and papers of the~~
28 ~~municipality, shall at all times be subject to the inspection of the holder or~~
29 ~~holders of not less than ten percent (10%) of the refunding bonds then~~
30 ~~outstanding or his or their representatives authorized in writing.~~

31 ~~_____ (b) None of the foregoing duties shall be construed to require the~~
32 ~~expenditure in any manner or for any purpose by the municipality of any funds~~
33 ~~other than revenues received or receivable from the enterprise.~~

34

35 ~~_____ § 14-231-115. Duties and powers of receiver.~~

36 ~~_____ (a) In the event that the municipality shall default in the payment of~~

1 ~~the principal or interest on any of the refunding bonds after it shall become~~
2 ~~due, whether at maturity or upon call for redemption, and such default shall~~
3 ~~continue for a period of thirty (30) days, or in the event that the~~
4 ~~municipality or the governing body or its officers, agents, or employees shall~~
5 ~~fail or refuse to comply with the provisions of this chapter or shall default~~
6 ~~in any agreement made with the holders of the refunding bonds, any holder or~~
7 ~~holders of refunding bonds, or trustee therefor, shall have the right to apply~~
8 ~~in an appropriate judicial proceeding to any court of competent jurisdiction~~
9 ~~for the appointment of a receiver of the enterprise. This shall be done~~
10 ~~whether or not all refunding bonds have been declared due and payable and~~
11 ~~whether or not the holder, or trustee therefor, is seeking or has sought to~~
12 ~~enforce any other right or exercise any remedy in connection with such~~
13 ~~refunding bonds.~~

14 ~~—— (b) Upon application, the court may appoint and, if the application is~~
15 ~~made by the holders of twenty-five percent (25%) in principal amount of the~~
16 ~~refunding bonds then outstanding or any trustee for holders of the refunding~~
17 ~~bonds in the principal amount, shall appoint a receiver of the enterprise.~~

18 ~~—— (c)(1) The receiver so appointed shall forthwith, directly or by his~~
19 ~~agents and attorneys, enter into and upon and take possession of the~~
20 ~~enterprise and each and every part of it and may exclude the municipality, its~~
21 ~~governing body, officers, agents, and employees and all persons claiming under~~
22 ~~them wholly therefrom.~~

23 ~~—— (2) The receiver shall have, hold, use, operate, manage, and control~~
24 ~~the enterprise and each and every part thereof, in the name of the~~
25 ~~municipality or otherwise, as the receiver may deem best and shall exercise~~
26 ~~all the rights and powers of the municipality with respect to the enterprise~~
27 ~~as the municipality itself might do.~~

28 ~~—— (3) Such receiver shall maintain, restore, insure, and keep insured~~
29 ~~the enterprise and from time to time shall make all necessary or proper~~
30 ~~repairs as to the receiver may seem expedient. The receiver shall establish,~~
31 ~~levy, maintain, and collect fees, tolls, rentals, and other charges in~~
32 ~~connection with the enterprise as the receiver may deem necessary or proper~~
33 ~~and reasonable. He shall also collect and receive all revenues and shall~~
34 ~~deposit them in a separate account and apply the revenues so collected and~~
35 ~~received in such manner as the court shall direct.~~

36 ~~—— (d) Whenever all that is due upon the refunding bonds, and interest~~

1 ~~thereon, and upon any other notes, bonds, or other obligations, and interest~~
2 ~~thereon, having a charge, lien, or encumbrance on the revenues of the~~
3 ~~enterprise and under any of the terms of any covenants or agreements with~~
4 ~~bondholders, shall have been paid or deposited as provided therein and all~~
5 ~~defaults shall have been cured and made good, the court, in its discretion and~~
6 ~~after such notice and hearing as it deems reasonable and proper, may direct~~
7 ~~the receiver to surrender possession of the enterprise to the municipality.~~
8 ~~The same right of the holders of the refunding bonds to secure the appointment~~
9 ~~of a receiver shall exist upon any subsequent default as provided in this~~
10 ~~section.~~

11 ~~—— (e) In the performance of the powers conferred upon him in this~~
12 ~~section, the receiver shall act under the direction and supervision of the~~
13 ~~court making the appointment and shall at all times be subject to the orders~~
14 ~~and decrees of the court and may be removed by the court.~~

15 ~~—— (f) Nothing in this section shall limit or restrict the jurisdiction of~~
16 ~~the court to enter other and further orders and decrees as it may deem~~
17 ~~necessary or appropriate for the exercise by the receiver of any functions~~
18 ~~specifically set forth in this section.~~

