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CH. 64 PROJECT REVENUE BONDS**

**CHAPTER 64
PROJECT REVENUE BONDS**

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§ 64101. Short Title.

This Chapter may be cited as the *GEDA Project Revenue Bond Act of 1982*.

SOURCE: GC §53588, as added by P.L. 16-66.

§ 64102. Definitions.

As used in this Chapter or in any indenture entered into pursuant thereto, unless a different meaning clearly appears from the context:

(a) *Authority* means the Guam Economic Development Authority, created by P.L. 8-80, as amended, Eighth Guam Legislature.

(b) *Board* means the Board of Directors of the Guam Economic Development Authority.

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(c) *Governor* means the Governor of Guam.

(d) *Legislature* means the Legislature of Guam.

(e) *Bonds or Project Revenue Bonds* means bonds or other obligations, including loan agreements, notes, pass-through certificates, installment bonds, short-term obligations, commercial papers and such other obligations evidencing debt of the Authority, issued by the Authority pursuant to this Chapter.

(f) *Persons* means any person, including individuals, firms, partnerships, associations, societies, trusts, public or private corporations or other legal entities, including public or governmental bodies as well as natural persons. "Person" shall include the plural as well as the singular.

(g) *Cost* means:

(1) the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility, including water transmission facilities or other improvements and the cost of the purchase or acquisition of any obligations referred to in the last sentence of paragraph (h) of this Section;

(2) the cost of machinery and equipment, the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of pollution control devices, equipment or facilities;

(3) the cost of lands, rights-in-lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development deemed by the Authority to be necessary or useful and convenient for any project or in connection therewith;

(4) discount on bonds, costs of issuance of bonds, engineering and inspection costs, costs of financial, legal, professional and other estimates and advice;

(5) organization, administrative, insurance, guarantee, operating and other expenses of the Authority or any person prior to and during any acquisition or construction, and all such expenses of the authority or any person prior to and during any acquisition or construction, and all such expenses as may be

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necessary or incident to the financing, acquisition, construction or completion of any project or part thereof; and

(6) such provision for payment or security of principal of or interest on bonds (including reserve for such purposes) during or after such acquisition or construction as the Authority may determine.

(h) *Project* means:

(1)(a) acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility or other improvements, whether or not in existence or under construction;

(b) purchase and installation of equipment and machinery;

(c) acquisition and improvement of real estate and the extension or provision of utilities, access roads and other appurtenant facilities; and

(2)(a) acquisition, financing or refinancing of inventory, raw materials, supplies, work in process or stock in trade; or

(b) financing, refinancing or consolidation of secured or unsecured debt, borrowings or obligations; or

(c) provision of financing for any other expense incurred in the ordinary course of business; all of which are to be used or occupied by any person in any enterprise promoting employment, either for the manufacturing, processing or assembly of materials or products, or for research or office purposes, including but not limited to, medical and other professional facilities or for industrial, recreational, hotel or motel facilities, public utility and warehousing, or for commercial and service purposes, including but not limited to, retail outlets, retail shopping centers, restaurant and retail food outlets, and any and all other employment promoting enterprises including but not limited to, motion picture and television studios and facilities; and

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(d) acquisition of any equity interest in, including capital stock of any corporation; or any combination of the above, which the Authority determines will:

(i) tend to maintain or provide gainful employment opportunities within and for the people of the Territory, or

(ii) aid, assist and encourage the economic development and redevelopment of the Territory, or

(iii) maintain or increase the tax base of the Territory, or

(iv) maintain or diversify and expand employment promoting enterprises within the Territory.

(3) *Project* also means the purchase or other acquisition of United States Government obligations, or such other obligations as the Authority may approve, producing a yield in excess of the interest on the Bonds issued to pay the cost of such obligations.

(4) *Project* also means provision of financing for any expense incurred in the ordinary course of business, or in the acquisition of an equity interest in any corporation by private contractors conducting water production and distribution, or wastewater operations, jointly with the Guam Waterworks Authority.

(5) *Project* also means provision of financing for any expense incurred in the ordinary course of business by a Base Operating Service Contractor, or a Subcontractor, at any military base on Guam.

