


## [Tenn. Code Ann. § 7-53-101](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 1 General Provisions***

### Notice

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 *First of 2.* This section has more than one version with varying effective dates.

*First of 2 versions of this section*

### **7-53-101. Chapter definitions. [Effective until October 1, 2018. See version effective on October 1, 2018.]**

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As used in this chapter, unless the context otherwise requires:

- (1)"Applicable ad valorem taxes" means any ad valorem taxes that, but for ownership of a project by a corporation, would have been due and payable pursuant to [§§ 67-5-102](#) and 67-5-103;
- (2)"Bonds" means bonds, notes, interim certificates or other obligations of a corporation issued pursuant to this chapter;
- (3)"Contracting party" or "other contracting party" means any party to a sale contract or loan agreement except the corporation;
- (4)"Corporation" means any corporation organized pursuant to this chapter;
- (5)"Eligible headquarters facility" means a facility, located in a county with a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census, that houses an international, national or regional headquarters facility of an entity that agrees, at a minimum, to make payments to the municipality in lieu of any special assessments or other fees or charges that would be levied on the project pursuant to chapter 84 of this title if the project were privately owned;
- (6)"Enterprise" means the manufacturing, processing, assembling, commercial, service and agricultural operations to be carried on with or otherwise using the facilities of the project;
- (7)"Governing body" means the board or body in which the general legislative powers of the municipality are vested;
- (8)"Lease" includes a lease containing an option to purchase the project for a nominal sum upon payment in full, or provision for payment in full, of all bonds issued in connection with the project and all interest on the bonds and all other expenses in connection with the project, and a lease containing an option to purchase the project at any time, as provided in the lease, upon payment of the purchase price, which shall be sufficient to pay all bonds issued in connection with the project and all interest on the bonds and all other expenses incurred in connection with the project, but which payment may be made in the form of one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of the lessee providing for timely payments, including, without limitation, interest on the

obligations sufficient for such purposes and delivered to the corporation or to the trustee under the indenture pursuant to which the bonds were issued;

**(9)**"Loan agreement" means an agreement providing for a corporation to loan the proceeds derived from the issuance of bonds pursuant to this chapter to one (1) or more contracting parties to be used to pay the cost of one (1) or more projects and providing for the repayment of such loan by the other contracting party or parties, and that may provide for such loans to be secured or evidenced by one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of the contracting party or parties, delivered to the corporation or to the trustee under the indenture pursuant to which the bonds were issued;

**(10)**"Mayor," as used in [§ 7-53-314](#), means the chief executive officer of any county having a metropolitan form of government and having a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, with respect to which a corporation has been organized;

**(11)**"Municipality" means any county or incorporated city or town in this state with respect to which a corporation may be organized and in which it is contemplated the corporation will function;

**(12)**"Payments in lieu of taxes" means any amount negotiated separately from rent in lieu of applicable ad valorem taxes;

**(13)**"Pollution" means the placing of any noxious or deleterious substances, including noise, in any air or water of or adjacent to the state of Tennessee affecting the physical, chemical or biological properties of any air or waters of or adjacent to the state of Tennessee in a manner and to an extent that renders or is likely to render such air or waters inimical or harmful to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial, agricultural or recreational purposes;

**(14)**"Pollution control facilities" means any equipment, structure or facility or any land and any building, structure, facility or other improvement on the land, or any combination thereof, and all real and personal property deemed necessary therewith having to do with or the end purpose of which is the control, abatement or prevention of water, air, noise or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, waste water collecting systems, waste water treatment works or solid waste disposal facility;

**(15)**"Project" means all or any part of, or any interest in:

**(A)**Any land and building, including office building, any facility or other improvement on the land, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, that shall be suitable for the following or by any combination of two (2) or more thereof:

**(i)**Any industry for the manufacturing, processing or assembling of any agricultural, mining, or manufactured products;

**(ii)**Any commercial enterprise in selling, providing, or handling any financial service or in storing, warehousing, distributing or selling any products of agriculture, mining or industry;

**(iii)**Any undertaking involving the use of ship canals, ports or port facilities, off-street parking facilities, docks or dock facilities, or harbor facilities, or of railroads, monorail or tramway, railway terminals, or railway belt lines and switches;

**(iv)**All or any part of any office building or buildings for the use of such tenant or tenants as may be determined or authorized by the board of directors of the corporation, including, without limitation, any industrial, commercial, financial or service enterprise, any nonprofit domestic corporation or enterprise now or hereafter organized, whose purpose is the promotion, support and encouragement of either agriculture or commerce in this state or whose purpose is the promoting of the health, welfare and safety of the citizens of the state;

**(v)**Any office or other public building for any city, county or metropolitan government of the state of Tennessee or any board of public utilities, or any public authority, agency, or instrumentality of the state of Tennessee or of the United States;

**(vi)**Any buildings, structures and facilities, including the site of the buildings, structure and facilities, machinery, equipment and furnishings, suitable for use by any city, county or metropolitan government of the state of Tennessee or any for profit corporation operating buildings, structures and facilities, including the site of the buildings, structures and facilities, machinery, equipment and furnishings, under contract with any city, county or metropolitan government of the state of Tennessee as health care or related facilities, including, without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, and all buildings, structures and facilities deemed necessary or useful in connection therewith;

**(vii)**Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including, but not limited to, classroom, laboratory, housing, administrative, physical education, and medical research and treatment facilities;

**(viii)**Any planetarium or museum;

**(ix)**Any facilities for any recreation or amusement park, public park or theme park suitable for use by any private corporation or any governmental unit of the state of Tennessee, including the state of Tennessee;

**(x)**Any multifamily housing facilities to be occupied by persons of low or moderate income, elderly, or handicapped persons as may be determined by the board of directors, which determination shall be conclusive;

**(xi)**

**(a)**Any undertaking involving the operation or management of the Job Training Partnership Act program pursuant to [29 U.S.C. § 1501](#) et seq. [repealed]. It is the legislative intent to include such project in order to increase employment opportunities pursuant to [§ 7-53-102](#);

**(b)**Subdivision (13)(A)(xi)(a) shall not apply in any county having a population, according to the 1980 federal census or any subsequent federal census of:

.....

not less than.....nor more than

14,940.....15,000

49,400.....49,500

56,000.....56,100

74,500.....74,600

85,725.....85,825

477,000.....500,000

.....

**(xii)**Any land, buildings, structures and facilities, including the site of the building, structure and facilities, machinery, equipment and furnishings that constitute "recovery zone property" as in § 1400U-3(c) of the Internal Revenue Code of 1986 ([26 U.S.C. § 1400U-3\(c\)](#)); and

**(xiii)**Facilities or expenditures paid or incurred for "qualified conservation purposes" as defined in [§ 54D of the Internal Revenue Code of 1986 \(26 U.S.C. § 54D\)](#), in connection with the issuance of "qualified energy conservation bonds", as defined in [§ 54D of the Internal Revenue Code of 1986 \(26 U.S.C. § 54D\)](#);

**(B)**

**(i)**In any municipality in which there has been created a central business improvement district pursuant to chapter 84 of this title, "project" also means any hotel, motel or apartment building located within an area designated by appropriate resolution or ordinance by the municipality as the center-city area; and, in any municipality, "project" also means any hotel, including any conference or convention center facilities related to the hotel, or motel within an area that could provide substantial sources of tax revenues or economic activity to the municipality;

**(ii)**In counties with a metropolitan form of government, "project" also means any hotel, motel or apartment building located on property owned by or leased from an airport authority created pursuant to title 42, chapter 3 or 4, but this subdivision (15)(B)(ii) shall not apply in any county having a population of not less than one hundred twenty thousand (120,000) nor more than one hundred thirty thousand (130,000), according to the 1970 federal census or any subsequent federal census;

**(iii)**In the county seat of any county having a population of not less than nineteen thousand six hundred fifty (19,650) or more than nineteen thousand seven hundred fifty (19,750), according to the 1980 federal census or any subsequent federal census, "project" also means the purchase, acquisition, leasing, construction and equipping of hotels, motels, and apartments in any area within the county seat of such county;

**(iv)**In any municipality in which there is a closed or substantially downsized facility, including, but not limited to, a facility formerly operated by the United States department of defense or department of energy, "project" also means the purchase, acquisition, leasing, construction and equipping of hotels, motels, conference centers and apartments, on or adjacent to the site of the closed or substantially downsized federal facility;

**(v)**In any municipality with a population of at least fifteen thousand (15,000) or more, according to the 2010 federal census or any subsequent federal census, located partly within a county having a metropolitan form of government and partly within an adjacent county, "project" also means the purchase, acquisition, leasing, construction, and equipping of hotels and motels within any such municipality's corporate boundaries;

**(C)**Pollution control facilities, coal gasification facilities, and energy production facilities, as defined in [§ 7-54-101](#), and any buildings, structures and facilities, including the site of any buildings, structures and facilities, machinery, equipment and furnishings, for the production of electricity, that shall be suitable for use by any person including any public utility whether publicly or privately owned, board of public utilities, public authority, municipality, or agency or instrumentality of the state of Tennessee or the United States, or by any combination of two (2) or more. The board of directors of the corporation shall find, with respect to any office building or any hotel, motel or apartment building financed under this chapter that the acquisition and leasing or sale of such building, or the financing of the building by loan agreement, as the case may be, will develop trade and commerce in and adjacent to the municipality, will contribute to the general welfare and will alleviate conditions of unemployment, and with regard to any apartment building that the construction of an apartment building will increase the quantity of housing available in the municipality, and such finding by the board of directors shall be conclusive;

**(D)**Land or buildings or other improvements to land or buildings, or any combination thereof, and any breeding stock and machinery or equipment necessary or suitable for use in farming, ranching, the production of agricultural commodities, including the products of agriculture and silviculture, or necessary and suitable for treating, processing, storing or transporting raw agricultural commodities;

**(E)**A tourism attraction involving an aggregate investment of public and private funds in excess of seventy-five million dollars (\$75,000,000) that is designed to attract tourists to the state, including a cultural or historical site, a museum or visitors center, a recreation or entertainment facility, and all related hotel or hotels, convention center facilities, administrative facilities and offices, mixed use

facilities, restaurants and other tourism amenities constructed or acquired as a part of the attraction;

**(F)**In any municipality in which there has been created a central business improvement district pursuant to chapter 84 of this title, "project" also means any public infrastructure, public improvement, public facilities, or combination thereof, located within an area designated by appropriate resolution or ordinance by the municipality as the center city area, including without limitation, any alleys, auditoriums, bridges, culverts, curbs, drainage systems, including storm water sewers and drains, garages, parks, parking facilities, parkways, playgrounds, plazas, public art, roads, sewers, sidewalks, stadiums, streets, street equipment, tunnels, and viaducts;

**(G)**Any economic development project as defined in [§ 7-40-103](#); and

**(H)**Land or buildings or other improvements to land or buildings, or any combination thereof, and any machinery or equipment necessary or suitable for use in the production of biofuels, biopower, biochemicals, biomaterials, synthetic fuels and/or petroleum products, or necessary and suitable for treating, processing, storing or transporting raw materials used in such production or in storing and transporting the finished product, intermediate products or co-products;

**(16)**"Rent" means a charge for use of property, including the lessee's obligation to repay debt issued or assumed by a lessor, or rent implied by the lessee's stated obligation to construct improvements;

**(17)**"Revenues" of a project, or derived from a project, include payments under a lease or sale contract and repayments under a loan agreement, or under notes, debentures, bonds and other secured or unsecured debt obligations of a lessee or contracting party delivered as provided in this chapter;

**(18)**"Sale contract" means a contract providing for the sale of one (1) or more projects to one (1) or more contracting parties and includes a contract providing for payment of the purchase price in one (1) or more installments. If the sale contract permits title to the project to pass to the other contracting party or parties prior to payment in full of the entire purchase price, it shall also provide for the other contracting party or parties to deliver to the corporation or to the trustee under the indenture pursuant to which the bonds were issued one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting party or parties providing for timely payments, including, without limitation, interest on the obligations for the balance of the purchase price at or prior to the passage of such title; and

**(19)**"Waiver" means an agreement that does not require the payment of any payments in lieu of taxes for a period of time.

## History

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Acts 1955, ch. 210, § 1; 1957, ch. 287, § 1; 1959, ch. 222, § 1; 1961, ch. 285, § 1; 1965, ch. 210, § 1; 1965, ch. 307, § 1; 1965, ch. 344, § 1; 1969, ch. 55, § 1; 1971, ch. 304, § 1; 1971, ch. 357, § 1; 1972, ch. 779, § 1; 1973, ch. 304, § 1; 1974, ch. 587, § 1; 1974, ch. 661, § 1; 1976, ch. 515, § 1; 1978, ch. 739, §§ 1, 2; T.C.A., § 6-2801; Acts 1980, ch. 918, § 1; 1981, ch. 515, §§ 1, 2; 1981, ch. 529, § 1; 1982, ch. 587, § 1; 1982, ch. 841, §§ 1, 2; 1982, ch. 896, §§ 1-3; 1983, ch. 150, § 1; 1985, ch. 67, § 1; [1989, ch. 83, § 1](#); [1989, ch. 581, §§ 1-4](#); [1995, ch. 364, § 1](#); [1998, ch. 983, § 1](#); [2007, ch. 461, § 5](#); [2007 ch. 524 § 1](#); [2008, ch. 694, § 1](#); [2008, ch. 770, § 2](#); [2009, ch. 180, § 1](#); [2009, ch. 608, § 5](#); [2010, ch. 800, § 1](#); [2011, ch. 420, § 13](#); [2012, ch. 944, § 1](#); [2014, ch. 748, § 1](#); [2014, ch. 962, § 1](#); [2016, ch. 777, § 5](#).