19 ~~—— (g)(1) Notwithstanding anything in this section to the contrary, the~~
20 ~~receiver shall have no power to sell, assign, mortgage, or otherwise dispose~~
21 ~~of any assets of whatever kind or character belonging to the municipality and~~
22 ~~useful for the enterprise, but the authority of any such receiver shall be~~
23 ~~limited to the operation and maintenance of the enterprise.~~

24 ~~—— (2) No court shall have jurisdiction to enter any order or decree~~
25 ~~requiring or permitting the receiver to sell, mortgage, or otherwise dispose~~
26 ~~of any assets.~~

27

28 ~~—— § 14-231-116. Bondholders' remedies.~~

29 ~~—— (a) Subject to any contractual limitations binding upon the holders of~~
30 ~~any issue of refunding bonds, or trustee therefor, including, but not limited~~
31 ~~to, the restriction of the exercise of any remedy to a specified proportion or~~
32 ~~percentage of the holders, any holder of refunding bonds or trustee therefor~~
33 ~~shall have the right and power, for the equal benefit and protection of all~~
34 ~~holders of refunding bonds similarly situated:~~

35 ~~—— (1) By mandamus or other suit, action, or proceeding at law or in~~
36 ~~equity to enforce his rights against the municipality and its governing body~~

1 ~~and any of its officers, agents, and employees and to require and compel the~~
2 ~~municipality or governing body or any officers, agents, or employees to~~
3 ~~perform and carry out its and their duties and obligations under this chapter~~
4 ~~and its and their covenants and agreements with bondholders;~~

5 ~~_____ (2) By action or suit in equity, to require the municipality and its~~
6 ~~governing body to account as if they were the trustee of an express trust;—~~

7 ~~_____ (3) By action or suit in equity, to enjoin any acts or things~~
8 ~~which may be unlawful or in violation of the rights of the bondholders;~~

9 ~~_____ (4) To bring suit upon the refunding bonds.~~

10 ~~_____ (b) No remedy conferred by this chapter upon any holder of refunding~~
11 ~~bonds, or any trustee therefor, is intended to be exclusive of any other~~
12 ~~remedy, but each remedy is cumulative and in addition to every other remedy~~
13 ~~and may be exercised without exhausting and without regard to any other remedy~~
14 ~~conferred by this chapter or by any other law.~~

15 ~~_____ (c)(1) No waiver of any default or breach of duty or contract, whether~~
16 ~~by any holder of refunding bonds or any trustees therefor, shall extend to or~~
17 ~~shall affect any subsequent default or breach of duty or contract or shall~~
18 ~~impair any rights or remedies thereon.~~

19 ~~_____ (2) No delay or omission of any bondholder or any trustee therefor~~
20 ~~to exercise any right or power accruing upon any default shall impair any~~
21 ~~right or power or shall be construed to be a waiver of any default or~~
22 ~~acquiescence therein.~~

23 ~~_____ (d) Every substantive right and every remedy conferred upon the holders~~
24 ~~of refunding bonds may be enforced and exercised from time to time and as~~
25 ~~often as may be deemed expedient.~~

26 ~~_____ (e) In case any suit, action, or proceeding to enforce any right or~~
27 ~~exercise any remedy shall be brought or taken and then discontinued or~~
28 ~~abandoned or shall be determined adversely to the holder of the refunding~~
29 ~~bonds or any trustee therefor, then and in every such case the municipality~~
30 ~~and the holder or the trustee shall be restored to their former positions and~~
31 ~~rights and remedies as if no suit, action, or proceeding had been brought or~~
32 ~~taken.~~

33

34 ~~_____ § 14-304-201. Authorization to issue revenue bonds.~~

35 ~~_____ The city council or other legislative body of any city or town desiring~~
36 ~~to provide parking facilities as provided in this chapter are authorized to~~

1 ~~issue revenue bonds or other evidences of indebtedness to finance the~~
2 ~~planning, designing, acquisition of property for, construction, alteration,~~
3 ~~enlargement, maintenance, or operation of parking facilities by the procedure~~
4 ~~set out in this subchapter.~~

5

6 ~~_____ § 14-304-202. Ordinance - Interest and maturity of bonds.~~

7 ~~_____ The city council or other legislative body of any city or town shall by~~
8 ~~ordinance provide for the issuance of revenue bonds. The ordinance shall set~~
9 ~~forth a brief description of the contemplated improvement, the estimated cost~~
10 ~~thereof, the amount, rate of interest, time, and place of payment, and other~~
11 ~~details in connection with the issuance of the bonds. The bonds shall bear~~
12 ~~interest at such rate or rates, payable semiannually, and shall be payable at~~
13 ~~the times and places, not exceeding forty (40) years from their date, as shall~~
14 ~~be prescribed in the ordinance providing for their issuance.~~

