

**12 GCA AUTONOMOUS AGENCIES
CH. 66 MORTGAGE REVENUE BONDS**

**CHAPTER 66
MORTGAGE REVENUE BONDS**

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§ 66101. Short Title.

This Chapter may be cited as the *Guam Economic Development Authority Mortgage Revenue Bond Act of 1971*.

SOURCE: GC §53607, as added by P.L. 11-18.

§ 66102. Definitions.

The following terms, wherever used or referred to in this Chapter, or in any indenture entered into pursuant thereto, shall have the following meanings, respectively, unless a different meaning appears from the context:

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

(b) *Board* means the Board of Directors of the Authority.

(c) *Bonds or revenue bonds* means the indenture providing for the issuance of revenue bonds pursuant to this Chapter.

(d) *Bondholder or holder of bonds* or any similar terms means:

(i) the bearer of any outstanding bond registered to bearer or not registered; or

(ii) registered owner of any outstanding bond.

(e) *Governmental instrumentality* means the United States, the territory of Guam, or any public corporation, political subdivision, state, county, city, district or any instrumentality of either the United States or this Territory.

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

(g) *Gross revenues* mean all of the revenues prior to deducting operational costs.

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(h) *Indenture* means a resolution or trust agreement adopted or approved by a majority of all members of the Board providing for the issuance of bonds pursuant to this Chapter.

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

(j) *Net revenues* means the gross revenues after having deducted therefrom the operational costs.

(k) *Operational costs* mean all costs of administration of the mortgages, contracts, indentures, revenues and funds for which bonds are issued.

(l) *Organic Act* means the Organic Act of Guam as amended and in effect on the effective date of this Chapter. (64 Stat. 384, Title 43, §1421 et seq., U.S. Code.)

(m) *Person* includes any individual, firm, corporation, association, copartnership, trust, receiver, trustee or conservator for any thereof, and also includes the United States, the territory of Guam, a public corporation, political subdivision, city, county, state, district or any instrumentality of the United States or of the Territory.

(n) *Revenue* means and includes:

(i) All income, receipts and receivables derived by the Authority from mortgages acquired by it;

(ii) All income, receipts and receivables derived by the Authority from contracts entered into by it;

(iii) All moneys in redemption, sinking and reserve funds or other funds created to secure the bonds and to provide for the payment of the principal of and the interest and premiums thereon;

(iv) All contributions and appropriations made to the Authority, to the extent not limited in the making thereof; and

(v) All earnings on any invested funds of the Authority, excepting as limited in contributions and appropriations.

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

(p) *Trustee* means the trustee appointed pursuant to §2512.

(q) *United States* means the United States of America.

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SOURCE: GC §53607.01, as added by P.L. 11-18; Subsections (h) and (p) amended by P.L. 15-147.

§ 66103. Powers of the Board; Incurring Indebtedness and Issuing Bonds; Special Obligations and Not Indebtedness; Pledge, Lien, Priority and Trust Fund.

(a) The Board has power and is hereby authorized, in addition to all other powers conferred upon it by law to exercise any or all of the powers granted to the Board by this Chapter. The Board may incur indebtedness and issue bonds to represent same for the purposes of and within the limitations provided in this Chapter.

(b) All indebtedness incurred and bonds issued by the Board are special obligations of the Authority, and are secured by a pledge of and charge upon and shall be payable, as to the principal thereof, interest thereon, and any premiums upon the redemption of any thereof, solely from and secured by a lien upon the revenues and such other funds as are described in the indenture.

(c) The indenture may provide that the bonds are secured by a pledge upon the gross revenues or the net revenues, for the making of other funds available therefor, and for the priority of the bonds. Nothing herein or in an indenture shall prevent the issuance of bonds subordinate to the lien of other bonds specified in an indenture.

(d) The revenues and other funds provided in the indenture shall constitute a trust fund for the security and payment of the bonds and the interest and premiums thereon.

SOURCE: GC §53607.02, added by P.L. 11-18; amended by P.L. 11-34; Subsection (a) further amended by P.L. 17-39.