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As used in this chapter, unless the context otherwise requires:

- (1)"Applicable ad valorem taxes" means any ad valorem taxes that, but for ownership of a project by a corporation, would have been due and payable pursuant to [§§ 67-5-102](#) and 67-5-103;
- (2)"Bonds" means bonds, notes, interim certificates or other obligations of a corporation issued pursuant to this chapter;
- (3)"Contracting party" or "other contracting party" means any party to a sale contract or loan agreement except the corporation;
- (4)"Corporation" means any corporation organized pursuant to this chapter;
- (5)"Eligible headquarters facility" means a facility, located in a county with a population in excess of eight hundred thousand (800,000), according to the 2000 federal census or any subsequent federal census, that houses an international, national or regional headquarters facility of an entity that agrees, at a minimum, to make payments to the municipality in lieu of any special assessments or other fees or charges that would be levied on the project pursuant to chapter 84 of this title if the project were privately owned;
- (6)"Enterprise" means the manufacturing, processing, assembling, commercial, service and agricultural operations to be carried on with or otherwise using the facilities of the project;
- (7)"Governing body" means the board or body in which the general legislative powers of the municipality are vested;
- (8)"Lease" includes a lease containing an option to purchase the project for a nominal sum upon payment in full, or provision for payment in full, of all bonds issued in connection with the project and all interest on the bonds and all other expenses in connection with the project, and a lease containing an option to purchase the project at any time, as provided in the lease, upon payment of the purchase price, which shall be sufficient to pay all bonds issued in connection with the project and all interest on the bonds and all other expenses incurred in connection with the project, but which payment may be made in the form of one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of the lessee providing for timely payments, including, without limitation, interest on the



obligations sufficient for such purposes and delivered to the corporation or to the trustee under the indenture pursuant to which the bonds were issued;

**(9)"Loan agreement"** means an agreement providing for a corporation to loan the proceeds derived from the issuance of bonds pursuant to this chapter to one (1) or more contracting parties to be used to pay the cost of one (1) or more projects and providing for the repayment of such loan by the other contracting party or parties, and that may provide for such loans to be secured or evidenced by one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of the contracting party or parties, delivered to the corporation or to the trustee under the indenture pursuant to which the bonds were issued;

**(10)"Mayor,"** as used in [§ 7-53-314](#), means the chief executive officer of any county having a metropolitan form of government and having a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census, with respect to which a corporation has been organized;

**(11)"Municipality"** means any county or incorporated city or town in this state with respect to which a corporation may be organized and in which it is contemplated the corporation will function;

**(12)"Payments in lieu of taxes"** means any amount negotiated separately from rent in lieu of applicable ad valorem taxes;

**(13)"Pollution"** means the placing of any noxious or deleterious substances, including noise, in any air or water of or adjacent to the state of Tennessee affecting the physical, chemical or biological properties of any air or waters of or adjacent to the state of Tennessee in a manner and to an extent that renders or is likely to render such air or waters inimical or harmful to the public health, safety or welfare, or to animal, bird or aquatic life, or to the use of such air or waters for domestic, industrial, agricultural or recreational purposes;

**(14)"Pollution control facilities"** means any equipment, structure or facility or any land and any building, structure, facility or other improvement on the land, or any combination thereof, and all real and personal property deemed necessary therewith having to do with or the end purpose of which is the control, abatement or prevention of water, air, noise or general environmental pollution, including, but not limited to, any air pollution control facility, noise abatement facility, water management facility, waste water collecting systems, waste water treatment works or solid waste disposal facility;

**(15)"Project"** means all or any part of, or any interest in:

**(A)**Any land and building, including office building, any facility or other improvement on the land, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, that shall be suitable for the following or by any combination of two (2) or more thereof:

**(i)**Any industry for the manufacturing, processing or assembling of any agricultural, mining, or manufactured products;

**(ii)**Any commercial enterprise in selling, providing, or handling any financial service or in storing, warehousing, distributing or selling any products of agriculture, mining or industry;

**(iii)**Any undertaking involving the use of ship canals, ports or port facilities, off-street parking facilities, docks or dock facilities, or harbor facilities, or of railroads, monorail or tramway, railway terminals, or railway belt lines and switches;

**(iv)**All or any part of any office building or buildings for the use of such tenant or tenants as may be determined or authorized by the board of directors of the corporation, including, without limitation, any industrial, commercial, financial or service enterprise, any nonprofit domestic corporation or enterprise now or hereafter organized, whose purpose is the promotion, support and encouragement of either agriculture or commerce in this state or whose purpose is the promoting of the health, welfare and safety of the citizens of the state;

**(v)**Any office or other public building for any city, county or metropolitan government of the state of Tennessee or any board of public utilities, or any public authority, agency, or instrumentality of the state of Tennessee or of the United States;

**(vi)**Any buildings, structures and facilities, including the site of the buildings, structure and facilities, machinery, equipment and furnishings, suitable for use by any city, county or metropolitan government of the state of Tennessee or any for profit corporation operating buildings, structures and facilities, including the site of the buildings, structures and facilities, machinery, equipment and furnishings, under contract with any city, county or metropolitan government of the state of Tennessee as health care or related facilities, including, without limitation, hospitals, clinics, nursing homes, research facilities, extended or long-term care facilities, and all buildings, structures and facilities deemed necessary or useful in connection therewith;

**(vii)**Any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including, but not limited to, classroom, laboratory, housing, administrative, physical education, and medical research and treatment facilities;

**(viii)**Any planetarium or museum;

**(ix)**Any facilities for any recreation or amusement park, public park or theme park suitable for use by any private corporation or any governmental unit of the state of Tennessee, including the state of Tennessee;

**(x)**Any multifamily housing facilities to be occupied by persons of low or moderate income, elderly, or handicapped persons as may be determined by the board of directors, which determination shall be conclusive;

**(xi)**

**(a)**Any undertaking involving the operation or management of the Job Training Partnership Act program pursuant to [29 U.S.C. § 1501](#) et seq. [repealed]. It is the legislative intent to include such project in order to increase employment opportunities pursuant to [§ 7-53-102](#);

**(b)**Subdivision (13)(A)(xi)(a) shall not apply in any county having a population, according to the 1980 federal census or any subsequent federal census of:

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**(xii)**Any land, buildings, structures and facilities, including the site of the building, structure and facilities, machinery, equipment and furnishings that constitute "recovery zone property" as in § 1400U-3(c) of the Internal Revenue Code of 1986 ([26 U.S.C. § 1400U-3\(c\)](#)); and

**(xiii)**Facilities or expenditures paid or incurred for "qualified conservation purposes" as defined in [§ 54D of the Internal Revenue Code of 1986 \(26 U.S.C. § 54D\)](#), in connection with the issuance of "qualified energy conservation bonds", as defined in [§ 54D of the Internal Revenue Code of 1986 \(26 U.S.C. § 54D\)](#);

**(B)**



**(i)**In any municipality in which there has been created a central business improvement district pursuant to chapter 84 of this title, "project" also means any hotel, motel or apartment building located within an area designated by appropriate resolution or ordinance by the municipality as the center-city area; and, in any municipality, "project" also means any hotel, including any conference or convention center facilities related to the hotel, or motel within an area that could provide substantial sources of tax revenues or economic activity to the municipality;

**(ii)**In counties with a metropolitan form of government, "project" also means any hotel, motel or apartment building located on property owned by or leased from an airport authority created pursuant to title 42, chapter 3 or 4, but this subdivision (15)(B)(ii) shall not apply in any county having a population of not less than one hundred twenty thousand (120,000) nor more than one hundred thirty thousand (130,000), according to the 1970 federal census or any subsequent federal census;

**(iii)**In the county seat of any county having a population of not less than nineteen thousand six hundred fifty (19,650) or more than nineteen thousand seven hundred fifty (19,750), according to the 1980 federal census or any subsequent federal census, "project" also means the purchase, acquisition, leasing, construction and equipping of hotels, motels, and apartments in any area within the county seat of such county;

**(iv)**In any municipality in which there is a closed or substantially downsized facility, including, but not limited to, a facility formerly operated by the United States department of defense or department of energy, "project" also means the purchase, acquisition, leasing, construction and equipping of hotels, motels, conference centers and apartments, on or adjacent to the site of the closed or substantially downsized federal facility;

**(v)**In any municipality with a population of at least fifteen thousand (15,000) or more, according to the 2010 federal census or any subsequent federal census, located partly within a county having a metropolitan form of government and partly within an adjacent county, "project" also means the purchase, acquisition, leasing, construction, and equipping of hotels and motels within any such municipality's corporate boundaries;

**(C)**Pollution control facilities, coal gasification facilities, and energy production facilities, as defined in [§ 7-54-101](#), and any buildings, structures and facilities, including the site of any buildings, structures and facilities, machinery, equipment and furnishings, for the production of electricity, that shall be suitable for use by any person including any public utility whether publicly or privately owned, board of public utilities, public authority, municipality, or agency or instrumentality of the state of Tennessee or the United States, or by any combination of two (2) or more. The board of directors of the corporation shall find, with respect to any office building or any hotel, motel or apartment building financed under this chapter that the acquisition and leasing or sale of such building, or the financing of the building by loan agreement, as the case may be, will develop trade and commerce in and adjacent to the municipality, will contribute to the general welfare and will alleviate conditions of unemployment, and with regard to any apartment building that the construction of an apartment building will increase the quantity of housing available in the municipality, and such finding by the board of directors shall be conclusive;

**(D)**Land or buildings or other improvements to land or buildings, or any combination thereof, and any breeding stock and machinery or equipment necessary or suitable for use in farming, ranching, the production of agricultural commodities, including the products of agriculture and silviculture, or necessary and suitable for treating, processing, storing or transporting raw agricultural commodities;

**(E)**A tourism attraction involving an aggregate investment of public and private funds in excess of seventy-five million dollars (\$75,000,000) that is designed to attract tourists to the state, including a cultural or historical site, a museum or visitors center, a recreation or entertainment facility, and all related hotel or hotels, convention center facilities, administrative facilities and offices, mixed use

facilities, restaurants and other tourism amenities constructed or acquired as a part of the attraction;

**(F)**In any municipality in which there has been created a central business improvement district pursuant to chapter 84 of this title, "project" also means any public infrastructure, public improvement, public facilities, or combination thereof, located within an area designated by appropriate resolution or ordinance by the municipality as the center city area, including without limitation, any alleys, auditoriums, bridges, culverts, curbs, drainage systems, including storm water sewers and drains, garages, parks, parking facilities, parkways, playgrounds, plazas, public art, roads, sewers, sidewalks, stadiums, streets, street equipment, tunnels, and viaducts;

**(G)**Any economic development project as defined in [§ 7-40-103](#); and

**(H)**Land or buildings or other improvements to land or buildings, or any combination thereof, and any machinery or equipment necessary or suitable for use in the production of biofuels, biopower, biochemicals, biomaterials, synthetic fuels and/or petroleum products, or necessary and suitable for treating, processing, storing or transporting raw materials used in such production or in storing and transporting the finished product, intermediate products or co-products;

**(16)**"Rent" means a charge for use of property, including the lessee's obligation to repay debt issued or assumed by a lessor, or rent implied by the lessee's stated obligation to construct improvements;

**(17)**"Retail business" means a retail establishment providing general retail sales or services to consumers;

**(18)**"Revenues" of a project, or derived from a project, include payments under a lease or sale contract and repayments under a loan agreement, or under notes, debentures, bonds and other secured or unsecured debt obligations of a lessee or contracting party delivered as provided in this chapter;

**(19)**"Sale contract" means a contract providing for the sale of one (1) or more projects to one (1) or more contracting parties and includes a contract providing for payment of the purchase price in one (1) or more installments. If the sale contract permits title to the project to pass to the other contracting party or parties prior to payment in full of the entire purchase price, it shall also provide for the other contracting party or parties to deliver to the corporation or to the trustee under the indenture pursuant to which the bonds were issued one (1) or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting party or parties providing for timely payments, including, without limitation, interest on the obligations for the balance of the purchase price at or prior to the passage of such title; and

**(20)**"Waiver" means an agreement that does not require the payment of any payments in lieu of taxes for a period of time.

## History

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Acts 1955, ch. 210, § 1; 1957, ch. 287, § 1; 1959, ch. 222, § 1; 1961, ch. 285, § 1; 1965, ch. 210, § 1; 1965, ch. 307, § 1; 1965, ch. 344, § 1; 1969, ch. 55, § 1; 1971, ch. 304, § 1; 1971, ch. 357, § 1; 1972, ch. 779, § 1; 1973, ch. 304, § 1; 1974, ch. 587, § 1; 1974, ch. 661, § 1; 1976, ch. 515, § 1; 1978, ch. 739, §§ 1, 2; T.C.A., § 6-2801; Acts 1980, ch. 918, § 1; 1981, ch. 515, §§ 1, 2; 1981, ch. 529, § 1; 1982, ch. 587, § 1; 1982, ch. 841, §§ 1, 2; 1982, ch. 896, §§ 1-3; 1983, ch. 150, § 1; 1985, ch. 67, § 1; [1989, ch. 83, § 1](#); [1989, ch. 581, §§ 1-4](#); [1995, ch. 364, § 1](#); [1998, ch. 983, § 1](#); [2007, ch. 461, § 5](#); [2007 ch. 524 § 1](#); [2008, ch. 694, § 1](#); [2008, ch. 770, § 2](#); [2009, ch. 180, § 1](#); [2009, ch. 608, § 5](#); [2010, ch. 800, § 1](#); [2011, ch. 420, § 13](#); [2012, ch. 944, § 1](#); [2014, ch. 748, § 1](#); [2014, ch. 962, § 1](#); [2016, ch. 777, § 5](#); [2018, ch. 1064, § 1](#).

