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MUNICIPAL INDUSTRIAL DEVELOPMENT ACT 474.01

CHAPTER 474

MUNICIPAL INDUSTRIAL DEVELOPMENT ACT

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474.01 CITATION; POLICIES, PURPOSES AND FINDINGS; PARTICIPATION BY MUNICIPALITIES. Subdivision 1. Sections 474.01 to 474.13 may be cited as the Minnesota municipal industrial development act. Its purposes and the conditions creating the necessity for its enactment are found and determined by the legislature to be as stated in this section.

Subd. 2. The welfare of the state requires the active promotion, attraction encouragement, and development of economically sound industry and commerce through governmental action for the purpose of preventing, so far as possible, the emergence of blighted and marginal lands and areas of chronic unemployment. It is the policy of the state to facilitate and encourage action by local government units to prevent the economic deterioration of such areas to the point where the process can be reversed only by total redevelopment through the use of local, state, and federal funds derived from taxation, with the attendant necessity of relocating displaced persons and of duplicating public services in other areas.

Subd. 3. A primary factor necessitating such action is technological change in agriculture, mining, forestry, and other traditional industries of the state, the effect of which is to shift to a significant degree the area of opportunity for educated youth to processing, transporting, marketing, service, and other industries. Unless existing and related industries are retained and new industries are developed to use the available resources in each community, a large part of the existing investment of these communities and of the state as a whole in educational and public service facilities will be lost. For the future, the resulting movement of talented, educated personnel of mature age to areas where their services may be effectively used and compensated, and the lessening attraction of persons and businesses from other areas for purposes of industry, commerce, and tourism, will deprive the community and the state of the economic and human resources needed as a base for providing governmental services and facilities for the remaining population.

Subd. 4. Other factors necessitating such action are the increasing concentration of population in urban and metropolitan areas; the consequent increase in the amount and cost of governmental services required in these areas; and the need for more intensive development and use of land to provide an adequate tax base to finance these costs. The effect of these factors is intensified by the necessity of withdrawing land for public use for highways, parks and open space reserves, schools and playgrounds, and other public enterprises needed to sustain proper living conditions, communications, and mobility in an increasingly urban society.

Subd. 5. Through the authorization and creation of housing and redevelopment authorities, port authorities, and area and municipal redevelopment agencies the legislature has sought to provide monetary aids for the redevelopment of blighted areas, marginal lands, and areas of substantial and persistent unemployment. By the use of the powers and procedures described in sections 474.01 to 474.13 for the assembling and sale or lease of lands for industrial and commercial use and, where found by the governing body to be desirable, the construction and leasing of facilities for this kind of use, to be financed through the issuance of revenue bonds secured solely by the properties and the rentals thus made available, it is believed that local government units may in many cases prevent the occurrence of the conditions requiring redevelopment, and may be able to reduce substantially the cost of redevelopment when it becomes necessary.

Subd. 6. In order to further these purposes and policies the commissioner of economic development shall investigate, shall assist and advise municipalities, and shall report to the governor and the legislature concerning the operation of sections 474.01 to 474.13 and the projects undertaken hereunder, and shall have all of the powers and duties in connection therewith which are granted to him by chapter 362 with respect to other aspects of business development and research.

Subd. 7. Any municipality or redevelopment agency contemplating the exercise of the powers granted by sections 474.01 to 474.13 may apply to the commissioner of economic development for information, advice, and assistance. No municipality shall undertake any project herein authorized until the commissioner has approved the project, on the basis of such preliminary information as he may require, as tending to further the purposes and policies of sections 474.01 to 474.13. The commissioner is authorized to handle such preliminary information in a confidential manner, to the extent requested by the municipality. Such approval shall not be deemed to be an approval by the commissioner or the state of the feasibility of the project or the terms of the lease to be executed or the bonds to be issued therefor, and the commissioner shall so state in communicating such approval.

Subd. 8. Each municipality and redevelopment agency upon leasing a project shall furnish the department of economic development on such forms as the department may prescribe the following information concerning the project: The name of the industry, the nature of the enterprise, the location, approximate number of employees, the general terms and nature of the lease, the amount of bonds or notes issued, and such other information as the department may deem advisable. The department shall keep a record of the information which shall be available to the public at such times as the department shall prescribe.

[1967 c 297 s 1; 1967 c 299 s 9]

474.02 DEFINITIONS. Subdivision 1. The term "project" as used in sections 474.01 to 474.13, unless a different meaning clearly appears from the context, means any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in assembling, fabricating, manufacturing, mixing, processing, storing, warehousing, or distributing any products of agriculture, forestry, mining, or manufacture, or in research and development activity in this field.

Subd. 2. The term "municipality" as used herein, means any city of any class, village, or borough, however organized.