§ 66104. Amounts and Rates of Charges; Refunds.

Payments and charges shall be fixed to yield annual revenues not less than the aggregate of the annual payments to the bond, sinking, reserve and other funds provided in an indenture for the bonds and operational costs. Provided, however, the total payments and charges shall not exceed one and three quarters percent (1 3/4%) over interest on the bonds.

SOURCE: GC §53607.03, as added by P.L. 11-18; amended by P.L. 15-141.

§ 66105. Maximum Amount, Purpose of and Term of Bonds.

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Before issuing any bond or bonds, the Board shall, by indenture approved by the Governor, declare the purpose for which the proceeds of the bonds proposed to be issued shall be expended and shall specify the maximum amount of bonds to be issued or sold for such purpose, and their maximum term which shall not exceed the life of the Authority. Bonds shall not be issued or sold for such purpose in an amount or for a term exceeding that specified.

SOURCE: GC §53607.04, as added by P.L. 11-18.

§ 66106. Form of and Recitals in Bonds.

(a) All bonds shall be issued in the name of the Agency.

(b) The Board shall determine the time, form and manner of issuance of bonds.

(c) 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 indenture providing for its issuance. Every bond shall recite that it is not public indebtedness of the territory of Guam as that term is used in § 11 of the Organic Act.

(d) Every bond shall recite that it is issued pursuant to an indenture of the Board, describing it by title and date. By such recital, all of the provisions of the indenture and this Chapter are incorporated into the bonds and coupons.

(e) Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all the provisions of the indenture and of this Chapter and is bound thereby.

SOURCE: GC §53607.05 as added by P.L. 11-18; amended by P.L. 15-147.

§ 66107. Indenture Providing Terms and Conditions of Bonds.

The indentures shall provide for the date or dates of issuances and maturities, interest rates, denominations, form, registration, transfer and interchange of any bonds and coupons to be issued, and the terms and conditions on which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded.

SOURCE: GC §53607.06, as added by P.L. 11-18.

§ 66108. Issues, Series and Divisions of Bonds.

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An indenture may provide for one or several issues of bonds and that bonds may be issued in series or that any issue may be divided into one or more divisions with different maturities or dates of issue, different rates of interest, or different terms and conditions for the bonds of the several series or divisions. It is not necessary that all bonds of the same authorized issue be of the same kind or character, have the same security, or be of the same interest rate, but the terms thereof shall in each case be provided for by the Board, with the approval of the Governor, at or prior to the issue thereof.

SOURCE: GC §53607.07, as added by P.L. 11-18; amended by P.L. 11-34.

§ 66109. Interest on Bonds.

(a) Bonds shall bear interest payable annually or semi-annually or in part annually and in part semi-annually, except that the first coupon on any bond may be payable twelve (12) months or any number of months less than twelve (12) after the date of such bond.

(b) If, upon presentation at maturity, or if redeemable and duly called for redemption, payment of the bonds or any interest coupon thereof is not made in accordance with the indenture of issuance, said bonds or coupons, or both, shall continue to bear interest at the rate stated in the bond until fully paid.

SOURCE: GC §53607.08, as added by P.L. 11-18; Subsection (a) amended by P.L. 15-141.

§ 66110. Issuance and Interchange of Coupon and Registered Bonds.

An indenture may provide that bonds may be issued as coupon bonds or as registered bonds and for the interchange of coupon bonds for the registered bonds and registered bonds for coupon bonds, and may provide that bonds shall be registered as to principal only, or as to both principal and interest, or otherwise as the Board may determine.

SOURCE: GC §53607.09, as added by P.L. 11-18.

§ 66111. Redemption of Bonds Prior to Maturity.

An indenture may provide that bonds may be redeemed prior to maturity upon such terms, conditions and upon such notice as are stated in the indenture and upon payment of such premium as may be fixed by the indenture. No bond is subject to call or redemption prior to its fixed maturity date unless the right to exercise such call is expressly stated on the face of the bond.

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SOURCE: GC §53607.10, as added by P.L. 11-18.

§ 66112. Places and Manner of Payment.