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End of Document

## [Tenn. Code Ann. § 7-53-102](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 1 General Provisions***

### **7-53-102. Legislative intent and findings -- Purposes of chapter -- Construction.**

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(a) It is the intent of the general assembly by the passage of this chapter to authorize the incorporation in the several municipalities in this state of public corporations to finance, acquire, own, lease, or dispose of properties, to the end that such corporations may be able to maintain and increase employment opportunities, increase the production of agricultural commodities, and increase the quantity of housing available in affected municipalities by promoting industry, trade, commerce, tourism and recreation, agriculture and housing construction by inducing manufacturing, industrial, governmental, educational, financial, service, commercial, recreational and agricultural enterprises to locate in or remain in this state and further the use and production of its agricultural products and natural resources, and to vest such corporations with all powers that may be necessary to enable them to accomplish such purposes. It is further the intent of the general assembly to promote the control and elimination of all types of pollution that may result from the existence, development or expansion of commerce and industry within the state and that are essential to the economic growth of the state and to the full employment and prosperity of its citizens, but are accompanied by the increased use of processes and facilities and the increased production and discharge of noise, and gaseous, liquid and solid waste that threaten and endanger the health, welfare and safety of the citizens of the state by polluting the air, land and waters of the state. Therefore, the general assembly finds and determines that in order to reduce, control and prevent such environmental pollution, it is imperative that action be taken at various levels of government to require acquisition and installation of devices, equipment and facilities for the collection, reduction, treatment, and disposal of such wastes and pollutants, and that such actions heretofore or hereafter taken be effectively coordinated; that the cost of such acquisition and installation, if required to be assumed and paid by private enterprises without public assistance, would be unduly burdensome and would discourage or prevent their location in the state and would jeopardize their continued operation in the state; and that the assistance provided in this chapter, especially with respect to financing, is therefore in the public interest and serves a public purpose of the state in promoting the health, welfare and safety of the citizens of the state, not only physically by reducing, controlling and preventing environmental pollution but also economically by the securing and retaining of private enterprises and the resulting maintenance of a higher level of employment and economic activity and stability, and to vest such corporations with all powers that may be necessary to accomplish such purposes. It is not intended by this chapter that any such corporation shall itself be authorized to operate any such manufacturing, industrial, governmental, educational, commercial or agricultural enterprise, hotel, motel or apartment building or pollution control facility.

(b) This chapter shall be liberally construed in conformity with such intention.

(c) The statement of public policy set forth in Acts 1955, chapter 209, § 3 is hereby incorporated into and made a part of this chapter, and it is hereby determined and declared that the means provided by this chapter are needed to relieve the emergency created by the continuing migration from Tennessee of a large number of its citizens in order to find employment elsewhere and to control and eliminate all types of pollution within the state.

(d) The findings of the general assembly set forth in [§ 4-31-202](#) are hereby incorporated into and made a part of this chapter, and it is hereby determined and declared that the means provided by this chapter are needed to

make financial means available to farmers and farm-related enterprises that private industry alone would be otherwise unable to serve, at interest rates lower than would otherwise be obtainable.

## History

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Acts 1955, ch. 210, § 2; 1959, ch. 222, § 2; 1961, ch. 285, § 2; 1969, ch. 55, § 2; 1971, ch. 304, § 2; 1973, ch. 304, § 2; 1974, ch. 587, § 2; 1976, ch. 515, § 2; 1978, ch. 739, §§ 3, 4; T.C.A., § 6-2802; Acts 1982, ch. 896, §§ 4-6.

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## **Tenn. Code Ann. § 7-53-103**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 1 General Provisions***

### **7-53-103. Dissolution -- Disposition of property.**

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Whenever the board of directors of the corporation shall by resolution determine that there has been substantial compliance with the purposes for which the corporation was formed and all bonds issued and all obligations theretofore incurred by the corporation have been fully paid, the then members of the board of directors of the corporation shall then execute and file for record in the office of the secretary of state a certificate of dissolution reciting such facts and declaring the corporation to be dissolved. Such certificate of dissolution shall be executed under the corporate seal of the corporation. Upon the filing of such certificate of dissolution, the corporation shall stand dissolved, the title to all funds and properties owned by it at the time of such dissolution shall vest in the municipality, and possession of such funds and properties shall forthwith be delivered to such municipality.

### **History**

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Acts 1955, ch. 210, § 16; T.C.A., § 6-2815.

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## [Tenn. Code Ann. § 7-53-104](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 1 General Provisions***

### **7-53-104. Corporations acting jointly.**

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(a) The authorities and powers conferred in this chapter upon corporations created under this chapter may be exercised by two (2) or more such corporations acting jointly.

(b) Two (2) or more municipalities may, by acting jointly, incorporate a public corporation to effectuate the purposes of this chapter. When two (2) or more municipalities incorporate such a public corporation, each and every requisite pertaining to the application for incorporation, qualifications of applicants, certificate of incorporation, amendment of certificate and the manner of pledging municipal credit through the submission by referendum election shall be incumbent in like manner upon each municipality joining in the creation of this public corporation. An officer of a municipality or the city manager or other comparable chief administrative officer of a municipality, but not any other employee, may serve as a director of a corporation that is jointly incorporated by two (2) or more municipalities. Notwithstanding [§ 7-53-301](#), the term of office of any director of the corporation who is an officer or employee of a municipality may be coextensive with the period of time that the director serves as an officer or employee of the municipality.

### **History**

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Acts 1955, ch. 210, § 18; 1968, ch. 625, § 1; T.C.A., § 6-2817; [Acts 2009, ch. 84, § 1](#).

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## **Tenn. Code Ann. § 7-53-105**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 1 General Provisions***

### **7-53-105. Provisions cumulative.**

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Neither this chapter nor anything contained in this chapter shall be construed as a restriction or limitation upon any powers the corporation might otherwise have under any laws of this state, but shall be construed as cumulative of any such powers. No proceedings, notice or approval shall be required for the organization of the corporation or the issuance of any bonds or any instrument as security for the bonds, except as provided in this chapter, any other law to the contrary notwithstanding; provided, that nothing herein shall be construed to deprive the state and its governmental subdivisions of their respective police powers over properties of the corporation, or to impair any power over the properties of the corporation of any official or agency of the state and its governmental subdivisions that may be otherwise provided by law.

### **History**

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Acts 1955, ch. 210, § 19; T.C.A., § 6-2818.

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## [Tenn. Code Ann. § 7-53-106](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 1 General Provisions***

### **7-53-106. Powers supplementary -- Provisions severable.**

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(a)The powers conferred by this chapter shall be in addition and supplementary to, and the limitations by this chapter shall not affect the powers conferred by any other general, special or local law. Projects may be acquired, purchased, constructed, reconstructed, improved, bettered and extended and bonds may be issued under this chapter for such purposes, notwithstanding that any other general, special or local law may provide for the acquisition, purchase, construction, reconstruction, improvement, betterment and extension of a like project, or the issuance of bonds for like purposes, and without regard to the requirements, restrictions, limitations or other provisions contained in any other general, special or local law.

(b)If any one (1) or more sections or provisions of this chapter, including, without limitation, the provisions of [§ 7-53-310](#) authorizing the transfer of a project site by a municipality to a corporation, the provisions of § 7-53-305 exempting the corporation and its properties from taxation, and the provisions of [§ 7-53-306](#) authorizing the pledge of municipal credit, or the application of the sections or provisions to any person or circumstance, are ever held by any court of competent jurisdiction to be invalid, the remaining provisions of this chapter and the application of this chapter to persons or circumstances other than those to which it is held to be invalid, shall not be affected thereby, it being the intention of this general assembly to enact the remaining provisions of this chapter, notwithstanding such invalidity.

### **History**

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Acts 1959, ch. 222, § 6; T.C.A., § 6-2820.

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## **Tenn. Code Ann. § 7-53-201**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 2 Incorporation***

### **7-53-201. Application for incorporation -- Qualifications of applicants -- Certificate.**

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Whenever any number of natural persons, not less than three (3), each of whom shall be a duly qualified elector of and taxpayer in the municipality, files with the governing body of the municipality an application in writing seeking permission to apply for the incorporation of an industrial development board or corporation of such municipality, the governing body shall proceed to consider such application. If the governing body, by appropriate resolution duly adopted, finds and determines that it is wise, expedient, necessary or advisable that the corporation be formed and authorizes the persons making such application to proceed to form such corporation and approves the form of certificate of incorporation proposed to be used in organizing the corporation, then the persons making such application shall execute, acknowledge and file a certificate of incorporation for the corporation provided in this part. No corporation may be formed unless such application shall have first been filed with the governing body of the municipality and the governing body shall have adopted a resolution as provided in this section.

### **History**

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Acts 1955, ch. 210, § 3; T.C.A., § 6-2803.

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## **Tenn. Code Ann. § 7-53-202**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 2 Incorporation***

### **7-53-202. Requisites of certificate of incorporation -- Acknowledgment.**

**(a)**The certificate of incorporation shall set forth:

**(1)**The names and residences of the applicants, together with a recital that each of them is an elector of and taxpayer in the municipality;

**(2)** The name of the corporation, which shall be The Industrial Development Board of the \_\_\_\_\_ of \_\_\_\_\_, the blank spaces to be filled in with the name of the municipality, including the proper designation of the municipality as a city or town, if such name shall be available for use by the corporation and, if not available, then the incorporators shall designate some other similar name that is available;

**(3)**A recital that permission to organize the corporation had been granted by resolution duly adopted by the governing body of the municipality and the date of the adoption of such resolution;

**(4)**The location of the principal office of the corporation, which shall be in the municipality;

**(5)**The purposes for which the corporation is proposed to be organized;

**(6)**The number of directors of the corporation;

**(7)**The period, if any, for the duration of the corporation; and

**(8)**Any other matter the applicants may choose to insert in the certificate of incorporation, which shall not be inconsistent with this chapter or with the laws of the state of Tennessee.

**(b)**The certificate of incorporation shall be subscribed and acknowledged by each of the applicants before an officer authorized by the laws of Tennessee to take acknowledgments to deeds.

### **History**

Acts 1955, ch. 210, § 4; T.C.A., § 6-2804.

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## **Tenn. Code Ann. § 7-53-203**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 2 Incorporation***

### **7-53-203. Approval of certificate by secretary of state -- Recording.**

When executed and acknowledged in conformity with [§ 7-53-202](#), the certificate of incorporation shall be filed with the secretary of state. The secretary of state shall then examine the certificate of incorporation and, if the secretary of state finds that the recitals contained in the certificate are correct, that there has been compliance with the requirements of [§ 7-53-202](#), the secretary of state shall approve the certificate of incorporation and record it in an appropriate book or record in the secretary of state's office. When such certificate has been so made, filed and approved, the applicants shall constitute a public corporation under the name set out in the certificate of incorporation.

### **History**

Acts 1955, ch. 210, § 5; T.C.A., § 6-2805; [Acts 1995, ch. 364, § 2](#).

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## **Tenn. Code Ann. § 7-53-204**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 2 Incorporation***

### **7-53-204. Amendment of certificate.**

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The certificate of incorporation may at any time and from time to time be amended so as to make any changes in the certificate of incorporation and add any provisions to the certificate of incorporation that might have been included in the certificate of incorporation in the first instance. Any such amendment shall be effected in the following manner: the members of the board of directors of the corporation shall file with the governing body of the municipality an application in writing seeking permission to amend the certificate of incorporation, specifying in such application the amendment proposed to be made. Such governing body shall consider such application and, if it shall by appropriate resolution duly find and determine that it is wise, expedient, necessary or advisable that the proposed amendment be made and shall authorize the same to be made, and shall approve the form of the proposed amendment, then the persons making such application shall execute an instrument embodying the amendment specified in such application, and shall file the instrument with the secretary of state. The proposed amendment shall be subscribed and acknowledged by each member of the board of directors before an officer authorized by the laws of Tennessee to take acknowledgments to deeds. The secretary of state shall then examine the proposed amendment and, if the secretary of state finds that there has been compliance with the requirements of this section and the proposed amendment is within the scope of what might be included in an original certificate of incorporation, the secretary of state shall approve the amendment and record it in an appropriate book in the secretary of state's office. When such amendment has been so made, filed and approved, it shall then become effective and the certificate of incorporation shall then be amended to the extent provided in the amendment. No certificate of incorporation shall be amended except in the manner provided in this section.

### **History**

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Acts 1955, ch. 210, § 6; T.C.A., § 6-2806.

