

GOVERNMENT CODE
TITLE 9. PUBLIC SECURITIES
SUBTITLE A. GENERAL PROVISIONS
CHAPTER 1201. PUBLIC SECURITY PROCEDURES ACT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1201.001. SHORT TITLE. This chapter may be cited as the Public Security Procedures Act.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.002. DEFINITIONS. In this chapter:

(1) "Issuer" means:

(A) an agency, authority, board, body politic, department, district, instrumentality, municipal corporation, political subdivision, public corporation, or subdivision of this state; or

(B) a nonprofit corporation acting for or on behalf of an entity described by Paragraph (A).

(2) "Public security" means an instrument, including a bond, certificate, note, or other type of obligation authorized to be issued by an issuer under a statute, a municipal home-rule charter, or the constitution of this state.

(3) "Public security authorization" means a resolution, order, or ordinance that is approved or adopted, or any other action taken in a proceeding, by the governing body of an issuer in authorizing the issuance of a public security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.003. APPLICABILITY. This chapter applies to:

(1) an original public security;

(2) a refunding public security;

(3) an exchanged or converted public security; or

(4) any combination of those securities.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.004. CONSTRUCTION. This chapter shall be liberally construed to achieve the legislative intent and purposes of this chapter. A power granted by this chapter shall be broadly interpreted to achieve that intent and those purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.005. CONTENTS OF PUBLIC SECURITY AUTHORIZATION. To the extent applicable to an authorized public security, the public security authorization for the public security must contain each item or other matter authorized or described by Subchapter B and Sections 1201.061 and 1201.063.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. ISSUANCE AND APPROVAL OF PUBLIC SECURITY

Sec. 1201.021. CHARACTERISTICS OF PUBLIC SECURITY. A public security may:

(1) be issued in any denomination;

(2) bear no interest or bear interest at one or more specified rates;

(3) be issued with one or more interest coupons or without a coupon;

(4) be issued as redeemable before maturity at one or more specified times; and

(5) be payable:

(A) at one or more times;

(B) in installments or a specified amount or amounts;

(C) at a specified place or places;

(D) under specified terms; and

(E) in a specified form or manner.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.022. TERMS OF ISSUANCE. (a) A public security may be:

(1) issued singly or in a series;

(2) made payable in a specified amount or amounts or installments to:

(A) the bearer;

(B) a registered or named person;

(C) the order of a registered or named person; or
(D) a successor or assign of a registered or named person;

(3) issued to be sold:

(A) at a public or private sale; and

(B) under the terms determined by the governing body of the issuer to be in the issuer's best interests; and

(4) issued with other specified characteristics, on

additional specified terms, or in a specified manner.

(b) The governing body of a county or municipality that issues bonds that are to be paid from ad valorem taxes may provide that the bonds are to mature serially over a specified number of years, not to exceed 40.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 769, Sec. 1, eff. Sept. 1, 2001.

Sec. 1201.023. UNCERTIFICATED BOOK-ENTRY ISSUANCE. (a) The governing body of an issuer may provide for a book-entry record of ownership of a public security issued by the issuer. A public security may be issued in uncertificated book-entry form.

(b) The record of ownership of a public security issued in uncertificated book-entry form may be kept by the issuer or an agent of the issuer.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.024. FORM OF PUBLIC SECURITY. (a) A public security may be:

- (1) issued in a specified form or forms;
- (2) issued with one or more interest coupons;
- (3) registrable as to principal and interest or only as to principal; and
- (4) changed in form in a specific manner.

(b) A public security issued with one or more interest coupons may have:

- (1) a specified form of a coupon; and
- (2) a form of a coupon that may be changed in a specified manner.

(c) An issuer may provide that a public security:

- (1) has a coupon and is not registrable;
- (2) has a coupon and is registrable only as to principal;
- (3) is fully registrable; or
- (4) initially has a coupon but may become a fully registrable security under Section 1203.041.

(d) An issuer may provide that public securities of the same issue or series are:

- (1) of one or more types described by Subsection (c); and
- (2) exchangeable in whole or in part for one or more of those types.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.025. RATE OF INTEREST. (a) An interest rate on a public security that bears interest may be fixed, variable, floating, adjustable, or computed by another method.

(b) If an interest rate is not specified by the governing body of an issuer issuing a public security, the interest rate is determined by a formula or contractual arrangement for the periodic determination of the rate.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.001, eff. Sept. 1, 2001.

