

GOVERNMENT CODE

CHAPTER 1202. EXAMINATION AND REGISTRATION OF PUBLIC SECURITIES

Sec. 1202.001. DEFINITIONS. In this chapter:

(1) "Issuance" means the initial delivery by an issuer of evidence of an obligation of a public security issued by the issuer to the initial purchaser in exchange for the purchase price of the public security.

(2) "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).

(3) "Public security" means an instrument, including a bond, note, certificate of obligation, certificate of participation or other instrument evidencing a proportionate interest in payments due to be paid by an issuer, or other type of obligation that:

(A) is issued or incurred by an issuer under the issuer's borrowing power, without regard to whether it is subject to annual appropriation; and

(B) is represented by an instrument issued in bearer or registered form or is not represented by an instrument but the transfer of which is registered on books maintained for that purpose by or on behalf of the issuer.

(4) "Record of proceedings" means the record of an issuer's proceedings relating to the authorization of a public security or a credit agreement relating to a public security.

(5) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase a public security, purchase or sale agreement, interest rate swap agreement, or commitment or other agreement authorized by an issuer in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of a public security, interest on a public security, or both.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 802, Sec. 1, eff. Sept. 1, 2005.

Sec. 1202.002. AUTHORITY TO DEFINE TERMS. The attorney general may determine, by application of accepted legal principles, the meaning of a term used in this chapter, other than "issuance," "issuer," or "public security," and by rule define that term.

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

Sec. 1202.003. REVIEW AND APPROVAL OF PUBLIC SECURITIES. (a) Before the issuance of a public security, the issuer shall submit the public security and the record of proceedings to the attorney general.

(b) If the attorney general finds that the public security has been authorized to be issued in conformity with law, the attorney general shall:

(1) approve the public security; and

(2) deliver to the comptroller:

(A) a copy of the attorney general's legal opinion stating that approval; and

(B) the record of proceedings.

(c) Unless exempted by Section 1202.007, the issuance of a public security except in compliance with this chapter is prohibited.

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

Sec. 1202.004. FEE FOR EXAMINATION BY ATTORNEY GENERAL. (a) When an issuer submits a record of proceedings to the attorney general for examination and approval as provided by law, the issuer shall pay a nonrefundable examination fee to the attorney general in accordance with this section.

(b) If the issuer is issuing multiple series of a single public security issue, the issuer shall pay the fee prescribed by this section for each series.

(c) Except as provided by Subsection (d), the nonrefundable examination fee required by this section is equal to the lesser of:

(1) one-tenth of one percent of the principal amount of the public security to which the record of proceedings relates; or

(2) \$9,500.

(d) The minimum examination fee required by this section is \$750.

(e) The attorney general may adopt rules necessary to administer this section.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 802, Sec. 2, eff. Sept. 1, 2005.

Sec. 1202.005. REGISTRATION. On receipt of documents required by Section 1202.003(b)(2) from the attorney general, the comptroller shall register:

(1) the public security; and

(2) the record of proceedings.

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

Sec. 1202.006. VALIDITY AND INCONTESTABILITY. (a) A public security and any contract the proceeds of which are pledged to the payment of the public security are valid and incontestable in a court or other forum and are binding obligations for all purposes according to their terms:

(1) after the public security is approved by the attorney general and registered by the comptroller; and

(2) on issuance of the public security.

(b) In any action brought to enforce the collection of county or municipal bonds that are payable from ad valorem taxes and that have been approved by the attorney general and registered by the comptroller, the certificate of the attorney general shall be admitted as evidence of the validity of the bonds and the interest coupons pertaining to the bonds.

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

Sec. 1202.007. EXEMPTIONS; CONSTRUCTION OF EXEMPTIONS. (a) The following are exempt from the approval and registration requirements of this chapter:

(1) a public security that is:

(A) not subject to mandatory renewal or renewal at the option of any person, including the issuer, a holder, or a bearer; and

(B) payable only out of:

(i) current revenues or taxes collected in the year the public security is issued; or

(ii) the proceeds of other public securities;

(2) a certificate in evidence of benefit assessments;

(3) a certificate of obligation, including a claim or account that represents an undivided interest in a certificate of obligation, that under Subchapter C, Chapter 271, Local Government Code, an issuer is authorized to deliver to a contractor;

(4) a time warrant issued under Chapter 252 or 262, Local Government Code;

(5) a public security authorized by Chapter 1371;

(6) a lease, lease-purchase, or installment sale obligation, except as provided by other law; and

(7) a public security that by rule the attorney general exempts because it is not practical to require approval before the public security's issuance.

(b) The exemptions provided by Subsection (a) shall be narrowly construed.

(c) An issuer that issues a public security that is exempt under Subsection (a) may submit the public security to the attorney general as provided by this chapter.

Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 8.002, eff. Sept. 1, 2001.

Sec. 1202.008. COLLECTION AND REPORT OF INFORMATION ON PUBLIC SECURITIES OF POLITICAL SUBDIVISIONS. (a) In reviewing public securities under this chapter, the attorney general may collect, in the form required by the Bond Review Board, information on public securities issued by a municipal corporation or political subdivision of this state.

(b) The information must include:

(1) the terms of the public securities;

(2) the debt service payable on the public securities; and

(3) other information required by the Bond Review Board.

(c) The attorney general shall send the information to the

Bond Review Board for inclusion in the board's report of debt statistics under Section 1231.062.
Added by Acts 1999, 76th Leg., ch. 227, Sec. 1, eff. Sept. 1, 1999.