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## **Tenn. Code Ann. Tit. 7, Ch. 53, Pt. 3 Note**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **Tit. 7, Ch. 53, Pt. 3 Note**

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## **Tenn. Code Ann. § 7-53-301**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-301. Board of directors.**

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The corporation shall have a board of directors in which all powers of the corporation shall be vested and which shall consist of any number, not less than seven (7), all of whom shall be duly qualified electors of and taxpayers in the municipality. The directors shall serve as such without compensation, except that they shall be reimbursed for their actual expenses incurred in and about the performance of their duties, unless otherwise authorized by local ordinance or resolution. No director shall be an officer or employee of the municipality. The directors shall be elected by the governing body of the municipality, and they shall be so elected that they shall hold office for staggered terms. At the time of the election of the first board of directors, the governing body of the municipality shall divide the directors into three (3) groups containing as near equal whole numbers as may be possible. The first term of the directors included in the first group shall be two (2) years, the first term of the directors included in the second group shall be four (4) years, the first term of the directors included in the third group shall be six (6) years, and thereafter the terms of all directors shall be six (6) years; provided, that if at the expiration of any term of office of any director a successor to the director shall not have been elected, then the director whose term of office shall have expired shall continue to hold office until a successor shall be so elected. Except for corporations acquiring any hotel, motel or apartment building in the center-city areas of a municipality that has created a central business improvement district pursuant to chapter 84 of this title, if at the time of the election of any directors there shall be in existence in the municipality a chamber of commerce, board of trade, or other similar civic organization, the directors elected shall be chosen by the governing body from the membership of any one (1) or more of such organizations, unless, in the judgment of the governing body, there are no members of such organizations who are both suitable and available to serve as directors of the corporation; provided, that if the municipality has within its boundaries a closed or substantially downsized federal facility, including, but not limited to, a facility formerly operated by the United States department of defense or department of energy, a minority of the directors may be chosen from persons who are not residents of the municipality.

### **History**

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Acts 1955, ch. 210, § 7; 1978, ch. 739, § 5; T.C.A., § 6-2807; [Acts 1998, ch. 983, § 2](#); [2001, ch. 125, § 1](#).

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## [Tenn. Code Ann. § 7-53-302](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-302. Corporate powers -- Meetings public.**

(a)The corporation has the following powers, together with all powers incidental to such powers or necessary for the performance of those powers, to:

- (1)Have succession by its corporate name for the period specified in the certificate of incorporation, unless sooner dissolved;
- (2)Sue and be sued and prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;
- (3)Have and use a corporate seal and alter the corporate seal at pleasure;
- (4)Acquire, whether by purchase, exchange, gift, lease, or otherwise, and improve, maintain, equip and furnish one (1) or more projects, including all real and personal properties the board of directors of the corporation may deem necessary in connection with the projects and regardless of whether or not any such projects shall then be in existence; provided, that no hotel, motel or apartment building shall be purchased or otherwise acquired by a corporation under this subdivision (a)(4) after July 1, 1988, except that this proviso shall not affect the development or financing of any project that is located in a center city area or in a central business improvement district and that involves an apartment or residential building, hotel, motel or of any project acquired prior to July 1, 1988, regardless of when such project is completed, nor shall this proviso be construed to impair, limit, abrogate or modify the contractual rights and obligations that any such corporation assumes with the issuance of any bonds, notes or other forms of indebtedness or any other contract, nor shall this proviso apply to any hotel listed in the National Register of Historic Places acquired by the corporation prior to December 31, 1989, nor shall this proviso apply to any hotel that contains conference or convention center facilities containing at least seventy-five thousand square feet (75,000 sq. ft.), nor shall this proviso apply to any hotel or hotels, and related conference, mixed use or convention center facilities, if any, constructed in connection with a project or series of related projects involving an aggregate investment of public and private funds in excess of two hundred million dollars (\$200,000,000), nor shall this proviso apply to any project located in a county having a population greater than nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census;
- (5)Lease to others one (1) or more projects and charge and collect rent for the projects and terminate any such lease upon the failure of the lessee to comply with any of the obligations of such lease; and include in any such lease, if desired, a provision that the lessee of the projects shall have options to purchase any or all of its projects or that upon payment of all of the indebtedness of the corporation it may lease or convey any or all of its projects to the lessee of the projects with or without consideration, and to enter into amendments to such leases, which amendments, among other things, may provide for extending the terms of such leases, amending or extending any payments in lieu of taxes due under the leases, subject to any applicable limitations provided in § 7-53-305(b), and amending or extending any rents or other payments due under the leases;

- (6)** Sell to others one (1) or more projects for such payments and upon such terms and conditions as the board of directors of the corporation may deem advisable, in accordance with sale contracts entered into pursuant to this chapter;
- (7)** Enter into loan agreements with others with respect to one (1) or more projects for such payments and upon such terms and conditions as the board of directors of the corporation may deem advisable, in accordance with this chapter;
- (8)** Sell, exchange, donate and convey any or all of its properties, including, without limitation, all or any part of the rents, revenues and receipts of the corporation from its projects, whenever its board of directors shall find any such action to be in furtherance of the purposes for which the corporation was organized;
- (9)** Issue its bonds, and otherwise borrow money from banks or other financial institutions by issuing its notes for the purpose of carrying out any of its powers;
- (10)** Borrow money from a municipality through a loan agreement executed with a municipality for the purpose of carrying out any of its powers;
- (11)** As security for the payment of the principal of and interest on any bonds or notes so issued and any agreements made in connection with the bonds or notes, or to secure any indebtedness or obligations of any lessee of the corporation, mortgage and pledge any or all of its projects or any part or parts of the projects, whether then owned or thereafter acquired, and pledge the revenues and receipts from any projects, or assign and pledge all or any part of its interest in and rights under the leases, sale contracts or loan agreements relating to the projects, including, without limitation, the pledging and/or assignment and pledging of all or any part of the rents, revenues and receipts of any project as security for payment of any bonds or notes of the corporation issued with respect to the project, or any other project or projects of the corporation and any agreements made in connection with the projects, or procure or pledge municipal bond insurance, letters of credit, lines of credit or other liquidity facilities as additional security and liquidity for the bonds or notes;
- (12)** Employ and pay compensation to such employees and agents, including attorneys, as the board of directors shall deem necessary for the business of the corporation; and
- (13)** Exercise all powers expressly given in its certificate of incorporation and establish bylaws and make all rules and regulations not inconsistent with the certificate of incorporation or this chapter, deemed expedient for the management of the corporation's affairs.
- (b)** The corporation does not have the power to operate any project financed under this chapter as a business or in any manner except as specifically provided in this chapter, nor does it have the power to pledge at any time or in any manner the general credit or taxing power of the municipality except as provided in [§ 7-53-306](#).
- (c)** Any meeting held by the board of directors for any purpose whatsoever shall be open to the public.
- (d)** In addition to the powers specified in subsection (a) and upon the adoption of a resolution of the county legislative body, a corporation in any county having a population of over nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census:
- (1)** Has the following powers, together with all powers incidental to such powers or necessary for the performance of those powers, to:
- (A)** Enter into loan agreements with others with respect to one (1) or more projects or for activities, costs, debt restructuring or working capital associated with projects for such payments or deferrals and upon such terms and conditions as the board of directors of the corporation may deem advisable in accordance with this chapter; and
- (B)** Sell, exchange, donate, forgive debt, grant and convey any or all of its assets or properties, including, without limitation, all or any part of the rents, revenues and receipts of the corporation from its projects, whenever its board of directors shall find any such action to be in furtherance of the purposes for which the corporation was organized; and

(2) Shall not enter into a loan agreement, accept a note or issue any indebtedness, or otherwise provide financing for working capital that:

(A) Exceeds two hundred fifty thousand dollars (\$250,000) in principal amount to any project or borrower; or

(B) Provides for a term in excess of five (5) years, including any renewals or extensions of such financing.

## History

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Acts 1955, ch. 210, § 8; 1959, ch. 222, § 3; 1970, ch. 587, §§ 1-3; 1976, ch. 515, § 3; 1978, ch. 739, § 7; T.C.A., § 6-2808; [Acts 1989, ch. 180, § 1](#); [1990, ch. 1089, § 1](#); [1993, ch. 197, § 2](#); [1998, ch. 828, §§ 1-3](#); [2007, ch. 461, § 6](#); [2007, ch. 524, § 2](#); [2009, ch. 84, § 2](#); [2014, ch. 752, § 1](#); [2018, ch. 728, § 1](#).

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## [Tenn. Code Ann. § 7-53-303](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-303. Issuance of bonds -- Restrictions on payment -- Delivery -- Additional issues -- Redemption.**

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(a) Except as otherwise expressly provided in this chapter, all bonds issued by the corporation shall be payable solely out of the revenues and receipts derived from the corporation's projects or of any of the projects as may be designated in the proceedings of the board of directors under which the bonds shall be authorized to be issued, including debt obligations of the lessee or contracting party obtained from or in connection with the financing of a project; provided, that notes issued in anticipation of the issuance of bonds may be retired out of the proceeds of such bonds. Such bonds may be executed and delivered by the corporation at any time and from time to time, may be in such form and denominations and of such terms and maturities, may be in registered or bearer form either as to principal or interest, or both, may be payable in such installments and at such time or times not exceeding forty (40) years from the date of execution, may be payable at such place or places whether within or without the state of Tennessee, may bear interest at such rate or rates payable at such time or times and at such place or places and evidenced in such manner, may be executed by such officers of the corporation and may contain such provisions not inconsistent with this chapter, all as shall be provided in the proceedings of the board of directors whereunder the bonds shall be authorized to be issued. If deemed advisable by the board of directors, there may be retained in the proceedings under which any bonds of the corporation are authorized to be issued an option to redeem all or any part of the bonds as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited in the face of the bonds, but nothing contained in this subsection (a) shall be construed to confer on the corporation any right or option to redeem any bonds except as may be provided in the proceedings under which they shall be issued. Any bonds of the corporation may be sold at public or private sale in such manner, at such price and from time to time as may be determined by the board of directors of the corporation to be most advantageous, and the corporation may pay all expenses, premiums and commissions the corporation's board of directors may deem necessary or advantageous in connection with the issuance of the bonds. Issuance by the corporation of one (1) or more series of bonds for one (1) or more purposes shall not preclude the corporation from issuing other bonds in connection with the same project or any other project, but the proceedings whereunder any subsequent bonds may be issued shall recognize and protect any prior pledge or mortgage made for any prior issue of bonds. Proceeds of bonds issued by the corporation may be used for the purpose of constructing, acquiring, reconstructing, improving, equipping, furnishing, bettering, or extending any project or projects, including the payment of interest on the bonds during construction of any such project and for two (2) years after the estimated date of completion, and payment of engineering, fiscal, architectural and legal expenses incurred in connection with such project and the issuance of the bonds, and the establishment of a reasonable reserve fund for the payment of principal of and interest on such bonds in the event of a deficiency in the revenues and receipts available for such payment.

(b) Any bonds or notes of the corporation at any time outstanding may at any time and from time to time be refunded by the corporation by the issuance of its refunding bonds in such amount as the board of directors may deem necessary, but not exceeding the sum of the following:

- (1) The principal amount of the obligations being refinanced;

- (2)**Applicable redemption premiums on the bonds;
  - (3)**Unpaid interest on such obligations to the date of delivery or exchange of the refunding bonds;
  - (4)**In the event the proceeds from the sale of the refunding bonds are to be deposited in trust as provided in subdivision (f)(2), interest to accrue on such obligations from the date of delivery to the first or any subsequent available redemption date or dates selected, in its discretion, by the board of directors, or to the date or dates of maturity, whichever shall be determined by the board of directors to be most advantageous or necessary to the corporation;
  - (5)**A reasonable reserve for the payment of principal of and interest on such bonds or a renewal and replacement reserve;
  - (6)**If the project to be constructed from the proceeds of the obligations being refinanced has not been completed, an amount sufficient to meet the interest charges on the refunding bonds during the construction of such project and for two (2) years after the estimated date of completion, but only to the extent that interest charges have not been capitalized from the proceeds of the obligations being refinanced; and
  - (7)**Expenses, premiums and commissions of the corporation, including bond discounts, deemed by the board of directors to be necessary for the issuance of the refunding bonds. A determination by the board of directors that any refinancing is advantageous or necessary to the corporation, or that any of the amounts provided in the preceding sentence should be included in such refinancing, or that any of the obligations to be refinanced should be called for redemption on the first or any subsequent available redemption date or permitted to remain outstanding until their respective dates of maturity, shall be conclusive.
- (c)**Any such refunding may be effected whether the obligations to be refunded has then matured or thereafter matures, either by the exchange of the refunding bonds for the obligations to be refunded by the refunding bonds with the consent of the holders of the obligations so to be refunded, or by sale of the refunding bonds and the application of the proceeds of the refunding bonds to the payment of the obligations to be refunded by the refunding bonds, and regardless of whether or not the obligations to be refunded were issued in connection with the same projects or separate projects, and regardless of whether or not the obligations proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.
- (d)**If, at the time of delivery of the refunding bonds, the obligations to be refunded will not be retired or a valid and timely notice of redemption of the outstanding obligations is not given in accordance with the resolution, indenture or other instrument governing the redemption of the outstanding obligations, then, prior to the issuance of the refunding bonds, the board of directors shall cause to be given a notice of its intention to issue the refunding bonds. The notice shall be given either by mail to the owners of all of the outstanding obligations to be refunded at their addresses shown on the bond registration records for the outstanding obligations or given by publication one (1) time each in the newspaper having a general circulation in the municipality with respect to which the corporation was organized and in a financial newspaper published in New York, New York, having a national circulation. The notice shall set forth the estimated date of delivery of the refunding bonds and identify the obligations, or the individual maturities of the obligations, proposed to be refunded; provided, that if portions of individual maturities are proposed to be refunded, the notice shall identify the maturities subject to partial refunding in the aggregate principal amount to be refunded within each maturity. If the issuance of the refunding bonds does not occur as provided in the notice, the board of directors shall cause notice to be given as provided in this subsection (d). Except as otherwise set forth in this section, the notice required pursuant to this section shall be given whether or not any of the obligations to be refunded are to be called for redemption.
- (e)**If any of the obligations to be refunded are to be called for redemption, the board of directors shall cause notice of redemption to be given in the manner required by the proceedings authorizing such outstanding obligations.
- (f)**The principal proceeds from the sale of any refunding bonds shall be applied only as follows, either:
- (1)**To the immediate payment and retirement of the obligations being refunded; or

(2) To the extent not required for the immediate payment of the obligations being refunded, then such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded, and to pay any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any surplus, including, without limitation, provision for the pledging of any such surplus to the payment of the principal of and interest on any issue or series of refunding bonds. Money in any such trust fund may be invested in direct obligations of, or obligations the principal of and interest on which are guaranteed by the United States government, or obligations of any agency or instrumentality of the United States government, or in certificates of deposit issued by a bank or trust company located in the state of Tennessee, if such certificates shall be secured by a pledge of any of such obligations having any aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing in this subdivision (f)(2) shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

(g) All such bonds, refunding bonds and the interest coupons applicable to the bonds are hereby made and shall be construed to be negotiable instruments.

