

216B.49 SECURITIES; PUBLIC FINANCING.

Subdivision 1. **Definition of security.** For the purpose of this section, "security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; assumption of any obligation or liability as a guarantor, endorser, surety, or otherwise in the security of another person; certificate of interest or participation in any profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable shares; investment contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas, or mining right, title, or lease or in payments out of production under an oil, gas, or mining right, title, or lease; or, in general, any interest or instrument commonly known as a security, or any certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

Subd. 2. [Repealed, 1998 c 350 s 6]

Subd. 3. **Commission approval required.** It shall be unlawful for any public utility organized under the laws of this state to offer or sell any security or, if organized under the laws of any other state or foreign country, to subject property in this state to an encumbrance for the purpose of securing the payment of any indebtedness unless the security issuance of the public utility shall first be approved by the commission. Approval by the commission shall be by formal written order.

Subd. 4. **Considerations for approval for public financing.** Upon the application of a public utility for approval of its security issuance and prior to the issuance of any security or the encumbrance of any property for the purpose of securing the payment of any indebtedness, the commission may make such inquiry or investigation, hold such hearings, and examine such witnesses, books, papers, documents, or contracts, as in its discretion it may deem necessary. Prior to approval the commission shall ascertain that the amount of securities of each class which any public utility may issue shall bear a reasonable proportion to each other and to the value of the property, due consideration being given to the nature of the business of the public utility, its credit and prospects, the possibility that the value of the property may change from time to time, the effect which the issue shall have upon the management and operation of the public utility, and other considerations which the commission as a matter of fact shall find to be relevant. If the commission shall find that the proposed security issuance is reasonable and proper and in the public interest and will not be detrimental to the interests of the consumers and patrons affected thereby, the commission shall by written order grant its permission for the proposed public financing.

Subd. 5. **Applicability of other law; preemption.** The requirements of this section are in addition to any other requirements of law and, specifically, the requirements of chapter 80A, and the rules promulgated pursuant thereto. Notwithstanding any charter or ordinance to the contrary, no city shall have jurisdiction over the securities or indebtedness of a public utility.

Subd. 6. [Repealed, 1978 c 795 s 10]

Subd. 7. **Investment in municipal industrial development.** When a public utility is engaged in a project pursuant to sections 469.152 to 469.165, notwithstanding the provisions of section 469.155, funds or accounts established in connection with the project or payment of bonds issued for the project may also be invested in investments of the type authorized in section 11A.24, subdivisions 1 to 5.

History: *1974 c 429 s 49; 1982 c 378 s 2; 1983 c 167 s 1; 1985 c 248 s 70; 1987 c 291 s 203; 1998 c 350 s 2,3*