15

16 ~~_____ § 14-304-203. Statutory mortgage lien - Pledging revenues.~~

17 ~~_____ (a) The ordinance may provide that a statutory mortgage lien shall~~
18 ~~exist upon the property to be acquired and all construction thereon, provided~~
19 ~~that the city or the authority of the city acquires the fee simple title to~~
20 ~~such property and makes a charge for parking vehicles in the parking~~
21 ~~facilities.~~

22 ~~_____ (b) The ordinance may provide for the pledging of revenues derived from~~
23 ~~operation of the parking facilities or it may provide for the pledging of~~
24 ~~revenues derived from operation of the parking meters of the city or it may~~
25 ~~provide for the pledging of both sources of revenues for the purpose of paying~~
26 ~~the bonds and other evidences of indebtedness and interest thereon, which~~
27 ~~pledge shall definitely fix and determine the amount of revenue which shall be~~
28 ~~necessary to be set apart and applied to the payment of the principal of and~~
29 ~~interest on the bonds or other evidences of indebtedness and the proportion of~~
30 ~~the balance of such revenues and incomes which are to be set aside as a proper~~
31 ~~and adequate depreciation account. The remainder shall be set aside for the~~
32 ~~reasonable and proper operation thereof.~~

33

34 ~~_____ § 14-304-204. Notice - Hearing.~~

35 ~~_____ (a) After the ordinance has been adopted, the ordinance shall be~~
36 ~~published one (1) time in a newspaper published in the city or town with a~~

1 ~~notice to all persons concerned, stating that the ordinance has been adopted,~~
2 ~~that the city or town contemplates the issuance of the bonds described in the~~
3 ~~ordinance, and that any person interested may appear before the governing body~~
4 ~~upon a certain date which shall not be less than ten (10) days subsequent to~~
5 ~~the publication of the ordinance and notice and present protest.~~

6 ~~_____ (b) At the hearing all objections and suggestions shall be heard, and~~
7 ~~the legislative body shall take the action it shall deem proper in the~~
8 ~~premises.~~

9

10 ~~_____ § 14-304-205. Issuance of bonds.~~

11 ~~_____ (a) Bonds provided for in this subchapter shall be issued in an amount~~
12 ~~necessary to provide sufficient funds to pay all costs of planning, designing,~~
13 ~~acquisition of property for, construction, alteration, enlargement, and other~~
14 ~~expenses, together with interest to a date six (6) months subsequent to the~~
15 ~~estimated date of completion.~~

16 ~~_____ (b) Bonds issued under the provisions of this chapter are declared to~~
17 ~~be negotiable instruments, and the bonds shall be executed by the presiding~~
18 ~~officer and clerk or recorder of the corporate town and bear the corporate~~
19 ~~seal. In case any of the officers whose signatures appear on the bonds or~~
20 ~~coupons shall cease to be officers before delivery of the bonds, their~~
21 ~~signatures shall nevertheless be valid and sufficient for all purposes, the~~
22 ~~same as if they had remained in office until delivery.~~

23 ~~_____ (c) The bonds may be sold at not less than ninety cents (90[¢]) on the~~
24 ~~dollar, and the proceeds derived therefrom shall be used exclusively for the~~
25 ~~purposes for which the bonds were issued.~~

26

27 ~~_____ § 14-304-206. Payment.~~

28 ~~_____ Bonds or other evidences of indebtedness issued under the provisions of~~
29 ~~this statute shall be payable solely from the revenues derived from the~~
30 ~~parking facilities or revenues derived from operation of parking meters in the~~
31 ~~city. The bonds or evidences of indebtedness shall not in any event constitute~~
32 ~~an indebtedness of the city or town within the meaning of the constitutional~~
33 ~~provisions or limitations, and it shall be plainly stated on the face of each~~
34 ~~bond or evidence of indebtedness that the bond or evidence of indebtedness has~~
35 ~~been issued under the provisions of this chapter and that it does not~~
36 ~~constitute an indebtedness of the city or town.~~

1

2 ~~_____ § 14-304-207. Enforcement of mortgage lien.~~

3 ~~_____ (a) There shall be created a statutory mortgage lien upon the parking~~
4 ~~facilities so acquired or constructed from the proceeds of bonds authorized to~~
5 ~~be issued, which shall exist in favor of the holder of the bonds, and each of~~
6 ~~them, and in favor of the holder of the coupons attached to the bonds.~~