(h) For purposes of calculating the "applicable formula rate" under [§ 47-14-103](#) and the related provisions of title 47, chapter 14, to determine the maximum effective rate applicable to bonds or other obligations designated as "recovery zone facility bonds" pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), P.L. 111-5, the language "four (4) percentage points above the average prime loan rate" in the definition of "formula rate" in [§ 47-14-102](#) shall be replaced with the language "seven (7) percentage points above the average prime loan rate". This subsection (h) shall apply to any such bonds or other obligations issued by a corporation on or before June 30, 2012, and designated as recovery zone facility bonds for purposes of the American Recovery and Reinvestment Act of 2009.

## History

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Acts 1955, ch. 210, § 9; 1967, ch. 109, § 1; 1972, ch. 779, § 2; impl. am. Acts 1972, ch. 852, § 12; 1973, ch. 309, § 3; 1976, ch. 515, § 4; 1977, ch. 229, § 1; T.C.A., § 6-2809; Acts 1980, ch. 536, § 2; [1989, ch. 402, § 2](#); [1994, ch. 806, § 3](#); [2010, ch. 1134, § 59](#).

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## [Tenn. Code Ann. § 7-53-304](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-304. Security for payment of bonds -- Default -- Bondholders' remedies - - Maintenance of aggregate listing of debt.**

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(a)The principal of and interest on any bonds issued by the corporation shall be secured by a pledge of the revenues and receipts out of which the bonds shall be made payable, and may be secured by a mortgage or deed of trust covering all or any part of the projects from which the revenues or receipts so pledged may be derived, including any enlargements of and additions to any such projects thereafter made, or by an assignment and pledge of all or any part of the corporation's interest in and rights under the leases, sale contracts or loan agreements relating to such projects, or any thereof. The resolution under which the bonds are authorized to be issued and any such mortgage or deed of trust may contain any agreements and provisions respecting the maintenance of the projects covered by the resolution, the fixing and collection of rents or payments with respect to any projects or portions of the projects covered by such resolution, mortgage or deed of trust, the creation and maintenance of special funds from such revenues and from the proceeds of such bonds, and the rights and remedies available in the event of default, all as the board of directors shall deem advisable not in conflict with this section. Each pledge, agreement, mortgage and deed of trust made for the benefit or security of any of the bonds of the corporation shall continue effective until the principal of and interest on the bonds for the benefit of which the pledge, agreement, mortgage and deed of trust were made shall have been fully paid. In the event of default in such payment or in any agreements of the corporation made as a part of the contract under which the bonds were issued, whether contained in the proceedings authorizing the bonds or in any mortgage and deed of trust executed as security for the bonds, such payment or agreement may be enforced by suit, mandamus, the appointment of a receiver in equity, or by foreclosure of any such mortgage and deed of trust, or any one (1) or more of such remedies.

(b)The corporation shall maintain an aggregate listing of its current debt, including conduit debt obligations, in accordance with guidelines approved by the state funding board. At the end of each fiscal year, the corporation shall file the listing, and any other information required by the guidelines, with the state funding board. The corporation shall file with the board notice of default on any of its debt obligations within fifteen (15) days of the event. As used in this subsection (b), "conduit debt obligations" means those debt obligations issued by the corporation to provide capital financing for a public or private entity.

## **History**

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Acts 1955, ch. 210, § 10; 1976, ch. 515, § 5; T.C.A., § 6-2810; [Acts 2018, ch. 529, § 1](#).

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## [Tenn. Code Ann. § 7-53-305](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### Notice

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 *First of 2.* This section has more than one version with varying effective dates.

*First of 2 versions of this section*

### **7-53-305. Exemption from taxation -- Payments in lieu of ad valorem taxes -- Securities. [Effective until October 1, 2018. See version effective on October 1, 2018.]**

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(a)

(1)The corporation is hereby declared to be performing a public function in behalf of the municipality with respect to which the corporation is organized and to be a public instrumentality of such municipality. Accordingly, the corporation and all properties at any time owned by it, and the income and revenues from the properties, and all bonds issued by it, and the income from the bonds, shall be exempt from all taxation in the state of Tennessee. Also for purposes of the Securities Act of 1980, compiled as title 48, chapter 1, part 1, bonds issued by the corporation shall be deemed to be securities issued by a public instrumentality or a political subdivision of the state of Tennessee.

(2)(A) Notwithstanding this section to the contrary, and unless the municipality adopts an ordinance or resolution requiring that any agreement with respect to the payments in lieu of taxes entered into pursuant to this subdivision (a)(2) be approved by the municipality, a corporation may negotiate and receive from any lessee of the corporation, without any delegation from the municipality, payments in lieu of taxes with respect to a tax-credit housing project; provided, that:

(i)The payments in lieu of taxes are payable to all applicable taxing jurisdictions in which the project is located and are not less than the taxes that would have been paid to each such taxing jurisdiction for the tax year prior to the year the project became a tax-credit housing project; and

(ii)The chief executive officer of the municipality has executed a letter supporting the project that is filed with the corporation.

(B)The corporation is declared to be serving a public purpose by negotiating and receiving from any lessee of the corporation payments in lieu of taxes with respect to a tax-credit housing project.

(C)As used in this subdivision (a)(2), "tax-credit housing project" or "project" means a project that has received an allocation of low-income housing tax credits under *Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42)*, or any successor provision, from the Tennessee housing development agency or is otherwise eligible for the tax credits as the result of the issuance of bonds, the interest on which is not subject to federal income taxation.

**(D)**The corporation may acquire and lease a tax-credit housing project as authorized in this chapter, notwithstanding any limitations in this chapter on the power of the corporation to purchase or otherwise acquire apartments.

**(b)(1) (A)** The corporation has the authority to negotiate, accept, or waive from any of the corporation's lessees payments in lieu of taxes only upon receipt of a formal delegation of such authority from the municipality or municipalities that formed the corporation. Any such authorization shall be granted only upon a finding by the municipality or municipalities that the payments or waiver of the payments are deemed to be in furtherance of the corporation's public purposes. The legislative body of the municipality or municipalities making the delegation may require the corporation to submit for approval any agreement with any of the corporation's lessees providing for the acceptance or waiver of payments in lieu of taxes.

**(B)**No agreement providing for the acceptance or waiver of payments in lieu of taxes, including any renewal or extension of such agreement, entered into by a municipality or corporation to which such authority has been delegated shall result in a corporation's lessee making payments in lieu of taxes in an amount less than the applicable ad valorem taxes for a period that is greater than twenty (20) years plus a reasonable construction or installation period not to exceed three (3) years, unless both the commissioner of economic and community development and the comptroller of the treasury have made a written determination that the agreement is in the best interest of the state.

**(C)**The corporation shall attach to each agreement an analysis of the costs and benefits of the agreement, in such manner and under such conditions as shall be prescribed by the commissioner of economic and community development or the commissioner's designee.

**(2)**With regard to any project located within an area designated as the center-city area by a municipality in which there has been created a central business improvement district pursuant to the Central Business Improvement District Act of 1971, compiled in chapter 84 of this title, the amount of such payments shall not be fixed below the lesser of:

**(A)**Ad valorem taxes otherwise due and payable by a tax-paying entity upon the current fair market value of the leased properties; or

**(B)**Ad valorem taxes that were or would have been due and payable on the leased properties for the period immediately preceding the date of their acquisition by the corporation.

**(3)**The minimum payments in subdivisions (b)(2)(A) and (B) shall not be applicable to an eligible headquarters facility.

**(c)**This section shall apply, from the date of their issuance, to all bonds heretofore or hereafter issued under this chapter and the income from such bonds whether heretofore or hereafter received.

**(d)**

**(1)**Payments in lieu of taxes and any lease payments payable to a corporation, to the extent such payments in lieu of taxes and lease payments in the aggregate do not exceed ad valorem taxes otherwise due and payable where the leased property is owned by an entity subject to taxation, shall become and remain a first lien upon the fee interest in the leased property from January 1 of the year in which such payment in lieu of taxes on lease payments is due. The corporation may enforce such lien, and also obtain interest at ten percent (10%) per annum from the date due and reasonable attorneys' fees, by suit filed in the circuit or chancery court.

**(2)**Subdivision (d)(1) shall apply with equal force to all such subleases and their sublessees.

**(3)**To the extent lease payments or payments in lieu of taxes exceed the amount necessary to defray debt service on project bonds or other financing, any payments not timely made as agreed may be collected by or on behalf of the city or county in the same manner as delinquent property taxes.

**(e)(1)** On or before October 1 of each year, the corporation lessee shall submit to the comptroller of the treasury an annual report containing:



**(A)**A list of all the real and personal property owned by the corporation and its associated entities and subsidiaries;

**(B)**The value of each listed property as estimated by the lessee;

**(C)**The date and term of the lease for each listed property;

**(D)**The amount of payments made in lieu of property taxes for each listed property;

**(E)**The date each listed property is scheduled to return to the regular tax rolls;

**(F)**[Deleted by 2016 amendment.]

**(G)**The property address and parcel identification number of the property assigned by the assessor of property;

**(H)**The amount of rents paid;

**(I)**The amount of any property taxes paid on the leasehold assessment under [§ 67-5-502\(d\)](#);

**(J)**Any changes in the name since the last filing;

**(K)**How the payments in lieu of taxes are allocated between the city and county according to the economic development agreement; and

**(L)**Identification of project type according to definitions provided in this chapter.

**(2)**A copy of the filing made pursuant to subdivision (e)(1) shall be filed with the assessor of property in the county where the property is located on or before October 15 of the year in which the filing is made with the comptroller of the treasury. The assessor of property may audit or review, or both, the data report on all payment in lieu of tax agreements and conduct comparative analysis to ensure that all agreements are reported to the assessor of property.

**(3)**Each lessee of the corporation shall be responsible for the timely completion and filing of the report. Failure to timely complete and file the report shall subject the lessee to a late filing fee of fifty dollars (\$50.00) payable to the comptroller of the treasury. In addition, any lessee failing to file the report with the comptroller of the treasury or the assessor within thirty (30) days after written demand for the report, shall owe an additional payment in lieu of tax in the amount of five hundred dollars (\$500). This payment shall be collectable by the trustee for the benefit of the county, in the same manner as property taxes, on certification from the comptroller of the treasury or the assessor.

**(f)**The corporation to which authority has been delegated to create pilot leaseholds and payments in lieu of ad valorem taxes shall prepare biannual reports detailing the lessee's compliance with the terms and conditions of the pilot lease agreement or any other agreement whereby ad valorem taxes are substituted in favor of a payment in lieu of taxes. Such report shall detail the lessee's compliance and noncompliance where applicable, and its fiscal impact on revenues generated from ad valorem taxes in each municipality affected by such payment in lieu of taxes. This subsection (f) shall apply only to counties with populations of eight hundred thousand (800,000) or more, according to the 1990 federal census or any subsequent federal census, and to municipalities within such counties.

**(g)(1)** An industrial development corporation may not negotiate any payment in lieu of tax agreement for less than the county ad valorem taxes otherwise due unless:

**(A)**The corporation is a joint corporation organized by the county and one or more of the municipalities in the county;

**(B)**The corporation has entered into an interlocal agreement with the county in regard to payments in lieu of ad valorem taxes; or

**(C)**The corporation has received written approval from the county mayor and the legislative body of the county regarding payments in lieu of ad valorem taxes.

(2) Subdivision (g)(1) shall apply to any county having a population of not less than eight hundred ninety-seven thousand four hundred (897,400) nor more than eight hundred ninety-seven thousand five hundred (897,500) and at least five (5) industrial development corporations formed under title 7, chapter 53, according to the 2000 federal census or any subsequent federal census.

(h) Notwithstanding this section or any other law to the contrary, an industrial development corporation organized solely by a municipality that does not impose a real property tax may only enter into a payment in lieu of ad valorem tax agreement or lease if:

(1) The county in which the municipality is located has approved the entering into a payment in lieu of ad valorem tax agreement or lease with respect to the property at issue; or

(2) Either the industrial development corporation or the municipality which organized the industrial development corporation agrees to pay to the county in which the municipality is located an amount equal to the amount of real property tax that would have been assessed to the property at issue for each year in which the payment in lieu of ad valorem tax agreement or lease is effective were the property not owned by the industrial development corporation during such time period.

