

No. 234

AN ACT

SB 1610

Authorizing cities of the first class to borrow money for revenue producing projects; authorizing the issuance, sale and exchange of revenue bonds and notes, revenue refunding bonds and notes, and general obligation bonds or notes to refund revenue bonds or notes; excluding the obligations of revenue bonds and notes from the computation of debt limitations; creating a perfected security interest in project revenues; requiring the establishment of sinking funds; authorizing the investment of moneys and the securing of deposits by banks, trust companies, building and loan associations; exempting revenue bonds and notes from taxation, providing remedies upon default, and conferring jurisdiction in the courts of common pleas with respect to proceedings relating to such bonds and notes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short Title.—This act shall be known and may be cited as “The First Class City Revenue Bond Act.”

Section 2. Definitions.—The following words and phrases whenever used in this act shall have the following meanings unless the context clearly indicates otherwise:

“Bond” or “revenue bond” means a special obligation bond or promissory note authorized by this act, executed by the city, and evidencing an obligation payable solely from moneys derived directly or indirectly from project revenues and for the payment of which neither the general credit nor the taxing power of the city is pledged or applied.

“Bond ordinance” means the ordinance or ordinances enacted in accordance with section 7 of this act.

“City” means a city of the first class.

“County” means the county of the Commonwealth in which a city of the first class is located.

“Project” means any buildings, structures, facilities or improvements of a public nature, the related land, rights or leasehold estates in land, and the related furnishings, machinery, apparatus or equipment of a capital nature, which the city is authorized to own, construct, acquire, improve, lease as lessor or as lessee, operate, maintain or support; any item of construction, acquisition or extraordinary maintenance or repair thereof; the city’s share of the cost of any of the foregoing or any combination thereof undertaken jointly with others; and any combination of any or all of the foregoing or any undivided portion of the cost of any of the foregoing or of any such combination as may be designated as a project by the city for financing purposes and in respect of which the city may reasonably be expected to receive project revenues.

“Project costs” or “cost” of a project means all costs of construction or acquisition of a project with proper allowance for contingencies

determined in accordance with generally accepted municipal accounting principles and may include, but is not limited to costs of preliminary studies, surveys, planning, testing and design work; fees and expenses of engineers, architects, financial advisors, attorneys and other experts engaged in connection with the project; financing costs including bond discount, interest on money borrowed to finance the project if capitalized and operating capital during construction and for one year after completion of the project; capitalized reserves, the repayment of temporary loans or the payment of bond anticipation notes made or issued in connection with the project, and any of the foregoing incurred or paid prior to as well as after the issuance of revenue bonds.

“Project revenues” mean, in respect of a project, all rents, rates, tolls or charges imposed or charged for the use or product of or services generated from the project to the ultimate users or customers thereof, all payments under bulk contracts with municipalities, government instrumentalities or other bulk users, all subsidies or payments payable by Federal, State or local governments or governmental agencies on account of the cost of operation of, or the payment of the principal of or interest on moneys borrowed to finance the cost of the project, and may include reasonable estimates of all interest on and profits from investment of moneys derived from the foregoing. For the purpose of calculating projected annual project revenues for each year: (i) only those rents, rates, tolls or charges to the general public shall be included which, under an appropriate ordinance, resolution or rate schedule duly adopted by the city or by the department or agency of the city responsible for the operation of the project, and in full force and effect as of the date of calculation, will be reasonably collectible in such year under the schedule or rate of rents, rates, tolls or charges which are or will be in effect during such year in accordance with such ordinance, resolution or rate schedule or which may be imposed by administrative action without further legislation; (ii) only those bulk payments shall be included which may be imposed under subsisting legislation or which are provided under subsisting agreements or which are the subject of an expression of intent by the prospective obligor deemed reliable by the chief fiscal officer of the city; and (iii) only those governmental subsidies or payments shall be included which, under subsisting legislation, are subject to reasonably precise calculation and, unless stated in such legislation or authorization to be of an annually or more frequently recurring nature, are payable in such year.