An indenture may provide for the payment of the principal and interest of bonds at one or more places in the Territory or in the United States and in any specified coin or currency of the United States.

SOURCE: §53607.11 GC, as added by P.L. 11-18; amended by P.L. 15-147.

§ 66113. Covenants and Agreements That May be Contained in Indenture.

An indenture may include any and all such covenants and agreements on the part of Authority as are authorized by this Chapter or as the Board deems necessary or advisable for the better security of the bonds issued thereunder, including, without limiting the generality of the foregoing, any one or more of the following provisions:

(a) That payments of principal and interest of bonds shall be secured by all or by part of revenue;

(b) Creating one or more funds or accounts into which all or any part of the revenue shall be deposited (i) for payment of the principal of and interest on bonds at or prior to maturity, or (ii) for reserve or sinking funds for the further security of bonds. All moneys in any such fund or account shall be paid out by the trustee to pay the principal of and interest and premiums on the bonds when due or when redeemed or purchased prior to maturity, as provided in any indenture.

(c) Requiring the Authority to cause to be paid punctually the principal of an interest and premiums on the bonds on their due dates from funds in the account or accounts provided therefore.

(d) Requiring the Board to preserve and protect the security of the bonds and the rights of the holders thereof and to warrant and defend such rights.

(e) Requiring the Board and the trustee to hold or cause to be held in trust the revenues or any part of revenues pledged to the payment of such bonds and the interest and premiums thereon, and any fund or account created therefor, and to apply and cause to be applied such revenues or any part of revenues only as provided in the indenture.

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(f) To invest all or any part of such revenues pending such application in such securities and subject to such limitations as are specified in the indenture.

(g) Against entering into any agreement which would impair the security of the bonds, the revenues or the mortgages or other contract obligations acquired by it and from which the revenues are derived.

(h) Against mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon or disposing of any of the revenues, mortgages or contract obligations from which the revenues are derived, detrimental to the security of the bonds.

(i) Specifying the events of default and the terms and conditions upon which any or all of the bonds may be declared due and payable prior to maturity, and the terms and conditions upon which such declaration and its consequences may be waived.

(j) For the rights, liabilities, powers and duties arising upon the Agency's breach of any covenants, conditions or obligations.

(k) For vesting in the trustee the right to or duty to enforce covenants to secure payment of or in relation to the bonds and the trustee's powers, duties and limitations of its liabilities, and for the conditions upon and manner in which a substitute trustee may be appointed.

(l) For the terms upon which the bondholders or a percentage of them may enforce covenants and duties prescribed in the indenture and this Chapter.

(m) The procedure by which the terms and conditions of the indenture or the bonds may be subsequently amended or modified with the consent of the Board, subject to the approval of the Governor, and the vote or written consent of the holders of a specified principal amount or specified proportion of the bonds issued and outstanding, including provisions for meetings of bondholders and for the manner in which the consent of the bondholders may be given.

(n) The effect of any modification or amendment upon the rights of the holders of all or a specified portion of any outstanding

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bonds and interest coupons pertaining thereto, whether attached thereto or detached therefrom.

(o) With respect to a modification or amendment of an indenture that bonds held by the Authority, the Territory, the United States or any instrumentality of either thereof (including every public corporation, political subdivision, city, county, district, board, agency or instrumentality of any kind or class) shall not be counted as outstanding bonds, or be entitled to vote or assent, but shall, nevertheless, be subject to any such modification or amendment.

(p) For the purchase out of any available funds of any outstanding bonds or other obligations, and the price at and manner in which the purchase may be made.

(q) That the Governor and the Director of Revenue and Taxation and all other officers and agencies of the Territory shall (i) be bound by all of the covenants and agreements on the part of the Board set forth in such indenture, and (ii) perform all such covenants and agreements which, under the Organic Act or any provision of this Division or any other statute of the Territory, can be taken for or on behalf or in lieu of the Board only by the Governor and the Director of Revenue and Taxation or such other officer or agency.

(r) Capitalizing any working capital fund or interest or account or contingency fund or account.