## History

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Acts 1955, ch. 210, § 11; 1959, ch. 222, § 4; 1969, ch. 55, § 3; 1969, ch. 244, § 1; 1971, ch. 304, §§ 3, 4; 1976, ch. 515, § 6; 1978, ch. 739, § 6; T.C.A., § 6-2811; Acts 1986, ch. 724, § 1; [1997, ch. 243, § 1](#); [1997, ch. 398, § 1](#); [1998, ch. 828, §§ 4-6](#); [2000, ch. 914, § 1](#); [2000, ch. 961, § 1](#); [2001, ch. 339, §§ 1, 2](#); [2002, ch. 605, § 1](#); [2002, ch. 712, § 1](#); [2003, ch. 90, § 2](#); [2003, ch. 405, § 1](#); [2004, ch. 813, § 1](#); [2007, ch. 449, § 1](#); [2008, ch. 694, § 2](#); [2008, ch. 1013, §§ 2, 3](#); [2013, ch. 302, § 1](#); [2015, ch. 519, § 2](#); [2016, ch. 588, §§ 1, 2](#); [2016, ch. 777, §§ 1-4](#).

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## [Tenn. Code Ann. § 7-53-305](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### Notice

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 *Second of 2.* This section has more than one version with varying effective dates.

***Second of 2 versions of this section***

### **7-53-305. Exemption from taxation -- Payments in lieu of ad valorem taxes -- Securities. [Effective on October 1, 2018. See version effective until October 1, 2018.]**

---

(a)

**(1)**The corporation is hereby declared to be performing a public function in behalf of the municipality with respect to which the corporation is organized and to be a public instrumentality of such municipality. Accordingly, the corporation and all properties at any time owned by it, and the income and revenues from the properties, and all bonds issued by it, and the income from the bonds, shall be exempt from all taxation in the state of Tennessee. Also for purposes of the Securities Act of 1980, compiled as title 48, chapter 1, part 1, bonds issued by the corporation shall be deemed to be securities issued by a public instrumentality or a political subdivision of the state of Tennessee.

**(2)(A)** Notwithstanding this section to the contrary, and unless the municipality adopts an ordinance or resolution requiring that any agreement with respect to the payments in lieu of taxes entered into pursuant to this subdivision (a)(2) be approved by the municipality, a corporation may negotiate and receive from any lessee of the corporation, without any delegation from the municipality, payments in lieu of taxes with respect to a tax-credit housing project; provided, that:

**(i)**The payments in lieu of taxes are payable to all applicable taxing jurisdictions in which the project is located and are not less than the taxes that would have been paid to each such taxing jurisdiction for the tax year prior to the year the project became a tax-credit housing project; and

**(ii)**The chief executive officer of the municipality has executed a letter supporting the project that is filed with the corporation.

**(B)**The corporation is declared to be serving a public purpose by negotiating and receiving from any lessee of the corporation payments in lieu of taxes with respect to a tax-credit housing project.

**(C)**As used in this subdivision (a)(2), "tax-credit housing project" or "project" means a project that has received an allocation of low-income housing tax credits under *Section 42 of the Internal Revenue Code of 1986 (26 U.S.C. § 42)*, or any successor provision, from the Tennessee housing development agency or is otherwise eligible for the tax credits as the result of the issuance of bonds, the interest on which is not subject to federal income taxation.

**(D)**The corporation may acquire and lease a tax-credit housing project as authorized in this chapter, notwithstanding any limitations in this chapter on the power of the corporation to purchase or otherwise acquire apartments.

**(b)(1) (A)** The corporation has the authority to negotiate, accept, or waive from any of the corporation's lessees payments in lieu of taxes only upon receipt of a formal delegation of such authority from the municipality or municipalities that formed the corporation. Any such authorization shall be granted only upon a finding by the municipality or municipalities that the payments or waiver of the payments are deemed to be in furtherance of the corporation's public purposes. The legislative body of the municipality or municipalities making the delegation may require the corporation to submit for approval any agreement with any of the corporation's lessees providing for the acceptance or waiver of payments in lieu of taxes.

**(B)**No agreement providing for the acceptance or waiver of payments in lieu of taxes, including any renewal or extension of such agreement, entered into by a municipality or corporation to which such authority has been delegated shall result in a corporation's lessee making payments in lieu of taxes in an amount less than the applicable ad valorem taxes for a period that is greater than twenty (20) years plus a reasonable construction or installation period not to exceed three (3) years, unless both the commissioner of economic and community development and the comptroller of the treasury have made a written determination that the agreement is in the best interest of the state.

**(C)**The corporation shall attach to each agreement an analysis of the costs and benefits of the agreement, in such manner and under such conditions as shall be prescribed by the commissioner of economic and community development or the commissioner's designee.

**(2)**With regard to any project located within an area designated as the center-city area by a municipality in which there has been created a central business improvement district pursuant to the Central Business Improvement District Act of 1971, compiled in chapter 84 of this title, the amount of such payments shall not be fixed below the lesser of:

**(A)**Ad valorem taxes otherwise due and payable by a tax-paying entity upon the current fair market value of the leased properties; or

**(B)**Ad valorem taxes that were or would have been due and payable on the leased properties for the period immediately preceding the date of their acquisition by the corporation.

**(3)**The minimum payments in subdivisions (b)(2)(A) and (B) shall not be applicable to an eligible headquarters facility.

**(c)**This section shall apply, from the date of their issuance, to all bonds heretofore or hereafter issued under this chapter and the income from such bonds whether heretofore or hereafter received.

**(d)**

**(1)**Payments in lieu of taxes and any lease payments payable to a corporation, to the extent such payments in lieu of taxes and lease payments in the aggregate do not exceed ad valorem taxes otherwise due and payable where the leased property is owned by an entity subject to taxation, shall become and remain a first lien upon the fee interest in the leased property from January 1 of the year in which such payment in lieu of taxes on lease payments is due. The corporation may enforce such lien, and also obtain interest at ten percent (10%) per annum from the date due and reasonable attorneys' fees, by suit filed in the circuit or chancery court.

**(2)**Subdivision (d)(1) shall apply with equal force to all such subleases and their sublessees.

**(3)**To the extent lease payments or payments in lieu of taxes exceed the amount necessary to defray debt service on project bonds or other financing, any payments not timely made as agreed may be collected by or on behalf of the city or county in the same manner as delinquent property taxes.

**(e)(1)** On or before October 1 of each year, the corporation lessee shall submit to the comptroller of the treasury an annual report containing:

**(A)**A list of all the real and personal property owned by the corporation and its associated entities and subsidiaries;

**(B)**The value of each listed property as estimated by the lessee;

**(C)**The date and term of the lease for each listed property;

**(D)**The amount of payments made in lieu of property taxes for each listed property;

**(E)**The date each listed property is scheduled to return to the regular tax rolls;

**(F)**[Deleted by 2016 amendment.]

**(G)**The property address and parcel identification number of the property assigned by the assessor of property;

**(H)**The amount of rents paid;

**(I)**The amount of any property taxes paid on the leasehold assessment under [§ 67-5-502\(d\)](#);

**(J)**Any changes in the name since the last filing;

**(K)**How the payments in lieu of taxes are allocated between the city and county according to the economic development agreement; and

**(L)**Identification of project type according to definitions provided in this chapter.

**(2)**A copy of the filing made pursuant to subdivision (e)(1) shall be filed with the assessor of property in the county where the property is located on or before October 15 of the year in which the filing is made with the comptroller of the treasury. The assessor of property may audit or review, or both, the data report on all payment in lieu of tax agreements and conduct comparative analysis to ensure that all agreements are reported to the assessor of property.

**(3)**Each lessee of the corporation shall be responsible for the timely completion and filing of the report. Failure to timely complete and file the report shall subject the lessee to a late filing fee of fifty dollars (\$50.00) payable to the comptroller of the treasury. In addition, any lessee failing to file the report with the comptroller of the treasury or the assessor within thirty (30) days after written demand for the report, shall owe an additional payment in lieu of tax in the amount of five hundred dollars (\$500). This payment shall be collectable by the trustee for the benefit of the county, in the same manner as property taxes, on certification from the comptroller of the treasury or the assessor.

**(f)**The corporation to which authority has been delegated to create pilot leaseholds and payments in lieu of ad valorem taxes shall prepare biannual reports detailing the lessee's compliance with the terms and conditions of the pilot lease agreement or any other agreement whereby ad valorem taxes are substituted in favor of a payment in lieu of taxes. Such report shall detail the lessee's compliance and noncompliance where applicable, and its fiscal impact on revenues generated from ad valorem taxes in each municipality affected by such payment in lieu of taxes. This subsection (f) shall apply only to counties with populations of eight hundred thousand (800,000) or more, according to the 1990 federal census or any subsequent federal census, and to municipalities within such counties.

**(g)(1)** An industrial development corporation may not negotiate any payment in lieu of tax agreement for less than the county ad valorem taxes otherwise due unless:

**(A)**The corporation is a joint corporation organized by the county and one or more of the municipalities in the county;

**(B)**The corporation has entered into an interlocal agreement with the county in regard to payments in lieu of ad valorem taxes; or

**(C)**The corporation has received written approval from the county mayor and the legislative body of the county regarding payments in lieu of ad valorem taxes.

**(2)**Subdivision (g)(1) shall apply to any county having a population of not less than eight hundred ninety-seven thousand four hundred (897,400) nor more than eight hundred ninety-seven thousand five hundred (897,500) and at least five (5) industrial development corporations formed under title 7, chapter 53, according to the 2000 federal census or any subsequent federal census.

**(h)**Notwithstanding this section or any other law to the contrary, an industrial development corporation organized solely by a municipality that does not impose a real property tax may only enter into a payment in lieu of ad valorem tax agreement or lease if:

**(1)**The county in which the municipality is located has approved the entering into a payment in lieu of ad valorem tax agreement or lease with respect to the property at issue; or

**(2)**Either the industrial development corporation or the municipality which organized the industrial development corporation agrees to pay to the county in which the municipality is located an amount equal to the amount of real property tax that would have been assessed to the property at issue for each year in which the payment in lieu of ad valorem tax agreement or lease is effective were the property not owned by the industrial development corporation during such time period.

**(i)(1)** An industrial development corporation may negotiate a payment in lieu of tax agreement for less than the ad valorem taxes otherwise due for a retail business for a period longer than ten (10) years, plus a reasonable construction or installation period not to exceed three (3) years, if:

**(A)**The corporation is a joint industrial development corporation with representation of all affected taxing jurisdictions within the county;

**(B)**The corporation has entered into an interlocal agreement with other taxing jurisdictions to establish criteria for any payment in lieu of tax agreements that might affect shared tax bases;

**(C)**The corporation has received written approval from each affected local governmental entity. As used in this subdivision (i)(1)(C), "affected local governmental entity" means a county or local special school district which will suffer an actual loss of tax revenue under a payment in lieu of tax agreement; or

**(D)**The corporation pays the other affected local governments the amount of ad valorem taxes those governments would otherwise receive for the affected property based on its assessed value after the initial ten (10) years of the agreement.

**(2)**The requirements under this subsection (i) shall not apply to payment in lieu of tax agreements affecting only the municipality that created the corporation and the beneficiary making the agreement.

**(3)**This subsection (i) does not apply in any county having a population of not less than nine hundred thousand (900,000), according to the 2010 or any subsequent federal census.

**(j)**Before an industrial development corporation approves a payment in lieu of tax agreement, the corporation shall hold a public meeting relating to the proposed agreement after notice is provided by the corporation or governing body, as may be required by law, at least five (5) days prior to the date of such public meeting. Such notice must include the time, place, and purpose of the public meeting.

## History

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Acts 1955, ch. 210, § 11; 1959, ch. 222, § 4; 1969, ch. 55, § 3; 1969, ch. 244, § 1; 1971, ch. 304, §§ 3, 4; 1976, ch. 515, § 6; 1978, ch. 739, § 6; T.C.A., § 6-2811; Acts 1986, ch. 724, § 1; [1997, ch. 243, § 1](#); [1997, ch. 398, § 1](#); [1998, ch. 828, §§ 4-6](#); [2000, ch. 914, § 1](#); [2000, ch. 961, § 1](#); [2001, ch. 339, §§ 1, 2](#); [2002, ch. 605, § 1](#); [2002, ch. 712, § 1](#); [2003, ch. 90, § 2](#); [2003, ch. 405, § 1](#); [2004, ch. 813, § 1](#); [2007, ch. 449, § 1](#); [2008, ch. 694, § 2](#); [2008, ch. 1013, §§ 2, 3](#); [2013, ch. 302, § 1](#); [2015, ch. 519, § 2](#); [2016, ch. 588, §§ 1, 2](#); [2016, ch. 777, §§ 1-4](#); [2018, ch. 1064, § 2](#).