Subd. 3. The term "redevelopment agency" as used herein means any port authority referred to in chapter 458, or any city authorized by general or special law to exercise the powers of a port authority; any housing and redevelopment authority referred to in chapter 462; and any area or municipal redevelopment agency referred to in chapter 472.

[1967 c 297 s 2]

474.03 POWERS. Any municipality or redevelopment agency, in addition to the powers prescribed elsewhere by the laws of this state, shall have the power to:

(1) Acquire, construct, and hold any lands, buildings, easements, water and air rights, improvements to lands and buildings, and capital equipment to be located permanently or used exclusively on such lands or in such buildings, which are deemed necessary in connection with a project to be situated within the state, whether wholly or partially within or without the municipality or redevelopment agency, and construct, reconstruct, improve, better, and extend such project;

(2) Issue revenue bonds, in anticipation of the collection of revenues of such project, to finance, in whole or in part, the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension thereof;

(3) Lease projects to any person, firm, or public or private corporation or federal or state governmental subdivision or agency in such manner that rents to be charged for the use of such projects shall be fixed, and revised from time to time as necessary, so as to produce income and revenue sufficient to provide for the prompt payment of principal of and interest on all bonds issued hereunder when due, and the lease shall also provide that the lessee shall be required to pay all expenses of the operation and maintenance of the project including, but without limitation, adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof, and all taxes and special assessments levied upon or with respect to the leased premises and payable during the term of the lease, during which term a tax shall be imposed and col-

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lected pursuant to the provisions of section 272.01, subdivision 2, for the privilege of using and possessing the project, in the same amount and to the same extent as though the lessee were the owner of all real and personal property comprising the project;

(4) Pledge and assign to the holders of such bonds or a trustee therefor all or any part of the revenues of one or more projects owned or to be acquired by the municipality or redevelopment agency, and define and segregate such revenues or provide for the payment thereof to a trustee, whether or not such trustee is in possession of the project under a mortgage or otherwise;

(5) Mortgage or otherwise encumber such projects in favor of the holders of such bonds, or a trustee therefor, provided that in creating any such mortgages or encumbrances a municipality or redevelopment agency shall not have the power to obligate itself except with respect to the project;

(6) Make all contracts, execute all instruments, and do all things necessary or convenient in the exercise of the powers herein granted, or in the performance of its covenants or duties, or in order to secure the payment of its bonds; including, but without limitation, a contract entered into prior to the construction of the project authorizing the lessee, subject to such terms and conditions as the municipality or redevelopment agency shall find necessary or desirable and proper, to provide for the construction, acquisition, and installation of the buildings, improvements, and equipment to be included in the project by any means available to the lessee and in the manner determined by the lessee, and without advertisement for bids as may be required for the construction or acquisition of other municipal facilities;

(7) Enter into and perform such contracts and agreements with other municipalities, political subdivisions, and state agencies, authorities, and institutions as the respective governing bodies of the same may deem proper and feasible for or concerning the planning, construction, lease, or other acquisition, and the financing of such facilities, and the maintenance thereof, which contracts and agreements may establish a board, commission, or such other body as may be deemed proper for the supervision and general management of the facilities of the project;

(8) Accept from any authorized agency of the federal government loans or grants for the planning, construction, acquisition, leasing, or other provision of any project, and enter into agreements with such agency respecting such loans or grants;

(9) Sell and convey all properties acquired in connection with such projects, including without limitation the sale and conveyance thereof subject to such mortgage as herein provided, and the sale and conveyance thereof under an option granted to the lessee of the project, for such price, and at such time as the governing body of the municipality or redevelopment agency may determine, provided, however, that no sale or conveyance of such properties shall ever be made in such manner as to impair the rights or interests of the holder, or holders, of any bonds issued under the authority of sections 474.01 to 474.13;

(10) Issue revenue bonds to refund, in whole or in part, bonds previously issued by such municipality or redevelopment agency under authority of sections 474.01 to 474.13; and

(11) As lessor, re-enter the leased premises upon the default of the lessee and operate or re-lease the project in such manner as may be authorized or required by the provisions of the lease or of the resolution or indenture securing the bonds issued for the project; provided that no municipality or redevelopment agency shall have power otherwise to operate any project referred to in sections 474.01 to 474.13 as a business or in any manner whatsoever, and nothing herein authorizes any municipality or redevelopment agency to expend any funds on any project herein described, other than the revenues of such projects, or the proceeds of revenue bonds and notes issued hereunder, or other funds granted to the municipality or redevelopment agency for the purposes herein contemplated.