(s) Provision for the refunding of all or any bonds authorized by such indenture, subject to the provisions and limitations as herein described.

(t) Such other acts and matters as may be necessary or convenient or desirable in order to better secure the bonds or to make the bonds more marketable.

SOURCE: GC §53607.12, as added by P.L. 11-18; Subsections (b) and (c) amended by P.L. 15-147.

§ 66114. Bonds Negotiable Except When Registered.

All bonds issued under the provisions of this Chapter are negotiable instruments transferable by physical delivery, except when registered in the name of a registered owner.

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SOURCE: GC §53607.13, as added by P.L. 11-18.

§ 66115. Trustee for Board and Holders of Bonds.

(a) The authority shall appoint a bank or trust company to act as trustee for the Board and the holders of the bonds issued hereunder, and the Board may authorize the trustee to act on behalf of the holders of the bonds, or any stated percentage thereof, and to exercise and prosecute on behalf of the holders of the bonds such rights and remedies as may be available to the holders.

(b) The indenture shall provide (i) for the deposit of all revenues with the trustee and for the holding thereof by the trustee in one or more separate funds or accounts in the Guam Economic Development Authority Mortgage Revenue Fund and (ii) for the transfer to such trustee of such portions of revenues as are provided as security for the bonds and for the holding thereof by such trustee in one or more separate funds or accounts in said Revenue Fund. All money in each such fund or account shall be disbursed only as provided herein and in the indenture.

SOURCE: GC §53607.14, as added by P.L. 11-18; amended by P.L. 15-147.

§ 66116. Duties and Powers of Trustee.

The duties and powers of the trustee may be prescribed in an indenture with respect to the issuance, authentication, sale and delivery of the bonds provided for therein and with respect to the payment of principal of and interest on such bonds, the redemption thereof, the registration and discharge from registration thereof, and the management of any and all funds provided as security therefor.

SOURCE: GC §53607.15, as added by P.L. 11-18.

§ 66117. Guam Economic Development Authority Mortgage Fund.

The proceeds from the sale of all bonds authorized by this Chapter shall be deposited forthwith to the credit of a fund to be designated as the Guam Economic Development Authority Mortgage Fund, which fund is hereby created, and shall be expended for the purposes authorized by this Chapter and the indenture, subject to any limitations provided therein.

SOURCE: GC §53607.16, as added by P.L. 11-18; amended by P.L. 11-34.

§ 66118. Use of Balances of Funds and of Surplus Money in Funds.

After payment of all operating costs and expenses and after providing for all charges required or authorized to be expended from any

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fund, the Board may, subject to legislative appropriation, use any surplus remaining in any fund or account for such purposes as the Board may determine, subject to any and all limitations or restriction contained in any indenture.

After all bonds shall have been fully paid and discharged or provisions for their payment or discharge having been irrevocably made, any moneys in any fund or account created by this Chapter or by any indenture created hereunder shall, subject to the limitation and restrictions in any indenture, be transferred to the Authority to be used only in accordance with legislative appropriations.

SOURCE: GC §53607.17, as added by P.L. 11-18.

§ 66119. Preparation of Bonds and Documents.

The Authority shall prepare or procure the requisite number of suitable bonds and appurtenant coupons of the denominations and in accordance with the specifications contained in the indenture. The Authority shall prepare or procure the printing, engrossing or publication of any indentures, notices, contracts, agreements or other documents required or convenient for or pertaining to the issuance or sale of bonds.

SOURCE: GC §53607.18, as added by P.L. 11-18.

§ 66120. Execution and Authentication of Bonds.

An indenture may provide for the execution and authentication of bonds and coupons by the manual, lithographed or printed facsimile signature of any one or more officers of the Board and by additional authentication by endorsement by the manual signature or a signature stamp of any agent designated as trustee, and for a like impressing of the seal of the Authority. If any officer or agent whose signature, countersignature or endorsement appears upon the bonds or coupons ceases to be an officer or agent before the delivery of the bonds or coupons his signature, countersignature or endorsement is nevertheless valid and of the same force and effect as if he had remained such officer or agent until the delivery of the bonds and coupons.