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End of Document

## [Tenn. Code Ann. § 7-53-306](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-306. Municipal liability -- Submission to voters -- Remedies of bondholders.**

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The municipality shall not, in any event, be liable for the payment of the principal of or interest on any bonds of the corporation, or for the performance of any pledge, mortgage, obligation or agreement of any kind whatsoever that may be undertaken by the corporation, and none of the bonds of the corporation or any of its agreements or obligations shall be construed to constitute an indebtedness of the municipality within the meaning of any constitutional or statutory provision whatsoever. The municipality may pledge its full faith and credit as surety to the payment of the principal of and interest on the bonds in the following manner:

(1)The governing body of the municipality may by resolution propose the pledging of the full faith and credit and unlimited taxing power of the municipality as surety to the payment of the principal of and interest on the bonds. After securing a certificate of public purpose and necessity as provided in [§ 7-53-307](#), the governing body may direct the county election commission to hold an election for the registered voters of the municipality to determine whether the full faith and credit of the municipality shall be so pledged. Should three fourths (3/4) of the voters cast their vote in favor of lending the municipality's credit by pledging the full faith and credit of the municipality to the payment, as surety, of the principal and interest of such bonds, according to the certificate of the county election commission, the municipality, through its governing board, would be authorized to so pledge its full faith and credit as surety and so indicate by the signature of the mayor or other chief executive official of the municipality on the bonds; and

(2)In the event such pledge of full faith and credit and unlimited taxing power of the municipality is given, any holder or holders of the bonds, including a trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights, by mandamus or other suit, action or proceeding in any court of competent jurisdiction to enforce such person's rights against the municipality, and the governing body of the municipality and any officer, agent or employee of the municipality, including, but not limited to, the right to require the municipality and governing body and any proper officer, agent or employee of the municipality, to assess, levy and collect taxes and other revenues and charges adequate to carry out any agreement as to, or pledge of, such taxes, revenues and charges. The taxes authorized to be pledged in this section shall be levied without limit as to rate or amount upon all taxable property within the municipality, and all such taxes to be levied are hereby declared to have been levied for county and corporation purposes, respectively, within the meaning of the [Constitution of Tennessee, Article II, § 29](#).

### **History**

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Acts 1955, ch. 210, § 12; 1972, ch. 740, § 4(46); T.C.A., § 6-2812.



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End of Document

[Tenn. Code Ann. § 7-53-307](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

## **7-53-307. Certificate for pledge of municipal credit -- Regulation by finance committee.**

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(a) The building finance committee in the industrial development division of the department of economic and community development is hereby authorized and empowered to determine whether any municipality shall have the right to pledge the full faith and credit of the municipality as surety to the payment of principal and interest of bonds as authorized in [§ 7-53-306](#). Each municipality within this state shall have the right to apply to the committee for a certificate of public purpose and necessity from the committee as to whether the general welfare requires that such municipality be authorized to execute any such pledge.

(b) In determining whether such certificate shall be issued, the committee may hold public hearings, or private hearings, make investigations as may be desired, and shall have power to summon witnesses, administer oaths, hear testimony and make a record of all things had and done at such hearing or investigation, and to order issued such certificate of public purpose and necessity as the committee may deem advisable.

(c)(1) In considering and determining whether or not such certificate shall issue, the committee shall find and determine affirmatively the following, that:

(A) There are sufficient natural resources readily and economically available for the use and operation of the particular project and enterprise for at least ten (10) years, but in no event less than the period of time for which any bonds may be issued for acquiring or constructing such project;

(B) There is available a labor supply to furnish at least one and one half (1 1/2) workers for each operative job in the enterprise within an area of twenty-five (25) miles from the proposed location; and

(C) There are adequate property values and suitable financial conditions, so that the total pledge of full faith and credit of the municipality, solely for the purpose authorized by this chapter, shall not exceed ten percent (10%) of the total assessed valuation of all the property in the municipality ascertained by the last completed assessment at the time of issuance of such bonds.

(2) In no event shall the committee authorize any municipality actually to pledge its full faith and credit to the payment of bonds for any such enterprise, unless the committee shall further find and determine that the enterprise to be carried on in the project is well conceived, has a reasonable prospect for success, will provide proper economic development and employment, and that the project will not become a burden upon the taxpayers of the municipality.

(d) If and when the certificate is issued, the committee therein shall fix and determine in the certificate:

(1) The extent and the amount of the bonds to which the municipality may pledge its full faith and credit;

(2) The purposes for which the bonds shall be expended; and

(3) The method of lease, rental and operation of the project if the project is to be leased to a lessee. If the governing board of the municipality fails or refuses to follow the requirements made by the board in the certificate, then the members of the governing board of the municipality voting for such failure or refusal shall be individually and personally liable, and liable for their official bonds for any loss that the

municipality may sustain by reason of such failure or refusal to follow the requirements, and in addition may be compelled by injunction to comply with such requirements.

(e)The committee is hereby authorized and empowered to adopt and put into effect all reasonable rules and regulations that it may deem necessary to carry out this chapter, not inconsistent with this chapter.

## History

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Acts 1955, ch. 210, § 14; impl. am. Acts 1963, ch. 169, § 2; impl. am. Acts 1972, ch. 852, § 12; Acts 1975, ch. 311, § 1; 1976, ch. 515, § 7; T.C.A., § 6-2813.

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End of Document

## [Tenn. Code Ann. § 7-53-308](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-308. Corporation nonprofit -- Net earnings -- Transfer of assets.**

(a) The corporation shall be a nonprofit corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event the board of directors of the corporation shall determine that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the corporation, then any net earnings of the corporation thereafter accruing shall be paid to the municipality with respect to which the corporation was organized; provided, that nothing contained in this section shall prevent the board of directors from transferring all or any part of its properties in accordance with the terms of any lease, sale contract, loan agreement, mortgage or deed of trust entered into by the corporation.

(b)

(1) Notwithstanding any provision of this chapter to the contrary, nothing in this section shall prevent the board of directors from transferring all or any part of its assets in accordance with the terms of any lease, sale contract, loan agreement, mortgage or deed of trust entered into by the corporation.

(2) This subsection (b) shall apply to any county having a population of over nine hundred thousand (900,000), according to the 2010 federal census or any subsequent federal census.

### **History**

Acts 1955, ch. 210, § 15; 1959, ch. 222, § 5; 1976, ch. 515, § 8; T.C.A., § 6-2814; [Acts 2014, ch. 752, § 2](#).

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## **Tenn. Code Ann. § 7-53-309**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-309. Bonds as legal investments and lawful security.**

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Bonds issued under the authority of this chapter and secured by a pledge of full faith and credit shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians and for all public funds of the state, including, but not limited to, the sinking funds of cities, towns, villages, counties, school districts, or other political corporations, or subdivisions of the state. Such bonds shall be eligible to secure the deposit of any and all public funds of the state, and any and all public funds of cities, towns, villages, counties, school districts or other political corporations or subdivisions of the state, and such bonds shall be lawful and sufficient security for the deposits to the extent of their value when accompanied by all unmatured coupons appertaining to the bonds.

### **History**

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Acts 1955, ch. 210, § 17; impl. am. Acts 1978, ch. 708, § 5.25; T.C.A., § 6-2816.

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## **Tenn. Code Ann. § 7-53-310**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-310. Acquisition and transfer of project sites.**

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Any municipality may acquire a project site by gift, purchase, lease, or condemnation, and may transfer any project site to a corporation by sale, lease, or gift. Such transfer may be authorized by a resolution of the governing body of the municipality without submission of the question to the voters, and without regard to the requirements, restrictions, limitations or other provisions contained in any other general, special or local law. Such project site may be within or without the municipality or partially within and partially without the municipality.

### **History**

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Acts 1959, ch. 222, § 6; T.C.A., § 6-2819.

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## **Tenn. Code Ann. § 7-53-311**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-311. Lease or lease-purchase agreement with municipality authorized -- Tax levy.**

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Any city, county or metropolitan government is authorized to enter into any lease or lease-purchase agreement of a project from a corporation, for such term or terms and upon such conditions as may be determined by the governing body of such city, county or metropolitan government, notwithstanding and without regard to the restrictions, prohibitions or requirements of any other law, whether public or private, and to levy and collect a direct annual tax sufficient with any other moneys available and pledged to pay the rental payable under such lease or lease-purchase agreement as and when it becomes due and payable, such tax to be in addition to all other taxes of such city, county or metropolitan government and shall be in addition to all other taxes now or hereafter authorized to be levied, and such tax shall not be included within any statutory or other limitation in rate or amount, but shall be excluded and be in addition thereto, notwithstanding the prohibitions, restrictions or requirements of any other law, whether public or private, and the obligations assumed and undertaken pursuant to such lease or lease-purchase agreement, including any unconditional or other obligation to levy such tax and to pay rentals for the project for a fixed term or terms, shall not be deemed or construed as constituting a debt of the city, county or metropolitan government within the terms, provisions or limitations of any constitutional, statutory, charter or other limitation.

### **History**

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Acts 1973, ch. 304, § 2; T.C.A., § 6-2821.

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## [Tenn. Code Ann. § 7-53-312](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-312. Preparation and submission of economic impact plan for counties other than those with a metropolitan government and a population exceeding 500,000.**

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(a) The corporation is authorized to prepare and submit to the municipality for approval an economic impact plan in the manner described in this section.

(b) An economic impact plan shall be a written document and shall specifically identify the area to be included in the plan. The area to be included in the plan must be located in the municipality and must also include an industrial park within the meaning of [§ 13-16-202](#), or a project that is either owned by the corporation or with respect to which the corporation has loaned or will loan funds or has otherwise provided or will provide financial assistance. In addition to such industrial park or project, the area that is the subject of the economic impact plan may also include such other properties that the corporation determines will be directly improved or benefited due to the undertaking of the industrial park or project. The economic impact plan shall:

(1) Identify the boundaries of the area subject to the plan;

(2) Identify the industrial park or project located within the area subject to the plan;

(3) Discuss the expected benefits to the municipality from the development of the area subject to the plan, including anticipated tax receipts and jobs created; and

(4) Provide that the property taxes imposed on the property, including the personal property, located within the area subject to the plan will be distributable in the manner described in subsection (c) for a period of time specified in the plan.

(c) Upon the approval by the municipality of an economic impact plan with respect to an area, all property taxes levied upon property located within such area by any taxing agency after the effective date of the plan shall be divided as follows:

(1) That portion of the taxes that is equal to the amount of taxes, if any, that were payable with respect to the property for the year prior to the date the economic impact plan was approved, the "base tax amount", by the municipality shall be allocated to and, when collected, shall be paid to the respective taxing agencies as taxes levied by such taxing agencies on all other property are paid; provided, that in any year in which the taxes on any property are less than the base tax amount, there shall be allocated and paid to the respective taxing agencies only those taxes actually imposed; and

(2) Any excess of taxes over the base tax amount shall be allocated to and, when collected, shall be paid into a separate fund of the corporation established to hold such payments until applied for the purposes described in subsection (h).

(d) Notwithstanding subsection (a) to the contrary, the corporation may prepare, and the municipality may approve, an economic impact plan that allocates an amount greater than the base tax amount to the taxing agencies.



(e) An economic impact plan shall not provide for an allocation of taxes to the corporation for a period in excess of thirty (30) years.

(f) The governing body of a municipality may approve an economic impact plan by resolution, notwithstanding any local charter provision or other provision to the contrary. If the area subject to an economic impact plan is located within the corporate limits of a city or town, the taxes that would otherwise be payable to the city, town or county that is not the municipality that created the corporation shall not be paid to the corporation unless such city, town or county has also approved the economic impact plan.

(g) Before the corporation submits an economic impact plan for approval to the municipality that created such corporation or to any other city or county, the corporation shall hold a public hearing relating to the proposed plan after publishing a notice of such public hearing in a newspaper of general circulation in the municipality at least two (2) weeks prior to the date of such public hearing. Such notice shall include the time, place and purpose of the public hearing, and notice of how a map of the area subject to the plan can be viewed by the public.

(h) All taxes allocated to the corporation pursuant to this section shall only be applied by the corporation to pay expenses of the board in furtherance of promoting economic development in the municipality, to pay the cost of projects, or to pay debt service on bonds or other obligations issued by the corporation to pay the cost of the projects. The corporation is authorized to pledge any or all amounts received by the corporation pursuant to this section to the payment of such bonds or other obligations.

(i) After the approval by a municipality of an economic impact plan, the clerk or other recording official of such municipality shall transmit to the appropriate assessor of property and to each taxing agency to be affected, a copy of the description of all property within the area subject to the economic impact plan and a copy of the resolution approving that plan. If the plan is approved by any taxing agency other than the municipality, the clerk or other recording official of that taxing agency shall also provide a copy of the resolution approving the plan to such assessor of property and taxing agencies. A copy of the plan and any resolutions approving the plan shall be filed with the comptroller of the treasury, and an annual statement of amounts allocated in excess of the base tax amount shall be filed with the state board of equalization.

(j) Notwithstanding anything to the contrary in this section, taxes levied upon property within an economic impact area by any taxing agency for the payment of principal of and interest on all bonds, loans, or other indebtedness of such taxing agency, and taxes levied by or for the benefit of the state, shall not be subject to allocation as provided in subsection (c), but may still be levied against such property and, when collected, paid to such taxing agency as taxes levied by such taxing agency on all other property are paid and collected.

(k) This section shall not apply to any county having a metropolitan form of government and having a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census. With respect to a county with a metropolitan form of government and having a population in excess of five hundred thousand (500,000), [§ 7-53-314](#) shall apply.

(l) In the event of any conflict between this section and the Uniformity in Tax Increment Financing Act of 2012, compiled in title 9, chapter 23, title 9, chapter 23 shall control.

## History

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[Acts 2004, ch. 662, § 1](#); [2008, ch. 770, § 1](#); [2008, ch. 1013, § 4](#); [2010, ch. 940, § 1](#); [2012, ch. 605, § 3](#).