7 ~~_____ (b) The parking facilities shall remain subject to the statutory~~
8 ~~mortgage lien until payment in full of the principal and interest of the bonds~~
9 ~~subject to restrictions contained in the indenture authorized in § 14-304-210,~~
10 ~~any holder of bonds issued under the provisions of this chapter, or of the~~
11 ~~coupons representing interest accrued thereon, may either at law or in equity~~
12 ~~enforce the statutory mortgage lien conferred by this section, and may by~~
13 ~~proper suit compel the performance of the duties of the officials of the~~
14 ~~issuing city or town.~~

15 ~~_____ (c) If there is default in the payment of the principal of an interest~~
16 ~~on any of the bonds, any court having jurisdiction in any proper action may~~
17 ~~appoint a receiver to administer the parking facilities on behalf of the city~~
18 ~~or town, with power to charge and collect rates sufficient to provide for the~~
19 ~~payment of the bonds and interest thereon, and for the payment of the~~
20 ~~operating expenses, and to apply the income and revenues in conformity with~~
21 ~~this chapter and the ordinance providing for the issuance of the bonds.~~

22

23 ~~_____ § 14-304-208. Parking rates - Surplus.~~

24 ~~_____ (a) The rates for parking facilities fixed precedent to the issuance of~~
25 ~~bonds shall not be reduced until all of the bonds shall have been fully paid~~
26 ~~and shall wherever necessary be increased and in amounts sufficient to provide~~
27 ~~proper funds for the depreciation account and operation and maintenance~~
28 ~~charges. However, the rates may be reduced subject to any conditions which may~~
29 ~~be set out in the ordinance authorizing the issuance of the bonds of the trust~~
30 ~~indenture hereinafter referred to.~~

31 ~~_____ (b) If any surplus shall be accumulated in the operating and~~
32 ~~maintenance fund which shall be in excess of the cost of maintaining and~~
33 ~~operating the parking facilities during the remainder of the fiscal year then~~
34 ~~current and the cost of maintaining and operating the facilities during the~~
35 ~~fiscal year then next ensuing, then the excess may be transferred by the~~
36 ~~legislative body to either the depreciation account or other bond and interest~~

1 ~~redemption account.~~

2 ~~—— (c) If a surplus shall exist in the bond or interest redemption~~
3 ~~account, the surplus may be applied to the payment of any outstanding~~
4 ~~unmatured bonds payable from the bond and interest redemption account that may~~
5 ~~be subject to call for redemption before maturity.~~

6

7 ~~—— § 14-304-209. Accounting system.~~

8 ~~—— (a) Any municipality issuing revenue bonds under the provisions of this~~
9 ~~chapter shall install and maintain a proper system of accounts.~~

10 ~~—— (b) The system of accounts shall be properly audited by a competent~~
11 ~~auditor, and the report of such audit shall be open to the public for~~
12 ~~inspection.~~

13 ~~—— (c) The treasurer of the municipality shall be custodian of the funds~~
14 ~~derived from income received from the parking facilities, and all of the funds~~
15 ~~received as such income shall be kept separate and apart from the other funds~~
16 ~~of the city.~~

17

18 ~~—— § 14-304-210. Acceleration of bond maturities - Indenture.~~

19 ~~—— (a) The ordinance authorizing the issuance of the revenue bonds may~~
20 ~~contain provisions for the acceleration of the maturities of all unmatu~~
21 ~~red bonds in the event of default in the payment of any principal or interest~~
22 ~~maturing under the bond issue or upon failure to meet any sinking fund~~
23 ~~requirements or in any other event stipulated in the ordinance and the~~
24 ~~provisions will be binding.~~

25 ~~—— (b) The ordinance may also, if deemed desirable:~~

26 ~~—— (1) Provide for execution, contemporaneous with the execution of bonds,~~
27 ~~by the municipality of an indenture defining the rights of the bondholders~~
28 ~~inter sese;~~

29 ~~—— (2) Appoint a trustee for the bondholders;~~

30 ~~—— (3) Provide for a priority of lien as between successive bond issues;~~

31 ~~—— (4) Provide for the acceleration of bond maturities;~~

32 ~~—— (5) Contain any covenants on the part of the municipality relating to~~
33 ~~the construction or acquisition of the parking facilities or the application~~
34 ~~or safeguarding of the proceeds of the bonds, or other covenants intended for~~
35 ~~the protection of the bondholders and containing any other provisions which~~
36 ~~are consistent with the terms of this chapter and which may be deemed~~

1 ~~desirable.~~

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/s/Rep. Jones

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APPROVED: 2-19-97

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