(i) *Revenue* means:

(1) receipts, fees, rentals or other payments to be received on account of lease, mortgage conditional sale or sale, and payments and other income derived from the lease, sale or other disposition of a project;

(2) money in such reserve and insurance funds or accounts or other funds and accounts (and income from the investment

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thereof) established in connection with the issuance of bonds or notes for a project or projects; and

(3) fees, charges or other money to be received by the Authority with respect to projects and contracts with persons.

(j) *Territory* means the territory of Guam.

SOURCE: GC §53588.01, as added by P.L. 16-66. Subsection (g) & (h) amended by P.L. 17-28. Subsection (h)(4) added by P.L. 24-295:15. Subsection (h)(5) added by P.L. 24-295:16.

§ 64103. Application for Assistance, Finding and Determination; Resolution.

A copy of any application for assistance under this Chapter received by the Authority shall be submitted to, and for the review and advice of the Administrator of the Authority. Prior to making any commitment for such assistance, the Authority shall, by resolution duly adopted, find and determine on the basis of all information reasonably available to it, that such assistance will tend to maintain or provide gainful employment for the inhabitants of the Territory, and shall serve a public purpose by contributing to the prosperity, health and general welfare of the inhabitants of the Territory and will tend to aid and assist in the economic growth, development or redevelopment of the Territory and such finding and determination shall be conclusive for all purposes of this Chapter.

SOURCE: GC §53588.02, as added by P.L. 16-66.

§ 64104. Economic Development Project Fund.

(a) The Authority shall establish and maintain a special fund called the "Economic Development Project Fund" into which shall be deposited such money:

(1) as shall be appropriated by the Legislature for the purpose of such Fund;

(2) if the Authority so determines in any resolution authorizing any particular bonds, as shall be received by the Authority from the sale of such bonds as provided by law;

(3) as shall be received by the Authority from the repayment of loans made pursuant to this Chapter;

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(4) any other money or funds of the Authority which it determines to deposit therein. Money at any time in the Economic Development Project Fund may be used by the Authority for any purpose of this Chapter, including but not limited to payment of administrative expenses incurred by the Authority in the performance of its duties, subject only to any agreements with the holders of particular bonds.

(b) The Authority may, in any resolution authorizing the issuance of bonds, create or authorize the creation within the Economic Development Project Fund of special funds to be held in pledge or otherwise for payment or redemption of such bonds, reserves or other purposes and to covenant as to use and disposition of the money held in such funds.

(c) Money at any time in the Economic Development Project Fund may be used to guarantee loans made to project applicants by persons, provided that the Authority determines that there is a reasonable prospect for repayment of such loans.

(d) Money at any time in the Economic Development Project Fund may be invested in any direct obligations of, or obligations as to which the principal and interest thereof is guaranteed by the United States of America or such other obligations as the Authority may approve.

SOURCE: GC §53588.03, as added by P.L. 16-66.

§ 64105. Bonds; Power to Issue, Purposes.

For the purpose of providing funds:

(a) to pay or cause to be paid all or any part of the cost of any project or projects;

(b) to make loans to any person in accordance with the provisions of this Chapter; and

(c) for the funding or refunding of any bonds, the Authority shall have power to authorize or provide for the issuance of bonds pursuant to this Chapter.

SOURCE: GC §53588.04, as added by P.L. 16-66.

§ 64106. Bonds; Issuance; Authorization by Resolution; Terms.

(a) By resolution approved by the Governor, the Authority shall have the power to incur indebtedness, borrow money and issue its bonds

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for the purposes stated in § 64105 of this Chapter. Except as may otherwise be expressly provided by the Authority, every issue of its bonds shall be special obligations of the Authority payable solely from the revenues or money of the Authority specified in the resolution providing for its issuance, subject only to any agreement with the holders of particular bonds pledging any particular revenues or money. Such bonds shall bear such date or dates, mature at such time or times, bear interest at a rate or rates, be in such denominations, be in form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority be executed in such manner, payable from such source and have such terms of redemption (with or without premium) as such resolution may provide. Bonds of the Authority may be sold by the Authority to public or private sale at such price or prices and under such conditions and terms as the Authority shall determine.

(b) Every bond shall recite that it is not a general indebtedness of the Authority, but rather is a special obligation of the Authority payable solely from the revenues specified in the Resolution providing for its issuance. Every bond shall recite that it is not public indebtedness of the Territory as that term is used in §11 of the Organic Act of Guam.

SOURCE: GC §53588.05, as added by P.L. 16-66.

§ 64107. Bonds; Negotiability.