[1967 c 297 s 3]

474.04 ACQUISITION, CONSTRUCTION, IMPROVEMENT OR EXTENSION; BOND ISSUES; ELECTIONS. The acquisition, construction, reconstruction, improvement, betterment, or extension of any project, and the issue of bonds in anticipation of the collection of the revenues of such project to provide funds to pay for the cost thereof, may be authorized by an ordinance or resolution of the governing body adopted at a regular or duly called special meeting thereof by the af-

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firmative vote of a majority of its members. No election shall be required to authorize the use of any of the powers conferred by sections 474.01 to 474.13.

[1967 c 297 s 4]

474.05 DETERMINATION OF COST OF PROJECT. In determining the cost of a project, the governing body may include all cost and estimated cost of the acquisition, construction, reconstruction, improvement, betterment, and extension of the project, all engineering, inspection, fiscal, legal, administrative, and printing expense, the interest which it is estimated will accrue during the construction period and for six months thereafter on money borrowed or which it is estimated will be borrowed pursuant to sections 474.01 to 474.13, and such amount as may be deemed necessary as an initial reserve to secure the payment of the bonds.

[1967 c 297 s 5]

474.06 MANNER OF ISSUANCE OF BONDS; INTEREST RATE. Bonds authorized under sections 474.01 to 474.13 shall be issued in accordance with the provisions of chapter 475 relating to bonds payable from income of revenue producing conveniences, except that public sale shall not be required, and the bonds may be sold at a price equal to such percentage of the par value thereof, plus accrued interest, and bearing interest at such rate or rates, as may be agreed by the lessee, the purchaser, and the municipality or redevelopment agency.

[1967 c 297 s 6; 1969 c 1061 s 1]

474.07 TEMPORARY LOANS. The governing body shall have the power, after the authorization of bonds pursuant to section 474.04, to provide funds immediately required for the purpose and not exceeding the amount of such bonds, by effecting temporary loans upon such terms as it shall by resolution determine, evidenced by notes subject to the provisions of section 474.10, due in not exceeding 24 months from the date thereof, payable to the order of the lender or to bearer, to be repaid with interest from the proceeds of such bonds when issued and delivered to the purchaser thereof. Such temporary loans may be made without any public advertisement.

[1967 c 297 s 7]

474.08 VALIDITY OF BONDS; PRESUMPTION. The validity of bonds or notes issued hereunder shall not be dependent on nor be affected by the validity or regularity of any proceedings relating to the acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of the project for which the same are issued. The ordinance or resolution authorizing such bonds or notes may provide that the bonds or notes shall contain a recital that they are issued pursuant to sections 474.01 to 474.13, and such recital shall be conclusive evidence of their validity and of the regularity of their issuance.

[1967 c 297 s 8]

474.09 LIMITATION OF POWERS BY RESOLUTION OR ORDINANCE. Any ordinance or resolution authorizing the issuance of bonds under sections 474.01 to 474.13 to finance, in whole or in part, the acquisition, construction, reconstruction, improvement, betterment, or extension of any project may contain covenants, notwithstanding that such covenants may limit the exercise of powers conferred by sections 474.01 to 474.13, as to:

(1) The rents to be charged for the use of properties acquired, constructed, reconstructed, improved, bettered, or extended under the authority of sections 474.01 to 474.13;

(2) The use and disposition of the revenues of such projects;

(3) The creation and maintenance of sinking funds and the regulation, use, and disposition thereof;

(4) The creation and maintenance of funds to provide for maintaining the project and replacement of properties depreciated, damaged, destroyed, or condemned;

(5) The purpose, or purposes, to which the proceeds of sale of bonds may be applied and the use and disposition of such proceeds;

(6) The nature of mortgages or other encumbrances on the project made in favor of the holder or holders of such bonds, or a trustee therefor;

(7) The events of default and the rights and liabilities arising thereon and the terms and conditions upon which the holders of bonds may bring any suit or action on such bonds or on any coupons appurtenant thereto;

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(8) The issuance of other or additional bonds or instruments payable from or constituting a charge against the revenue of the project;

(9) The insurance to be carried upon the project and the use and disposition of insurance moneys;

(10) The keeping of books of account and the inspection and audit thereof;

(11) The terms and conditions upon which any or all of the bonds shall become or may be declared due before maturity and the terms and conditions upon which such declaration and its consequences may be waived;

(12) The rights, liabilities, powers, and duties arising upon the breach by the municipality or redevelopment agency of any covenants, conditions, or obligations;

(13) The vesting in a trustee or trustees of the right to enforce any covenants made to secure or to pay the bonds; the powers and duties of such trustee or trustees, and the limitation of his or its liabilities;

(14) The terms and conditions upon which the holder or holders of the bonds, or the holders of any proportion or percentage of them, may enforce any covenants made under sections 474.01 to 474.13 or any duties imposed thereby;

(15) A procedure by which the terms of any ordinance or resolution authorizing bonds or of any other contract with bondholders, including, but not limited to an indenture of trust or similar instrument, may be amended or abrogated, and the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given; and

(16) The subordination of the security of any bonds issued hereunder and the payment of principal and interest thereof, to the extent deemed feasible and desirable by the governing body, to other bonds or obligations of the municipality or redevelopment agency issued to finance the project or that may be outstanding when the bonds thus subordinated are issued and delivered.