Section 3. Purpose of Act.—It is the intent of this act to provide a comprehensive authorization for the issuance of special obligations represented by revenue bonds or notes of a city which shall be payable solely from project revenues and which shall be excluded in ascertaining the debt-incurring capacity of the city. Ordinances required to be enacted under this act shall be enacted in accordance with the procedural laws applicable to the city. In all other respects, the provisions of this act shall

be complete and full authority, any other act, general or special, to the contrary notwithstanding, governing all matters, procedural or substantive, required or permitted hereby and no requirements of other acts or portions of acts need be observed except to the extent that specific reference is made herein to such acts or portions of acts.

Section 4. Authority to Issue Revenue Bonds.—Cities are hereby authorized to issue revenue bonds for the purpose of financing or refunding the cost of a project or of two or more projects combined to be secured by and payable solely from project revenues in accordance with and subject to the provisions and limitations of this act. Said bonds shall not pledge the credit or taxing power nor create any debt or charge against the tax or general revenues of the city nor create any lien against any property of the city other than the project revenues pledged therefor.

Section 5. Form and Terms of Revenue Bonds.—All revenue bonds shall contain a brief statement of the project revenues pledged as security therefor and the priority or priorities, if any, in the application of such revenues and shall contain a covenant of the city to pay from the pledged project revenues on the respective due dates the amounts required to pay the interest on and the principal of the bonds.

Revenue bonds may be issued in such denominations, in coupon form payable to bearer or registrable as to principal, or in fully registered form, with such provision for exchangeability or interchangeability; shall bear such identifying designation or title (which shall include the word "revenue"); shall be dated; shall bear such rate or rates of interest, including supplemental contingent or variable interest, payable on such dates; may be subject to such provisions for redemption in whole or in part or both, at such prices, at such times and places; shall be stated to mature on such date or dates (not exceeding fifty years from the date of issue) in such amounts; shall be payable as to principal or interest or both at such places by the city or by such paying agent or fiscal agent of the city; may provide for the payment by the city of such tax or taxes on the bonds (but only out of the pledged project revenues); may set forth such provisions for the establishment and maintenance of such reserves or special funds or make reference to provisions or covenants with respect thereto in the bond ordinance; and may contain such other terms, provisions, statements or covenants, not inconsistent with this act, as the city may determine. Pending the preparation of definitive bonds, temporary bonds or interim receipts may be issued in such form and containing such terms and such provisions for exchange for definitive bonds as the city may determine. The determination of the foregoing forms, terms and provisions of such bonds may be made by the bond ordinance or other generally applicable ordinance of the city or may be made by such officer or officers of the city as may be designated for such purpose by the bond ordinance or other generally applicable ordinance of the city.

Section 6. Execution of Revenue Bonds and Notes.—The act of March

24, 1949 (P.L.312), entitled "An act to authorize any city of the first class to use a facsimile signature of the city controller in lieu of his manual signature and a facsimile of the seal of the city upon any bonds issued by it; and declaring that signatures and facsimile signatures of former officers shall be valid and sufficient," shall apply to the execution of, and to the validity and sufficiency of signatures on, all bonds and notes issued under this act.

Section 7. Contents of Bond Ordinance Authorizing Revenue Bonds.—(a) The ordinance or ordinances of the city authorizing the issuance of revenue bonds or any series thereof shall contain in substance:

(1) A brief description of the project or projects in respect of which the bonds are to be issued.

(2) A statement of the aggregate principal amount of bonds or of the series thereof to be issued.

(3) A pledge of and grant of a security interest in a specified part or all of the project revenues from the project or projects in respect of which the bonds are to be issued and a statement of the priority or priorities, if any, in the application of such project revenues to operation and maintenance costs, to the payment of capital additions or improvements, to the establishment and maintenance of reserves, if any, and to the payment of the principal of and interest on outstanding bonds, on the bonds to be issued and on any future additional bonds.

(4) A covenant with the obligees of the bonds to pay from the pledged project revenues on the respective due dates the amounts required to pay the interest on and principal of the bonds as specified in such bonds.