Any provision of any law to the contrary notwithstanding, any bond or other obligation issued pursuant to this Chapter shall be fully negotiable for all purposes, and each holder or owner of such a bond or other obligation, or of any coupon appurtenant thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that such bond, obligation or coupon is and shall be fully negotiable for all purposes, subject in each case to any provisions for registration in the bond, obligation or coupon or in the resolution or indenture authorizing its issuance.

SOURCE: GC §53588.06, as added by P.L. 16-66.

§ 64108. Covenants With Bondholders.

In order to secure the payment of such bonds and in addition to its other powers, the Authority shall have power by resolution to covenant and agree with the several holders of such bonds, as to:

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(a) The custody, security, use, expenditure or application of the proceeds of the bonds;

(b) The use, regulation, operation, maintenance, insurance or disposition of all or any part of any project or projects;

(c) Payment of the principal of or interest on the bonds, or any other obligations, and the sources and methods thereof, the rank or priority of any such bonds or obligations as to any lien or security, or the acceleration of the maturity of any such bonds or obligations;

(d) The use and disposition of any money of the Authority, including all revenues or other money derived or to be derived from any project or projects;

(e) Pledging, setting aside, depositing or trusteeing all or any part of the proceeds, revenues or other money of the Authority to secure the payment of the principal of or interest on the bonds or any other obligations and the power and duties of any trustee with regard thereto;

(f) The setting aside out of the proceeds, revenues or other money of the Authority of reserves and sinking funds, and the source, custody, security, regulation application and disposition thereof;

(g) The rents, fees or other charges for the use of any project or projects, including any parts thereof theretofore constructed or acquired and any parts, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same;

(h) Limitation on the issuance of additional bonds or any other obligations or on the incurrence of indebtedness of the Authority;

(i) Vesting in a trustee or trustees, fiscal or escrow agent or agents within or without the Territory such property, rights, powers and duties in trust as the Authority may determine and limiting the rights, duties and powers of such trustee or agent;

(j) Payment of costs or expenses incident to the enforcement of the bonds or of the provisions of the resolution or of any covenant or contract with the holders of the bonds;

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(k) The procedure, if any, by which the terms of any covenant or contract with, or duty to, the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given or evidenced; or

(l) Any other matter or course of conduct which, by recital in the resolution is declared to further secure the payment of the principal of or interest on the bonds.

All such provisions of the resolution and all such covenants and agreements shall constitute valid and legally binding contracts between the Authority and the several holders of the bonds, regardless of the time of issuance of such bonds, and shall be enforceable by any such holder or holders by appropriate action, suit or proceeding in any court of competent jurisdiction, or by proceeding in lieu of prerogative writ.

SOURCE: GC §53588.07, as added by P.L. 16-66.

§ 64108.1. Legislative Approval.

In the case of project revenue bonds issued for the purpose of providing funds to pay or cause to be paid all or any part of the cost of any project as defined in the last sentence of § 64102(h) of this Title, any moneys received by the Authority after the payment or provision for payment of the principal of and interest on such bonds and the costs and expenses of the issuance of such bonds shall be deposited by the Authority in a separate fund and the moneys in such fund shall not be committed, expended or encumbered without approval of the Legislature.

SOURCE: Added by P.L. 17-39.

§ 64109. Pledge of Revenues; Lien.

Any pledge of revenues or other money made by the Authority shall be valid and binding from the time when the pledge is made; the revenues or other money so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be filed or recorded except in the records of the Authority.

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SOURCE: GC §53588.08, as added by P.L. 16-66.

§ 64110. Nonliability of Members of the Authority or of the Territory.

Neither the members of the Authority nor any person executing bonds issued pursuant to this Chapter shall be liable personally on the bonds by reason of the issuance thereof. Bonds or other obligations issued by the Authority pursuant to this Chapter shall not be in any way a debt or liability of the Territory or of any political subdivision thereof, either legal, moral or otherwise, and nothing in this Chapter contained shall be construed to authorize the Authority to incur any indebtedness on behalf of or in any way to obligate the Territory and all such bonds shall contain on the face thereof a statement to that effect.

SOURCE: GC §53588.09, as added by P.L. 16-66.

§ 64111. Tax Exemptions; Payments in Lieu of Taxes.