Sec. 1201.026. EXECUTION OF PUBLIC SECURITY OR INTEREST COUPON. (a) A public security or an interest coupon may be executed, with or without a seal, with a manual or facsimile signature.

(b) The signature on a public security or on an interest coupon of a person who is no longer an officer when the security or coupon is delivered to a purchaser is valid and sufficient for all purposes.

(c) A person's successor in office may complete the execution, authentication, or delivery of the public security or interest coupon.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.027. AUTHORITY OF ISSUER TO CONTRACT FOR SERVICES. (a) An issuer has exclusive authority to select, contract with, and determine the basis for compensation of a person to provide legal and other services as may be determined by the issuer to be necessary in connection with the issuer's issuance of public securities or administration of its affairs that pertain to the issuance of public securities. The selection of legal counsel shall be made in accordance with the provisions of Subchapter A, Chapter 2254, applicable to the selection by a governmental entity of a provider of professional engineering services.

(b) Subsection (a) does not impair the authority of the

attorney general under Section 402.0212 to approve a contract for legal services entered into by a state agency.

(c) Except as provided by Subsection (b), to the extent of a conflict between this section and another law or a municipal charter, this section controls.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 1999, 76th Leg., ch. 1064, Sec. 2, eff. Sept. 1, 1999.

Sec. 1201.028. SINGLE MEETING OF GOVERNING BODY SUFFICIENT. Notwithstanding any other law, including a provision in a municipal charter, the following actions taken at a meeting of the governing body of an issuer are effective immediately and a subsequent meeting is not required:

(1) a resolution, order, or ordinance calling an election to:

(A) authorize the issuance and sale of a public security; or

(B) approve the resources, revenue, or income of the issuer that may be pledged as security for a public security;

(2) a resolution, order, or ordinance canvassing the results of an election described by Subdivision (1); or

(3) a public security authorization.

Added by Acts 2001, 77th Leg., ch. 769, Sec. 2, eff. Sept. 1, 2001.

Sec. 1201.029. COMMISSIONS NOT TO BE PAID FROM PRINCIPAL. In a public or private sale of public securities the principal amount of which is limited by law, by voted authorization, or by other means, for purposes of determining whether the principal amount of the public securities that are issued exceeds the limitation, amounts produced by the initial purchaser through market pricing of the public securities when the public securities are resold by the initial purchaser are not considered proceeds of the issuer if the amounts constitute all or part of the compensation of the initial purchaser.

Added by Acts 2003, 78th Leg., ch. 1193, Sec. 1, eff. June 20, 2003.

SUBCHAPTER C. FINANCIAL ASPECTS OF PUBLIC SECURITY

Sec. 1201.041. PUBLIC SECURITY AS NEGOTIABLE INSTRUMENT AND INVESTMENT SECURITY. A public security is:

(1) a negotiable instrument;

(2) an investment security to which Chapter 8, Business & Commerce Code, applies; and

(3) a legal and authorized investment for:

(A) an insurance company;

(B) a fiduciary or trustee; or

(C) a sinking fund of a municipality or other political subdivision or public agency of this state.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.042. USE OF CERTAIN PROCEEDS. (a) An issuer may use the proceeds of a public security issued to finance the acquisition, construction, or improvement of a project or facility to:

(1) pay interest on the public security while the project or facility is being acquired, constructed, or improved and for the year after it is acquired, constructed, or improved;

(2) operate and maintain the project or facility during the estimated period of acquisition, construction, or improvement of the project or facility and for one year after it is acquired, constructed, or improved;

(3) finance other funds relating to the public security, including debt service reserve and contingency; and

(4) pay the cost or expense of the issuance of the public security.

(b) To the extent and in the manner provided in a public security authorization, until the proceeds from a public security described by Subsection (a) are needed the proceeds may be:

(1) placed on time deposit; or

(2) invested in an obligation authorized for the investment of money of the issuer.

(c) Proceeds from the sale of a public security issued to finance the acquisition, construction, equipping, or furnishing of a project or facility may be used to reimburse the issuer for a cost that is:

(1) attributable to the project or facility; and

(2) paid or incurred before the date of the public security's issuance.