(5) A finding based on the report of the chief fiscal officer of the city required by section 8 of this act that the pledged project revenues will be sufficient to pay any prior parity charges thereon and to pay also the principal of and interest on the bonds.

(6) Determinations of the form, terms and provisions of the bonds permitted by section 5 of this act and of the method of sale, the terms upon which or the prices for which the bonds are to be sold or exchanged including, if applicable, competitive bidding specifications or such thereof as the city may wish to make by the bond ordinance and, to the extent not so made and unless authorization shall have previously been granted by ordinance, authority to a designated officer or officers of the city to make such determinations.

(7) Provisions for a sinking fund complying with section 9 of this act.

The foregoing requirements in respect of any issue of revenue bonds or series thereof, may be contained in a single ordinance or in successive ordinances enacted, in either case, prior to the issuance of such bonds or of such series thereof.

(b) Subject to currently applicable constitutional provisions prohibiting the delegation to any special commission, private corporation, or association of any power to make, supervise or interfere with any

improvement, money, property or effects of the city or perform any municipal function whatsoever and subject to other applicable provisions of this act, the bond ordinance may also contain:

(1) Covenants with the obligees of the bonds or other provisions governing: (i) the segregation, custody, investment and disbursement of construction funds; (ii) the imposition, collection, custody, investment and disbursement of project revenues; (iii) the operation, maintenance, replacement and insurance of the project or projects; (iv) the establishment, segregation, maintenance, custody, investment and disbursement of sinking and other special funds, accounts or reserves; (v) the issuance of additional priority or parity bonds; (vi) the redemption, with or without premium, of bonds and the requirements and effect of the call for redemption; (vii) the rights and remedies of obligees upon default; and (viii) such other provisions as the city may deem necessary or desirable in the interest of or for the protection of the city or of such obligees.

(2) Agreements with any bank, bank and trust company or trust company, appointing the same as paying agent or fiscal agent and containing appropriate provisions governing the deposit, custody and payment of moneys, the maintenance of accounts and records, the authentication, registration, transfer and exchange of bonds, the redemption or purchase of bonds, the payment of principal of, interest on and redemption premium, if any, of the bonds, the cremation or other disposal of cancelled bonds and coupons, the rights, duties, privileges and immunities of the paying agent or fiscal agent, and such other matters as are customary or appropriate.

The covenants, terms and provisions of the bond ordinance made for the benefit of obligees of the bonds shall constitute contractual obligations of the city subject to modification (with such limitations as may be specified in the bond ordinance) by agreement with a majority in interest of the holders or registered owners of the bonds or such larger portion thereof as may be provided in the bond ordinance.

Section 8. Financial Report and Legal Opinion.—(a) Prior to the enactment of the bond ordinance finally authorizing the issuance of any non-debt revenue bonds, the chief fiscal officer of the city shall file with the council of the city:

(1) A financial report signed by the chief fiscal officer supported by appropriate schedules and summaries, containing: (i) a brief description of the project or projects for which the bonds or notes are to be issued; (ii) a statement identifying the sources from which the pledged revenues are to be derived; (iii) a statement that, on the basis of actual, if appropriate, and estimated future annual financial operations of the project or projects from which the pledged project revenues are to be derived, the project or projects will, in the opinion of the chief fiscal officer, yield pledged project revenues over the amortization period of the bonds or notes sufficient to meet the payment or deposit requirements of (A) all expenses

of operation, maintenance, repair and replacement of the project, (B) all reserve or special funds required to be established out of such revenues, (C) the principal of and interest on all bonds, as the same shall become due and payable, for which such project revenues are pledged, and (D) any State taxes assumed by the city to be paid on such bonds; and also to provide such surplus requirements as may be fixed by the bond ordinance or prior bond ordinance authorizing any bonds previously issued and at the time outstanding; and (iv) a statement that the project revenues forming the basis for the statement required by clause (iii) comply with the requirements of the definition of project revenues contained in section 2 of this act.