The exercise of the powers granted by this Chapter shall constitute the performance of an essential governmental function and the Authority shall not be required to pay any taxes or assessments upon or in respect of a project, or any property of money of the Authority, and the Authority, its projects, property and money and any bonds and notes issued under the provisions of this Chapter, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind, provided, that any person occupying a project whether as lessee, vendee or otherwise, shall, as long as title thereto shall remain in the Authority, pay a payment in lieu of taxes which shall equal the taxes on real and personal property, including water and sewer service charges or assessments, which such person would have been required to pay had it been the owner of such property during the period for which such payment is made and neither the Authority nor its projects, properties, money or bonds and notes shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. If and to the extent the proceedings under which the bonds authorized to be issued under the provisions of this Chapter so provide, the Authority may agree to cooperate with such person occupying a project, in connection with any administrative or judicial proceedings for determining the validity or amount of such payments and may agree to appoint or designate and reserve the right and for such person to take all action which the Authority may lawfully take

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in respect of such payments and all matters relating thereto, provided such person shall bear and pay all costs and expenses of the Authority thereby incurred at the request of such person or by reason of any such action taken by such person in behalf of the Authority. If such person occupying a project has paid the amounts in lieu of taxes required by this Section to be paid, such person shall not be required to pay any such taxes as to which payment in lieu thereof has been made to the Territory, any other statute to the contrary notwithstanding. Bonds issued pursuant to the provisions of this Chapter and the interest income therefrom are exempt from taxation in accordance with the provision of the last sentence of §11 of the Organic Act of Guam (§1423a, Title 48, U.S. Code).

SOURCE: GC §53588.10, as added by P.L. 16-66.

§ 64112. Bonds as Legal Investments and as Security for Performance of any Act.

Notwithstanding any restriction contained in any other law, the Territory, its officers, boards, commissions, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the Territory, may properly and legally invest any sinking funds, money or other funds, including capital, belonging to them or within their contract in any bonds or notes issued by the Authority under the provisions of this Chapter; and the bonds and notes are made securities which may properly and legally be deposited with and received for the performance of any act whenever any evidence of indebtedness of the Territory for any purpose for which the deposit of bonds or other obligations of the Territory is now or may hereafter be authorized by law.

SOURCE: GC §53588.11, as added by P.L. 16-66.

§ 64113. Sureties or Collateral for Deposits of Authority.

All banks, bankers, trust companies, savings banks, investment companies, savings and loan associations and other financial institutions

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or persons carrying on a banking or financial business are authorized to give to the Authority a good and sufficient undertaking with such sureties as shall be approved by the Authority to the effect that such bank or financial institution as hereinbefore described shall faithfully keep and pay over to the order of or upon the warrant of the Authority or its authorized agent all such funds as may be deposited with it by the Authority and agreed interest thereon, at such times or upon such demands as may be agreed with the Authority or in lieu of such sureties, deposit with the Authority or its authorized agent or any trustee therefor or for the holders of any bonds, as collateral, such securities as the Authority may approve. The deposits of the Authority may be evidenced by a depository collateral agreement in such form and upon such terms and conditions as may be agreed upon by the Authority and such bank or banking institution.

SOURCE: GC §53588.12, as added by P.L. 16-66.

§ 64114. Inapplicability of Other Laws.

The sections of this Chapter shall be deemed to provide a complete method for the doing of things authorized thereby and shall be regarded as not in conflict with, or as restrictive of powers conferred by any other laws, and the provisions of this Chapter shall be complete authority for the issuance of bonds by the Authority and the provisions of any other laws shall not apply to the issuance of such bonds.

SOURCE: GC §53588.13, as added by P.L. 16-66.

§ 64115. Severability.

If any section, part, phrase or provision of this Chapter or the application thereof to any person, project or circumstances, be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section part, phrase, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not effect or impair the validity of the remainder of this Chapter or the application thereof to other persons, projects or circumstances.

SOURCE: GC §53588.14, as added by P.L. 16-66.

§ 64116. Property of Authority; Exemption From Execution or Other Judicial Process.

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All property of the Authority shall be exempt from levy and sale by virtue of an execution and no execution or other judicial process shall issue against the same nor shall any judgment against the Authority be a charge or lien upon its property; provided, that nothing herein contained shall apply to or limit the rights of the holder of any bonds to pursue any remedy for the enforcement of any pledge of lien given by the Authority on or with respect to any project or any revenues or other money.

SOURCE: GC §53588.15, as added by P.L. 16-66.
