

REFERENCE TITLE: industrial development bonds; preapproval; repeal

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2040

Introduced by
Representative Bliss

AN ACT

AMENDING SECTIONS 35-726, 41-3953 AND 41-3957, ARIZONA REVISED STATUTES;
RELATING TO INDUSTRIAL DEVELOPMENT BONDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-726, Arizona Revised Statutes, is amended to
3 read:

4 35-726. Approval of general plan before issuing bonds; fee

5 A. Bonds shall not be issued by a corporation for the purpose of
6 financing single family dwelling units pursuant to section 35-706,
7 subsection A, paragraph 11 or 12 without approval of a general plan by its
8 governing body. The corporation shall submit a general plan for each
9 respective series of bonds to its governing body. The general plan shall
10 briefly describe:

- 11 1. The amount of the proposed bonds.
- 12 2. The maximum term of the bonds.
- 13 3. The maximum interest rate on the bonds.
- 14 4. The need for the bond issue.
- 15 5. The terms and conditions for originating or purchasing mortgage
16 loans or making loans to lenders.
- 17 6. The area in which the single family dwelling units to be
18 financed may be located.

19 7. The proposed fees, charges and expenditures to be paid for
20 originators, servicers, trustees, custodians, mortgage administrators and
21 others.

22 8. All insurance requirements with respect to mortgage loans,
23 mortgaged property, mortgagors, originators, servicers and trustees.

24 9. The anticipated date of issuance of the bonds.

25 B. The governing body shall review general plans submitted by
26 corporations pursuant to subsection A of this section. In reviewing the
27 plans the governing body shall consider:

28 1. Whether the amount of the mortgage monies proposed to be made
29 available is reasonably related to the demand for the mortgage monies.

30 2. Whether the terms of the general plan are justifiable in the
31 context of the transaction and in the context of similar transactions.

32 3. Whether the fees, costs and expenditures as set forth in the
33 general plan are reasonably related to the services provided.

34 4. For projects of owner-occupied single family dwelling units to
35 be occupied by persons of low and moderate income and financed pursuant to
36 section 35-706, subsection A, paragraphs 11 and 12, whether the proposed
37 mortgage monies to be made available will fulfill a public purpose by
38 providing housing for persons of low and moderate income or by encouraging
39 single family developments in all participating jurisdictions, including
40 such jurisdictions' slum or blighted areas as defined in section 36-1471.

41 C. The governing body shall approve or disapprove the general plan
42 not later than thirty days after receipt of the plan. If the governing
43 body does not act on the general plan within thirty days after the date of
44 receipt, the general plan shall be deemed approved. If a general plan is
45 approved, the corporation may issue the series of bonds covered by the

1 general plan with a total principal amount, maximum term and maximum
2 interest rate ~~no~~ NOT greater than that which is set forth in the general
3 plan. The origination and servicing fees pertaining to mortgage loans to
4 be financed in accordance with the general plan shall not exceed those
5 proposed in the general plan. The corporation may vary other items in the
6 general plan on a finding that the variation is minor and that the
7 variations will not impair the security for the bonds or substantially
8 increase the cost of financing the single family dwelling units and the
9 findings of the corporation shall be conclusive.

10 D. The governing body may charge any corporation submitting a
11 general plan for review a fee of not to exceed ~~ten thousand dollars~~
12 \$10,000 together with reimbursement of its actual costs and expenses
13 incurred in reviewing the general plan.

14 ~~E. Except for a corporation approved by the Arizona finance
15 authority or a governing body of a county or a municipality having a
16 population of more than seven percent of the total state population, a
17 corporation shall not issue bonds, other than refunding bonds the proceeds
18 of which are used exclusively to refund a prior bond issue, to finance a
19 multifamily residential rental project, sanitarium, clinic, medical hotel,
20 rest home, nursing home, skilled nursing facility or life care facility as
21 prescribed in section 20-1801, unless the department approves the project.
22 The department, with or without a hearing, shall review the project and
23 consider at least the following factors:~~

24 ~~1. The demand for and feasibility of the project in the area set
25 forth in the application to the corporation.~~

26 ~~2. The terms and conditions of the proposed bonds.~~

27 ~~3. The proposed use of bond proceeds.~~

28 ~~4. The benefit to the public if the project provides rental housing
29 for persons of low and moderate income or encourages rental housing in
30 slum or blighted areas as defined in section 36-1471.~~

31 ~~5. If the project consists of a nursing home, or a life care
32 facility as prescribed in section 20-1801, the benefit to the public of
33 the project, including the proposed rent, fees and other charges of the
34 project in relation to the level of services to be offered.~~

35 ~~F. Subsection E of this section does not apply to bonds issued to
36 finance:~~

37 ~~1. A sanitarium, clinic, medical hotel, rest home, nursing home,
38 skilled nursing facility, or life care facility as prescribed in section
39 20-1801, if the facility is to be owned and operated by this state or a
40 political subdivision or agency of this state.~~