## [Tenn. Code Ann. § 7-53-313](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-313. Purpose.**

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(a) Notwithstanding any provision of this chapter or any other law to the contrary, this chapter shall be liberally construed to carry out the following purposes and objectives:

(1) The policies and practices of industrial development corporations shall ensure that minority-owned and other disadvantaged businesses share more fully in the American economic system of private enterprise through free and vigorous competition;

(2) Such competition shall be fostered through encouragement and support of minority-owned and other disadvantaged businesses; and

(3) Industrial development corporations aid, counsel and assist in every practical manner minority-owned and other disadvantaged businesses in order to preserve free competition on equal terms with those businesses constituting the major portion of the state's business community.

(b) To assist industrial development corporations in achieving such purposes and objectives, the department of economic and community development and the office of business enterprise, established by [§ 4-26-101](#), shall be available to provide technical assistance and consultation.

### **History**

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[Acts 1999, ch. 298, § 1.](#)

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## **Tenn. Code Ann. § 7-53-314**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-314. Preparation and submission of economic impact plan for counties with a metropolitan government and a population exceeding 500,000.**

(a) The corporation is authorized to prepare and submit to the governing body of the municipality for approval an economic impact plan in the manner described in this section.

(b) An economic impact plan shall be a written document and shall specifically identify the area to be included in the plan. The area to be included in the plan shall be located in the municipality and shall also include an industrial park within the meaning of [§ 13-16-202](#), or a project that is either owned by the corporation or with respect to which the corporation has loaned or will loan funds or has otherwise provided or will provide financial assistance. In addition to the industrial park or project, the area that is the subject of the economic impact plan may also include other properties that the corporation determines will be directly improved or benefited due to the undertaking of the industrial park or project. The economic impact plan shall:

(1) Identify the boundaries of the area subject to the plan;

(2) Identify the industrial park or project located within the area subject to the plan;

(3) Discuss the expected benefits to the municipality from the development of the area subject to the plan, including anticipated tax receipts and jobs created; and

(4) Provide that the property taxes imposed on the property, including the personal property, located within the area subject to the plan will be distributable in the manner described in subsection (c) for a period of time specified in the plan.

(c) Upon the approval of the governing body of the municipality of an economic impact plan with respect to an area, all property taxes levied upon property located within the area by any taxing agency after the effective date of the plan shall be divided as follows:

(1) That portion of the taxes that is equal to the amount of taxes, if any, that were payable with respect to the property for the year prior to the date the economic impact plan was approved, the base tax amount, by the municipality shall be allocated to and, when collected, shall be paid to the respective taxing agencies as taxes levied by the taxing agencies on all other property are paid; provided, that, in any year in which the taxes on any property are less than the base tax amount, there shall be allocated and paid to the respective taxing agencies only those taxes actually imposed; and

(2) Any excess of taxes over the base tax amount shall be allocated to and, when collected, shall be paid into a separate fund of the corporation established to hold the payments until applied for the purposes described in subsection (h).

(d) Notwithstanding subsection (c) to the contrary, an economic impact plan may be approved that allocates an amount greater than the base tax amount to the taxing agencies.

(e) An economic impact plan shall not provide for an allocation of taxes to the corporation for a period in excess of thirty (30) years.

**(f)**The governing body of a municipality may approve an economic impact plan by resolution, notwithstanding any local charter provision or other provision to the contrary. Prior to approval by the governing body of the municipality, the economic impact plan shall be submitted to the mayor of the municipality. If the area subject to an economic impact plan is located within the corporate limits of a city or town, the taxes that would otherwise be payable to the city, town or county that is not the municipality that created the corporation shall not be paid to the corporation unless the city, town or county has also approved the economic impact plan.

**(g)**Before the corporation submits an economic impact plan for approval to the governing body of the municipality that created the corporation or to any other city or county, the corporation shall hold a public hearing relating to the proposed plan after publishing a notice of the public hearing in a newspaper of general circulation in the municipality at least two (2) weeks prior to the date of the public hearing. The notice shall include the time, place and purpose of the public hearing, and notice of how a map of the area subject to the plan can be viewed by the public.

**(h)**All taxes allocated to the corporation pursuant to this section shall only be applied by the corporation to pay expenses of the board in furtherance of promoting economic development in the municipality, to pay the cost of projects, or to pay debt service on bonds or other obligations issued by the corporation to pay the cost of the projects. The corporation is authorized to pledge any or all amounts received by the corporation pursuant to this section to the payment of the bonds or other obligations.

**(i)**After the approval by the governing body of a municipality of an economic impact plan, the clerk or other recording official of the municipality shall transmit to the appropriate assessors of property and to each taxing agency to be affected, a copy of the description of all property within the area subject to the economic impact plan and a copy of the resolution approving that plan. If the plan is approved by any taxing agency other than the municipality, the clerk or other recording official of that taxing agency shall also provide a copy of the resolution approving the plan to the assessors of property and taxing agencies.

**(j)**Notwithstanding any other provision of this section to the contrary, taxes levied upon property within an economic impact area by any taxing agency for the payment of principal of and interest on all bonds, loans, or other indebtedness of the taxing agency, and taxes levied by or for the benefit of this state, shall not be subject to allocation as provided in subsection (c), but may still be levied against the property and, when collected, paid to the taxing agency as taxes levied by the taxing agency on all other property are paid and collected.

**(k)**This section shall only apply to any county having a metropolitan form of government and having a population in excess of five hundred thousand (500,000), according to the 2000 federal census or any subsequent federal census.

**(l)**In the event of any conflict between this section and the Uniformity in Tax Increment Financing Act of 2012, compiled in title 9, chapter 23, title 9, chapter 23 shall control.

## History

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[Acts 2008, ch. 770, § 2](#); [2008, ch. 971, § 1](#); [2011, ch. 239, §§ 1, 2](#); [2012, ch. 605, § 4](#).

## **Tenn. Code Ann. § 7-53-315**

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-315. Authority for municipality to aid or provide assistance for certain projects.**

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Notwithstanding [§§ 7-53-306](#) and 7-53-307, in any municipality in which there has been created a central business improvement district pursuant to chapter 84 of this title, the municipality is authorized to aid or otherwise provide assistance, including without limitation, granting, contributing or pledging to, or for the benefit of the corporation, revenues derived from any source except revenues derived from ad valorem property taxes, for those projects, or portions thereof, that consist of public infrastructure, public improvements or other public facilities, including without limitation, one (1) or more parking or sports facilities, located within an area designated by appropriate resolution or ordinance by the municipality as the center city area, for such term or terms and upon such conditions as may be determined by the governing body of the municipality.

### **History**

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[Acts 2010, ch. 800, § 2.](#)

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## [Tenn. Code Ann. § 7-53-316](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-316. Redevelopment of brownfield sites in economically disadvantaged areas.**

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(a) It is the intent of the general assembly to encourage the redevelopment of large brownfield sites in economically disadvantaged areas within large and mid-size counties within the state. In addition to the authorization provided in [§ 7-53-312](#), a corporation located in a municipality in which an urban brownfield redevelopment project is located is also authorized to prepare and submit to the municipality for approval an economic impact plan with respect to an urban brownfield redevelopment project in the manner provided in this section. Except to the extent modified under this section, [§ 7-53-312](#) shall apply to an economic impact plan for an urban brownfield redevelopment project.

(b) An economic impact plan submitted for approval under this section shall provide that the property taxes imposed on the property, including the personal property located within the area subject to the plan, the sales taxes imposed upon sales within the area subject to the plan, the sales taxes imposed upon construction and related development or redevelopment activity in the area subject to the plan, or any combination and amount of such property and sales taxes, will be distributable in the manner described in subsection (c) and [§ 7-53-312\(c\)](#), as applicable, and used for the purposes permitted by subsection (e).

(c) In addition to the allocation of property taxes provided in [§ 7-53-312](#), an economic impact plan may further provide that the non-school portion of the local sales tax increment shall be allocated to and, when received, shall be paid into a separate fund of the corporation established to hold such payments, along with any other amounts received by the corporation pursuant to this section or [§ 7-53-312](#), until applied for the purposes described in subsection (e) pursuant to the economic impact plan. In calculating the non-school portion of the local sales tax increment, the plan may also include any new local sales taxes received from construction or related redevelopment activity occurring within the area subject to the plan. Upon the approval by a municipality of an economic impact plan containing all or any portion of the permitted excess local sales taxes, the local sales taxes received by the municipality shall be divided and allocated as so provided.

(d) Notwithstanding [§ 7-53-312](#) to the contrary, the corporation may prepare, and the municipality may approve, an economic impact plan that allocates an amount greater than the base tax amount and the base sales tax amount to the taxing agencies.

(e) All sales and property taxes allocated for an economic impact plan approved pursuant to this section shall only be applied by the corporation to pay expenses of the corporation in furtherance of economic development in the municipality, to pay or reimburse qualified costs or to pay debt service on bonds or other obligations issued by the corporation to finance any of the foregoing.

(f) As used in this section, unless the context otherwise requires:

- (1) "Base sales tax amount" means the revenues received by the municipality from local sales taxes, excluding that portion of the local sales tax dedicated for school purposes, from the area subject to the plan for the fiscal year of the municipality immediately prior to the year in which the plan is adopted.
- "Local sales taxes" means taxes received by the municipality pursuant to the 1963 Local Option

Revenue Act, compiled in title 67, chapter 6, part 7, excluding that portion of the local sales taxes dedicated for school purposes;

**(2)**"Brownfield site" means a parcel or adjacent or related parcels of real property containing at least five (5) acres that is currently, or at any time since January 1, 2000, has been the subject of an investigation or remediation as a brownfield project under a voluntary agreement or consent order pursuant to [§ 68-212-224](#);

**(3)**"Non-school portion of the local sales tax increment" means any excess of local sales taxes, after deducting the portion that is statutorily designated for school purposes, over the base sales tax amount that is received by each municipality that has approved the economic impact plan from the specified sales and development activity in the area that is subject to the plan;

**(4)**"Qualified costs" include costs for all roads, streets, sidewalks, access ways, ramps, bridges, landscaping, signage, utility facilities, grading, drainage, parks, plazas, greenways, public parking facilities, public recreational facilities, public educational facilities, public meeting facilities and similar improvements that are necessary for or otherwise useful for the urban redevelopment project or for the redevelopment of the area subject to the economic impact plan. "Qualified redevelopment costs" shall also include all administrative, architectural, legal and engineering expenses and such other expenses as may be necessary or incident to the development and implementation of the economic impact plan or the financing of expenses under this section;

**(5)**"Redevelopment zone" means either an area designated as of January 1, 2009, as a renewal community by the federal department of housing and urban development or an area designated as of January 1, 2009, as a low income community for purposes of the federal new markets tax credits program. A redevelopment zone must also be located in a county having a population of eighty thousand (80,000) or more according to the 2000 federal census or any subsequent federal census;

**(6)**"Urban brownfield redevelopment project" means the development or redevelopment, in one (1) or more phases as specified in the economic impact plan, of all or any portion of a parcel or parcels of contiguous, adjacent or related properties totaling at least one hundred (100) acres. The parcel or parcels must be located in a redevelopment zone and must either contain at least one (1) brownfield site or contain a site of at least ten (10) acres that has remained vacant or substantially unoccupied for at least five (5) years and, at any time within twenty (20) years prior to June 1, 2011, included a manufacturing, industrial, distribution or retail facility containing at least one million square feet (1,000,000 sq. ft.). An urban brownfield redevelopment project may include any project as defined in § 7-53-101 and may further include any publicly or privately owned or operated retail, commercial, industrial or mixed use facility, including a visitor center, recreation or entertainment facility and all related hotels, convention center facilities, administrative facilities, offices, restaurants and other amenities constructed or acquired as part of the project.

**(g)**An urban brownfield redevelopment project shall be a project for purposes of § 7-53-101 and for all other purposes under this chapter.

## History

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[Acts 2011, ch. 384, § 1.](#)

## [Tenn. Code Ann. § 7-53-317](#)

Current through the 2018 Regular Session.

***Tennessee Code Annotated > Title 7 Consolidated Governments and Local Governmental Functions and Entities > Local Government Functions > Chapter 53 Industrial Development Corporations > Part 3 Operation and Powers***

### **7-53-317. Parcels of property located on remediation site.**

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**(a)**As used in this section:

**(1)**"Local government" means any home rule municipality; and

**(2)**"Remediation site" means a site containing at least one thousand three hundred (1,300) acres that have been held by the United States department of energy due to an extended period of environmental remediation and conveyed by the United States department of energy to a nonprofit entity that is recognized as tax exempt by the internal revenue service and engaged in economic development.

**(b)**Upon receiving all authorizations required by this chapter, on or after July 1, 2017, any and all parcels of property located on a remediation site in a local government may be transferred to the industrial development board of the local government consistent with the terms of the conveyance. The industrial development board is authorized to sell, lease, dispose of, or contract for the operation of the property in furtherance of the public purpose of promoting economic development in that area.

**(c)**Upon transfer of the parcels to the industrial development board as provided in subsection (b), a lawful management or lease agreement shall be executed between the industrial development board and the nonprofit entity described in subdivision (a)(2), in which the United States department of energy's intent is clearly memorialized, including a provision that the nonprofit entity shall manage the remediation site and shall market the parcels to potential buyers in order to provide substantial sources of tax revenue or economic activity to the local government and to induce private enterprises to locate or remain in the area.

### **History**

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[Acts 2017, ch. 219, § 1.](#)

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