The statements and opinion of the chief fiscal officer contained in such financial report with respect to expenses and revenues may be based upon statements or data contained in, and appropriate schedules and summaries may be incorporated by reference to, the final report of the head of the department or agency of the city having jurisdiction over the project involved or, as appropriate, certificates of any registered engineer, registered architect, certified public accountant or other qualified expert who shall have been engaged to compile the relevant data, in which case such final report or certificates shall be attached to the report of the chief fiscal officer.

(b) An opinion of the city solicitor to the effect that, under the bond ordinance as proposed, the holders or registered owners of the bonds to be issued will have no claim upon the taxing power or general revenues of the city nor any lien upon any of the property of the city other than the project revenues pledged therefor.

Section 9. Sinking Fund, Investments, Security for Deposits.—The bond ordinance shall provide for the establishment and maintenance of a sinking fund or shall designate a previously established sinking fund for the payment of the interest on the bonds as the same shall become due and payable and the principal of the bonds at stated maturity or upon mandatory or optional redemption and for the payment of State taxes, if any, assumed by the city to be paid on the bonds. Such sinking fund may be an aggregate fund for some or all issues or series of bonds, in which case each issue or series shall participate proportionately therein, or a separate sinking fund may be established for any particular issues or series. Payments into the sinking fund in respect of bonds issued for construction or acquisition of a project shall commence not later than one year subsequent to the completion or acquisition of such project as estimated by the head of the department or agency of the city having jurisdiction and in all other cases payments into the sinking fund shall commence not later than one year subsequent to the date of the bonds. Such payments shall be made in annual or more frequent installments and shall be sufficient in amount to pay, or accumulate for payment, all interest on and principal of the bonds for which such fund is established and all State taxes,

if any, assumed by the city to be paid on such bonds, as and when the same shall become due and payable and disbursements shall be made therefrom and applied to the payment of such principal, interest and taxes, if any, at the times and in the amounts all as shall be set forth in the bond ordinance.

Each such sinking fund and any other funds or accounts established by the bond ordinance shall be managed by the chief fiscal officer in accordance with the covenants of the city contained in the bond ordinance and, unless stricter requirements are imposed by the bond ordinance, the moneys therein to the extent not currently required shall be invested from time to time in such securities as may at the time of investment be authorized by law for investment of moneys of the Commonwealth or any of its departments, agencies or instrumentalities or shall be deposited in interest-bearing deposits with any bank, bank and trust company or trust company or in shares of building and loan associations of Federal savings and loan associations. All deposits, including interest-bearing deposits, of moneys in the sinking or other funds, to the extent that the same are not insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or other federally authorized corporation or agency, shall be secured either as required by the act of April 29, 1929 (P.L.865), entitled "An act requiring depositories of city funds in cities of the first class to give bond," or as authorized by law for the securing of public moneys, or in accordance with such stricter requirements as the bond ordinance shall provide. Each bank, bank and trust company, trust company, and building and loan association is hereby authorized to so secure such deposits. All moneys deposited in the sinking fund are hereby subjected to a perfected security interest for the bonds for which the fund is established until properly disbursed.

Interest and profits received from investments and deposits of moneys in the sinking fund and other funds shall be added to such fund and may be applied in reduction of or to complete required deposits. Excess moneys in the sinking fund, including moneys for the payment of the interest, principal or premium of bonds unclaimed after the due date for two years, and excess moneys in other funds shall be repaid to the city for its general purposes or applied as may be provided in the bond ordinance, but such repayment of unclaimed moneys shall not discharge such claim which shall continue subject to applicable law.