SOURCE: GC §53607.19, as added by P.L. 11-18.

§ 66121. Sale of Bonds; Maximum Discount.

Bonds authorized to be issued under the Chapter shall be sold by the Board for cash, in accordance with the provisions of a resolution providing for such sale adopted by the Board and approved by the Governor.

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Such resolution by the Board may provide that the bonds shall be sold at either public or private sale upon such notice as shall be specified in such resolution, may fix terms and conditions for the sale or other disposition of the bonds and may provide that the bonds shall be sold at less than their par or face value, except that the discount on any bonds so sold shall not exceed five percent (5%) of the par value thereof without the written consent of the Governor. Before any bonds are delivered to the purchaser thereof, all coupons, if any, which have matured on or before the date of such delivery shall be detached therefrom and cancelled.

SOURCE: GC §53607.20, as added by P.L. 11-18; amended by P.L. 11-34.

§ 66122. Payment of Bonds From Sources Other Than Revenues.

The Board may use and expend all or any part of any funds other than revenues or proceeds of any property owned by it, whether received by gift, appropriation or otherwise (if not restricted as to the use of such funds or proceeds of property by the terms of gift or trust or provision of law) for the payment of bonds issued pursuant to the provisions of this Chapter and of interest due thereon.

SOURCE: GC §53607.21, as added by P.L. 11-18.

§ 66123. Payments Which May be Made Out of Proceeds of Sale of Bonds.

The proceeds of sale of any bonds may be expended for any one or more of the following purposes, all as provided in the indenture relating to such bonds:

- (a) For the acquisition of notes of any person secured by a mortgage described in §2103(i) of this Title to accomplish any lawful purpose of the Authority;
- (b) For the payment of legal and fiscal fees and costs relating to the issuance and sale of the bonds;
- (c) For payment of any other costs or expenses relating to the authorization, issuance or sale of bonds;
- (d) For deposit in any one or more reserve funds or accounts or in any working capital fund or account or contingency fund or account relating to mortgage acquisition;
- (e) For payment of interest on bonds during the period of actual mortgage acquisition;

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(f) For payment of trustees' fees and costs and fees incurred by it;

(g) For payment of the principal of and interest on any indebtedness incurred pursuant to this Chapter that is by its terms repayable from the proceeds of sale of bonds.

SOURCE: GC §53607.22 as added by P.L. 11-18; amended by P.L. 11-34, Subsection (a) further amended by P.L. 17-39.

§ 66124. Temporary Bonds.

An indenture may provide that pending the actual issuance or delivery of definitive bonds, the Board may issue temporary or interim bonds, certificates or receipts of any denomination whatsoever, and with or without coupons, to be exchanged for definitive bonds when ready for delivery.

SOURCE: GC §53607.23, as added by P.L. 11-18.

§ 66125. Replacement of Bonds or Coupons.

The indenture may provide for the replacement of lost, destroyed or mutilated bonds or coupons.

SOURCE: GC §53607.24, as added by P.L. 11-18.

§ 66126. Tax Exemptions.

Bonds issued pursuant to the provisions of this Chapter and the interest or income therefrom are exempt from taxation in accordance with the provisions of the last sentence of § 11 of the Organic Act. (§1423a, Title 48, U.S. Code.)

SOURCE: GC §53607.25, as added by P.L. 11-18.

§ 66127. Bonds as Legal Investments and as Security for Performance of Any Act.

Notwithstanding any other provision of law, all bonds sold and delivered pursuant to the provisions of this Chapter are legal investments for all trust funds and for the funds of all banks, both commercial and savings, and may be deposited as security for the performance of any act whenever any evidence of indebtedness of the Territory may be so deposited, and may also be used as security for the deposit of public moneys in banks in the Territory.

SOURCE: GC §53607.26, as added by P.L. 11-18.

§ 66128. Refunding Bonds.

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The Board, with the approval of the Governor, and the consent of the Legislature by resolution, may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds issued under the provisions of this Chapter. All provisions of this Chapter applicable to the issuance of bonds are applicable to the funding or refunding bonds and to the issuance, sale or exchange thereof.