41 ~~2. A nursing home, rest home, skilled nursing facility, life care
42 facility or senior residential facility providing on-site medical and
43 support services if the facility is owned and operated by a nonprofit
44 organization that is exempt from taxation under section 501(c)(3) of the
45 United States internal revenue code.~~

1 ~~G. Except for a corporation that is exempt under subsection E of~~
2 ~~this section, the department with or without a hearing shall approve or~~
3 ~~disapprove the project not later than thirty days after receipt of the~~
4 ~~request for approval. If the project is approved the corporation may~~
5 ~~issue the bonds described in the approval request with the total principal~~
6 ~~amount, maximum term and maximum interest rate no greater than as set~~
7 ~~forth in the request. The department shall charge each applicant~~
8 ~~submitting a project approval request pursuant to this subsection a fee of~~
9 ~~not to exceed five thousand dollars together with reimbursement of its~~
10 ~~actual costs and expenses incurred in reviewing the project. The~~
11 ~~department shall remit the fees to the state treasurer for deposit in the~~
12 ~~Arizona department of housing program fund established by section 41-3957.~~

13 ~~H. For the purposes of this section, "department" means the Arizona~~
14 ~~department of housing.~~

15 Sec. 2. Section 41-3953, Arizona Revised Statutes, is amended to
16 read:

17 41-3953. Department powers and duties

18 A. The department is responsible for establishing policies,
19 procedures and programs that the department is authorized to conduct to
20 address the affordable housing issues confronting this state, including
21 housing issues of low income families, moderate income families, housing
22 affordability, special needs populations and decaying housing
23 stock. Among other things, the department shall provide to qualified
24 housing participants and political subdivisions of this state financial,
25 advisory, consultative, planning, training and educational assistance for
26 the development of safe, decent and affordable housing, including housing
27 for low and moderate income households. The department is responsible for
28 maintaining and enforcing standards of quality and safety for manufactured
29 homes, mobile homes and factory-built buildings.

30 B. Under the direction of the director, the department shall:

31 1. Establish guidelines applicable to the programs and activities
32 of the department for the construction and financing of affordable housing
33 and housing for low and moderate income households in this state. These
34 guidelines shall meet or exceed all applicable state or local building and
35 health and safety code requirements and, if applicable, the national
36 manufactured home construction and safety standards act of 1974 and title
37 VI of the housing and community development act of 1974 (P.L. 93-383, as
38 amended by P.L. 95-128, 96-153 and ~~96-339~~ 96-399). ~~Guidelines established~~
39 ~~pursuant to this paragraph do not apply to the department's activities~~
40 ~~prescribed in section 35-726, subsection E.~~

41 2. Accept and allocate any monies as from time to time may be
42 appropriated by the legislature for the purposes set forth in this
43 article.

44 3. Perform other duties necessary to administer this chapter.

- 1 4. Perform the duties prescribed in ~~sections 35-726 and~~ SECTION
2 35-728.
- 3 5. Stimulate and encourage all local, state, regional and federal
4 governmental agencies and all private persons and enterprises that have
5 similar and related objectives and purposes, cooperate with the agencies,
6 persons and enterprises and correlate department plans, programs and
7 operations with those of the agencies, persons and enterprises.
- 8 6. Conduct research on its own initiative or at the request of the
9 governor, the legislature or state or local agencies pertaining to any
10 department objectives.
- 11 7. Provide information and advice on request of any local, state or
12 federal agencies, private persons and business enterprises on matters
13 within the scope of department activities.
- 14 8. Consult with and make recommendations to the governor and the
15 legislature on all matters concerning department objectives.
- 16 9. Make annual reports to the governor and the legislature on its
17 activities, including the geographic location of its activities, its
18 finances and the scope of its operations.
- 19 10. Maintain and enforce standards of quality and safety for
20 manufactured homes, mobile homes and factory-built buildings and enforce
21 rules adopted by the board pursuant to section 41-4010.
- 22 C. Under the direction of the director, the department may:
- 23 1. Assist in securing construction and mortgage financing from
24 public and private sector sources.
- 25 2. Assist mortgage financing programs established by industrial
26 development authorities and political subdivisions of this state.
- 27 3. Assist in the acquisition and use of federal housing assistance
28 programs pertinent to enhance the economic feasibility of a proposed
29 residential development.
- 30 4. Assist in the compliance of a proposed residential development
31 with applicable federal, state and local codes and ordinances.
- 32 5. Prepare and publish planning and development guidelines for the
33 establishment and delivery of housing assistance programs.
- 34 6. Contract with a federal agency to carry out financial work on
35 the federal agency's behalf and accept payment for the work.
- 36 7. Subcontract for the financial work prescribed in paragraph 6 of
37 this subsection and make payments for that subcontracted work based on the
38 expectation that the federal agency will pay for that work.
- 39 8. Accept payment from a federal agency for work prescribed in
40 paragraph 6 of this subsection and deposit those payments in the Arizona
41 department of housing program fund established by section 41-3957.
- 42 9. Contract for the services of outside advisers, consultants and
43 aides reasonably necessary or desirable to enable the department to
44 adequately perform its duties.