Section 10. Revenue Refunding Bonds or Notes.—Any city may at any time and from time to time issue its revenue refunding bonds for the purpose of refunding any outstanding bonds issued under this act or issued for a purpose for which revenue bonds are issuable under this act whether issued before or after the effective date of this act, upon compliance with the provisions of this act applicable to an original issue of revenue bonds whether or not the bonds to be refunded shall have matured or are about

to mature, and whether or not the principal of or interest on the refunding bonds shall exceed the principal of or interest on the bonds to be refunded, but the last stated maturity date of the refunding bonds shall be no later than ten years after the last stated maturity of the bonds to be refunded. Such revenue refunding bonds may be exchanged for outstanding bonds to be refunded or may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. If bonds, whether revenue or general obligation, of two or more issues or series are to be refunded with one issue or series of revenue refunding bonds, the limitation of this section with respect to the latest date of maturity of the refunding bonds will be met if the serial maturity dates or scheduled mandatory redemption dates of the refunding bonds may be stated, pro forma, in blocks of maturities or mandatory redemption dates applicable to the refunding of each such issue or series to be refunded which are within the limitation and if the proceeds of each such block will be sufficient together with other available funds and together with earnings thereon to the respective dates fixed for redemption or payment to effect the redemption or payment of the applicable bonds to be refunded.

For the purpose of ascertaining the sufficiency of revenues for the purpose of clause (5) of subsection (a) of section 7 of this act and of clause (iii) of subsection (a) of section 8 of this act and for the purpose of determining the outstanding net debt of the city if general obligation bonds of the city are refunded hereunder, the principal of and interest to payment or redemption date and redemption premium payable, if any, in respect of the bonds to be refunded shall no longer be deemed to be outstanding obligations of the city:

(1) When the city shall have deposited with a bank, bank and trust company, or trust company funds (i) which are represented by demand deposits, interest-bearing time accounts, savings deposits or certificates of deposit, or noncallable obligations of the United States of America or of the Commonwealth of Pennsylvania, in each case subject to withdrawal, maturing or payable at the option of the holder, at or prior to the dates needed for disbursement, provided such deposits or accounts, whether deposited by the city or by such depository, are insured or secured as public deposits with securities having at all times a market value exclusive of accrued interest equal to the principal amount thereof, (ii) which are irrevocably pledged for the payment of such obligations and (iii) which are sufficient, together with the interest to disbursement date payable with respect thereto, if also pledged, to meet such obligations in full; and

(2) When the city shall have duly called the bonds for redemption and shall have met all notice requirements or given irrevocable instructions to give such notice. In the case of redemption of bonds prior to maturity, interest shall cease to accrue from and after the date fixed for redemption upon compliance with the foregoing requirements.

Section 11. Sale or Exchange of Revenue Bonds.—Revenue bonds

may be sold by the city at public, private or invited sale or may be exchanged upon such terms not inconsistent with this act and at such prices as the city may determine in accordance with section 7 of this act.

Section 12. Filing of Transcript of Proceedings.—Prior to the delivery of revenue bonds, the city shall file with the court of common pleas of the county a transcript of the proceedings authorizing their issuance which shall include a certified copy of the bond ordinance or ordinances, an executed or certified copy of the report of the chief fiscal officer required by subsection (a) of section 8 of this act and an executed copy of the opinion of the city solicitor required by subsection (b) of section 8 of this act.

Section 13. Actions Concerning the Validity of Proceedings Authorizing the Issuance of Revenue Bonds.—From and after the enactment of the final bond ordinance and on and before the twentieth day following the date of recording of the transcript of the proceedings provided for in section 12 of this act, the city or any resident or taxpayer of the city may bring an action asserting the validity or invalidity of such proceedings in the court of common pleas of the county which is hereby given jurisdiction to hear and determine all such actions subject to appeal in accordance with the Appellate Court Jurisdiction Act of 1970: Provided, however, That the party appealing must give all other parties written notice of his intent to appeal within ten days of the entry of the order of the court.

Section 14. Finality of Proceedings.—When a transcript of the proceedings has been recorded as provided in section 12 of this act and no action has been brought asserting the invalidity thereof within the time specified in section 13 of this act or when the proceedings have been approved finally by the court, then, notwithstanding any defect or error in such proceedings, the validity of the proceedings, the right of the city to issue the bonds authorized thereby, the lawful nature of the purpose for which the bonds are issued, and the validity and enforceability of the bonds in accordance with their terms shall not thereafter be inquired into judicially, in equity, at law or by civil or criminal proceedings, or otherwise, either directly or collaterally except where a constitutional question is involved: Provided, however, That nothing herein contained shall entitle any person knowingly participating in the sale or issuance of bonds hereunder in violation of this act to enforce the obligations of such bonds or shall relieve such person from civil or criminal liability for such participation or for wilfully false or fraudulent statements made in the documents constituting the transcript of proceedings or in the bonds.