[1967 c 297 s 9]

474.10 SOURCE OF PAYMENT FOR BONDS. Subdivision 1. Revenue bonds issued under sections 474.01 to 474.13 shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, except as provided in this section, nor shall the municipality or redevelopment agency issuing the same be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the municipality or redevelopment agency to pay any such bonds or the interest thereon, except as provided in subdivision 2, nor to enforce payment thereof against any property of the municipality or redevelopment agency except those projects, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purpose of sections 474.01 to 474.13.

Subd. 2. Any municipality or redevelopment agency may request the county auditor of the county in which a project is situated to certify the original taxable value of the real property included therein and the tax increments realized each year after the commencement of the project, as defined in section 462.585, and shall be entitled to receive, use, and pledge such tax increments for the further security of the revenue bonds issued to finance the project, in either of the following ways:

(1) To pay premiums for insurance guaranteeing the payment of net rentals when due under the project lease; or

(2) To accumulate and maintain a reserve securing the payment when due of the principal of and interest on the bonds.

Subd. 3. Tax increments with respect to any industrial development project shall be segregated and specially accounted for by the county treasurer until all bonds issued to finance the project have been fully paid; but the county treasurer shall remit the same to the municipality or redevelopment agency only in the amount certified to him to be required for any of the purposes stated in subdivision 2. The amount so needed shall be certified annually to the county auditor and treasurer by the municipality or redevelopment agency on or before October 1. Any tax increment remaining in any year after such remittance shall, when collected, be distributed among all of the taxing districts levying taxes on the project area, in proportion to the amounts so levied by them, respectively.

Subd. 4. Such bonds shall not constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the municipality or redevelopment agency, except those projects, or portions thereof, mortgaged or otherwise encumbered under the provisions and for the purposes of sections 474.01 to 474.13. Each bond

issued hereunder shall recite in substance that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof, but may contain a reference to the lease insurance or bond reserve for which the tax increment is pledged and appropriated. No such bond shall constitute a debt of the municipality or redevelopment agency within the meaning of any constitutional or statutory limitation. However, nothing herein shall impair the rights of holders of bonds issued hereunder to enforce covenants made for the security thereof as provided in section 474.11.

[1967 c 297 s 10; 1969 c 1061 s 2]

474.11 BONDHOLDERS' RIGHTS AND REMEDIES. Subject to any contractual limitations binding upon the holders of any issue of revenue bonds, or a trustee therefor, including but not limited to the restriction of the exercise of any remedy to a specified proportion or percentage of such holders, any holder of bonds, or any trustee therefor, for the equal benefit and protection of all bondholders similarly situated, may:

(1) By suit, action, or proceeding at law or in equity, enforce his or its rights against the municipality or redevelopment agency and its governing body and any of its officers, agents, and employees, and may require and compel such municipality or redevelopment agency or such governing body or any such officers, agents, or employees to perform and carry out its and their duties and obligations under sections 474.01 to 474.13 and its and their covenants and agreements with bondholders;

(2) By action require the municipality or redevelopment agency and the governing body thereof to account as if they were the trustees of an express trust;

(3) By action enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(4) Bring suit upon the bonds;

(5) Foreclose any mortgage or lien given under the authority of sections 474.01 to 474.13, and cause the property standing as security to be sold under any proceedings permitted by law or equity; and

(6) Exercise any right or remedy conferred by sections 474.01 to 474.13 without exhausting and without regard to any other right or remedy conferred by sections 474.01 to 474.13 or any other law of this state; none of which rights and remedies is intended to be exclusive of any other, and each is cumulative and in addition to every other right and remedy.

[1967 c 297 s 11]

474.12 EXCLUSION OF INTEREST ON BONDS FROM GROSS INCOME. Interest paid on bonds issued under authority of sections 474.01 to 474.13 shall not be included in gross income for the purpose of computing any tax imposed by or under the provisions of chapter 290, or any act amendatory thereof or supplemental thereto.

[1967 c 297 s 12]

474.13 POWERS ADDITIONAL AND SUPPLEMENTAL. The powers conferred by sections 474.01 to 474.13 shall be in addition and supplemental to the powers conferred by any other law or charter. Insofar as the provisions of any other law or charter are inconsistent herewith, the provisions hereof shall be controlling as to projects instituted under sections 474.01 to 474.13.

[1967 c 297 s 13]