(d) An issuer may spend a premium received by the issuer as

part of the purchase price of public securities sold at a public or private sale:

(1) to provide for payment of debt service on the public securities sold;

(2) to contribute to an escrow established to provide for payment of debt service on obligations being refunded through the sale of the public securities;

(3) to pay the cost or expense of issuing the public securities; or

(4) to pay any other cost related to the purpose for which the public securities were issued, as specified in the public security authorization.

(e) Subsection (d)(4) does not authorize an issuer to spend money in an amount that exceeds limitations provided by other law or by the public security authorization.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 270, Sec. 1, eff. June 18, 2003.

Sec. 1201.043. USE OF INVESTMENT INCOME. An issuer authorized to invest proceeds from the sale of a public security, including by placing the proceeds on time deposit, may use money earned from the investment for the purpose for which the public security was issued.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.044. PLEDGE OR LIEN ON RESOURCES, ASSETS, OR FUND OF ISSUER. (a) A pledge or lien provided for in a public security authorization on a resource of an issuer, including revenue or income, on an asset of an issuer, or on a fund maintained by an issuer:

(1) is valid without further action by the issuer according to its terms and without being filed or recorded, except in the records of the issuer;

(2) is effective from the time of payment for and delivery of the public security until the public security is paid or payment of the public security has been provided for; and

(3) is effective as to an item on hand or later received, and the item is subject to the lien or pledge without physical delivery of the item or other act.

(b) This section does not exempt an issuer from a duty to:

(1) record a lien on real property; or

(2) submit a public security to the attorney general for approval and registration by the comptroller.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER D. CHANGE OR CONVERSION OF PUBLIC SECURITIES

Sec. 1201.061. CONVERSION, RECONVERSION, TRANSFER, OR EXCHANGE OF PUBLIC SECURITY. (a) The governing body of an issuer may:

(1) provide and covenant for:

(A) conversion of one form of a public security or an interest coupon to another form or forms; and

(B) reconversion of the public security or interest coupon to another form or forms; and

(2) provide procedures for transferring or exchanging a public security for a previously issued public security.

(b) A public security or an interest coupon may be converted, on request of a bearer or owner, in an aggregate principal amount equal to the unpaid principal amount of the public security being converted, bearing interest at the same rate or rates as the security being converted, to:

(1) a public security with interest coupons, payable to the bearer, and registrable as to principal and interest or only as to principal;

(2) a fully registered public security without interest coupons; or

(3) any other form, in any denomination.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.062. CHANGE OR CONVERSION OF PUBLIC SECURITY. If a public security authorization provides a procedure for changing or converting a public security, an additional resolution, order, or ordinance is not required to change or convert the security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.063. EXECUTION AND EXCHANGE OF NEW PUBLIC SECURITY. (a) On request of the bearer or owner of a public security, if required or necessary, an appropriate officer of the issuer shall execute and exchange an appropriate new public

security for the changed or converted public security.

(b) If a public security that is changed or converted has interest coupons, appropriate new coupons shall also be executed and exchanged.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.064. SUBMISSION OF NEW PUBLIC SECURITY TO ATTORNEY GENERAL. Except as provided by Section 1201.067, an issuer that changes or converts a public security that has been registered by the comptroller shall submit the new public security to the attorney general for approval.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.065. APPROVAL OF NEW PUBLIC SECURITY BY ATTORNEY GENERAL. The attorney general shall approve a new public security if the attorney general finds that the new public security has been printed or entered on the books of the registrar and executed and issued as provided by law and a public security authorization relating to the public security being changed or converted.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.066. REGISTRATION OF NEW PUBLIC SECURITY BY COMPTROLLER. (a) The comptroller shall register and deliver a new public security after:

(1) approval of the new public security by the attorney general; and

(2) the surrender to and the cancellation by the comptroller of each changed or converted public security.

(b) On registration the new public security is valid and incontestable for all purposes.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.

Sec. 1201.067. EXCEPTION TO APPROVAL REQUIREMENT. (a) If the duty to convert or reconvert a public security or interest coupon or to transfer or exchange a public security is imposed on a corporate trustee under a trust agreement or indenture securing the public security or on a paying agent for the public security, the attorney general is not required to approve and the comptroller is not required to register:

(1) the converted or reconverted public security or interest coupon; or

(2) the public security delivered on transfer or exchange of the previously issued public security.

(b) A converted or reconverted public security or interest coupon, or a transferred or exchanged public security, is valid and incontestable in the same manner and with the same effect as the previously issued public security.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.