SOURCE: GC §53607.27, as added by P.L. 11-18.

§ 66129. Principal Amount in Which Refunding Bonds May be Issued.

Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be refunded thereby, and in addition for the payment of all expenses incident to the calling, purchasing, retiring or paying of such outstanding bonds, and the issuance of such refunding bonds. These expenses include (i) the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold, (ii) any amount necessary to be made available for the payment of the interest upon such refunding bonds from the date of sale thereof to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to the call thereof or agreement with the holders thereof, and (iii) the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing thereon to the date of the call or retirement.

SOURCE: GC §53607.28, as added by P.L. 11-18.

§ 66130. Title in Authority Subject to Trust in Favor of Bondholders.

Title to the Guam Economic Development Authority Mortgage Fund and the revenues and income therefrom is in the Authority. The title to any moneys, revenues, bond reserve funds and other funds and accounts created by this Chapter or any indenture and the income thereof pledged to the payment of the principal or interest of any bonds is subject to any trusts declared in favor of the bondholders.

SOURCE: GC §53607.29, as added by P.L. 11-18; amended by P.L. 11-34.

§ 66131. Use of Other Funds for Mortgage Acquisition.

In addition to the proceeds of any bonds issued and sold pursuant to this Chapter, the Board may use for the acquisition of mortgages any available money or funds of the Authority and any money or funds made

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available to the Authority by any person or provided from any sources which may be expended for the accomplishing of the purposes set forth in this Chapter or in this Division.

SOURCE: GC §53607.30, as added by P.L. 11-18.

§ 66132. Insurance.

The Board may insure against loss of revenues from any cause whatsoever, the proceeds of which shall be used solely for the payment or security of bonds and the interest thereon. An indenture may provide for the carrying of such insurance or any other insurance in such amount and of such character as shall be specified in such indenture, for the payment of the premiums thereon and for the disposition of all proceeds received from any such insurance. At the option of the Board, or as provided in any indenture, any insurance may be provided by funded reserves or any other means.

SOURCE: GC §53607.31, as added by P.L. 11-18.

§ 66133. Right of Bondholders to Bring Action.

The holder of any bond issued pursuant to this Chapter may by accounting, injunction, mandamus or other appropriate proceeding require and compel the performance of any of the duties imposed upon or assumed by the Authority, the Board, the Governor, the trustee or any other officer or agency of the Authority or the Board of the Territory, or any employee thereof, or the collection, deposit, investment, application and disbursement of all revenues or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds issued pursuant to this Chapter. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds issued pursuant to this Chapter. All remedies are alternative and cumulative and the use of one shall not exclude any other remedy.

SOURCE: GC §53607.32, as added by P.L. 11-18.

§ 66134. Appropriation of Money in Funds.

Except where specific appropriation is required by this Chapter, all money in the funds and accounts created by this Chapter or any indenture is hereby appropriated for expenditure in carrying out the purposes herein and therein provided.

SOURCE: GC §53607.33, as added by P.L. 11-18.

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§ 66135. Validity of Bonds, Recital or Issuance Pursuant to Chapter.

Any indenture authorizing bonds may provide that the bonds shall recite that they are issued pursuant to this Chapter and bonds containing such recital are conclusively deemed valid and issued in conformity with this Chapter.

SOURCE: GC §53607.34, as added by P.L. 11-34.

§ 66136. Publication of Notice of Adoption of Resolution; Statute of Limitations on Actions Involving Bonds.

Within fifteen (15) days of the adoption of a resolution by the Board constituting an indenture providing for the issuance of bonds under this Chapter, the Board shall publish notice of adoption of the resolution, stating the aggregate principal amount of bonds proposed to be issued, once in a newspaper of general circulation in Guam. No action attacking, questioning or affecting in any way the validity of any bonds issued under such a resolution, or seeking to enjoin the issuance of such bonds, may be commenced by any person more than sixty (60) days after the date of publication of the notice of adoption of such resolution.

SOURCE: GC §53607.35, as added by P.L. 11-34.