1 10. Contract for and incur obligations reasonably necessary or
2 desirable within the general scope of department activities and operations
3 to enable the department to adequately perform its duties.

4 11. Use any media of communication, publication and exhibition in
5 the dissemination of information, advertising and publicity in any field
6 of its purposes, objectives or duties.

7 12. Adopt rules deemed necessary or desirable to govern its
8 procedures and business.

9 13. Contract with other agencies in furtherance of any department
10 program.

11 14. Use monies, facilities or services to provide contributions
12 under federal or other programs that further the objectives and programs
13 of the department.

14 15. Accept gifts, grants, matching monies or direct payments from
15 public or private agencies or private persons and enterprises for the
16 conduct of programs that are consistent with the general purposes and
17 objectives of this article and deposit these monies in the Arizona
18 department of housing program fund established by section 41-3957.

19 16. Establish and collect fees and receive reimbursement of costs
20 in connection with any programs or duties performed by the department and
21 deposit the fees and cost reimbursements in the Arizona department of
22 housing program fund established by section 41-3957.

23 17. Provide staff support to the board of manufactured housing.

24 D. For the purposes of this section, the department is exempt from
25 chapter 23 of this title.

26 E. The department is the designated state public housing agency as
27 defined in the United States housing act of 1937 (42 United States Code
28 sections 1401 through 1440) for the purpose of accepting federal housing
29 assistance monies and may participate in the housing assistance payments
30 program. Federal monies may be secured for all areas of this state
31 subject only to the limitations prescribed in subsection F of this
32 section.

33 F. For areas of this state where an existing public housing
34 authority has not been established pursuant to section 36-1404, subsection
35 A, the department acting as a public housing agency may undertake all
36 activities under the section 8 tenant-based rental housing assistance
37 payment program, except that the department shall not undertake a section
38 8 tenant-based rental housing assistance payment program within the
39 boundaries of a city, town or county unless authorized by resolution of
40 the governing body of the city, town or county. If the department accepts
41 monies for a section 8 tenant-based rental housing assistance payment
42 program for areas of this state where an existing public housing authority
43 has been established pursuant to section 36-1404, subsection A, the
44 department shall only accept and secure federal monies to provide housing
45 for the seriously mentally ill or other populations with disabilities.

1 The department may accept and secure federal monies for undertaking all
2 contract administrator activities authorized under a section 8
3 project-based rental housing assistance payment program in all areas of
4 this state and this participation does not require the authorization of
5 any local governing body.

6 G. The department shall not itself directly own, construct, operate
7 or rehabilitate any housing units, except as may be necessary to protect
8 the department's collateral or security interest arising out of any
9 department programs.

10 H. Notwithstanding any other provision of this section, the
11 department may obligate monies as loans or grants applicable to programs
12 and activities of the department for the purpose of providing housing
13 opportunities for low or moderate income households or for housing
14 affordability or to prevent or combat decaying housing stock. Unless
15 otherwise required by federal or state law, any loan repayments shall be
16 deposited in the Arizona department of housing program fund established by
17 section 41-3957.

18 I. For any construction project financed by the department pursuant
19 to subsection C of this section, except for contract administration
20 activities in connection with the project-based section 8 program, the
21 department shall notify a city, town, county or tribal government that a
22 project is planned for its jurisdiction and, before proceeding, shall seek
23 comment from the governing body of the city, town, county or tribal
24 government or an official authorized by the governing body of the city,
25 town, county or tribal government. The department shall not interfere
26 with or attempt to override the local jurisdiction's planning, zoning or
27 land use regulations.

28 J. The department has the administrative responsibility through its
29 hearing officer function concerning alleged violations of the Arizona
30 mobile home parks residential landlord and tenant act under title 33,
31 chapter 11.

32 K. The ARIZONA department OF HOUSING shall act consistently with
33 the minimum standards of the United States department of housing and urban
34 development so as to be designated the ~~state inspector~~ for
35 manufactured homes and related industries. The ARIZONA department OF
36 HOUSING shall implement all existing laws and regulations established by
37 the federal government, its agencies and this state for that purpose.

38 Sec. 3. Section 41-3957, Arizona Revised Statutes, is amended to
39 read:

40 41-3957. Arizona department of housing program fund; purpose

41 A. The Arizona department of housing program fund is established,
42 and the department shall administer the fund. The fund consists of monies
43 deposited pursuant to sections ~~35-726~~, 35-728 and 41-3953, other monies
44 directed to be deposited in the fund and investment earnings on monies in
45 the fund. On notice from the department, the state treasurer shall invest

1 and divest monies in the fund as provided by section 35-313, and monies
2 earned from investment shall be credited to the fund. All monies in the
3 fund are designated as special state funds for all purposes of section
4 35-142.

5 B. Monies in the fund are continuously appropriated. The
6 department shall use monies in the fund to pay the costs of administering
7 the programs from which the deposits are received and for other department
8 programs.

9 C. Monies in the fund are exempt from the provisions of section
10 35-190 relating to lapsing of appropriations.