Section 15. Lost, Stolen, Destroyed or Mutilated Bonds or Notes.—If any temporary or definitive bond or note issued under this act shall become mutilated or be destroyed, stolen or lost, the city shall execute and any sinking fund depository, fiscal agent or trustee for bondholders shall, if required, authenticate and deliver a new bond or note with appropriate

coupons attached in the case of a bond or note in coupon form, of like series and principal amount as the bond or note attached coupons, if any, so mutilated, destroyed, stolen or lost, upon surrender and cancellation of such mutilated bond or note and attached coupons, if any, or in lieu of and in substitution for the bond or note and coupons, if any, destroyed, stolen or lost, upon filing with the fiscal agent or trustee, evidence satisfactory to it, that such bond or note and attached coupons, if any, have been destroyed, stolen or lost and proof of ownership thereof and upon furnishing of satisfactory indemnity and complying with such other reasonable regulations as the city shall prescribe, and paying any reasonable expenses, including counsel fees, as the city or the fiscal agent or trustee may incur. Mutilated bonds or notes and appurtenant coupons, if any, surrendered shall be cancelled.

Section 16. Bond Anticipation Notes.—The city may issue its revenue bond anticipation notes which shall be payable by exchange for, or out of the proceeds of the sale of, a designated series of revenue bonds referred to in the bond anticipation notes. The reference to the revenue bonds shall specify a maximum rate of interest to be borne by said bonds and may provide that said bonds shall be offered for sale but if no proposals shall be received, the sole remedy of the holders of the revenue bond anticipation notes shall be either to accept the bonds at the specified maximum interest rate, or to extend the maturity of the revenue bond anticipation notes for one or more specified additional periods of not less than six months each during which additional offers of the bonds may be made.

Section 17. Negotiable Qualities of Revenue Bonds and Notes.—(a) Revenue bonds issued pursuant to this act shall have all the qualities and incidents of securities under Article 8 of the Uniform Commercial Code and shall be negotiable instruments.

(b) Revenue notes issued pursuant to this act shall have all the qualities and incidents of commercial paper under Article 3 of the Uniform Commercial Code and shall be negotiable instruments notwithstanding any references therein to the terms of the bond ordinance or any variations in the rate of interest provided in such note, or any limitations upon the funds from which or limitations as to the bonds with which the notes may be paid, or any restriction upon the remedies of the holders.

Section 18. Revenue Bonds Do Not Constitute Debt of the City.—The obligations of revenue bonds or notes issued pursuant to this act shall not constitute debt of a city within the meaning of the Constitution of Pennsylvania; such bonds and sinking funds for the payment of the principal thereof or the interest thereon shall not be included in any computation of the net indebtedness of the city; and such bonds may be issued without limitation as to the principal amount thereof.

Section 19. Exemption of Revenue Bonds and Notes from Taxation in

Pennsylvania.—The Commonwealth hereby pledges to and agrees with any person, firm, or corporation or Federal agency subscribing to or acquiring any revenue bonds or notes issued by a city pursuant to the provisions of this act, that such bonds or notes, their transfer and the income therefrom including any gains made on the sale thereof (other than underwriting profits in a distribution thereof) shall at all times be free from taxation within and by the Commonwealth of Pennsylvania, but this exemption shall not extend to underwriting profits or to gift, succession or inheritance taxes or any other taxes not levied directly on the bonds or notes, the receipt of the income therefrom, or the realization of gains on the sale thereof.

Section 20. Remedies of Bondholders.—(a) If a city fails or neglects to pay or cause to be paid the principal of or the interest on any revenue bond as the same shall become due, whether at the stated maturity or upon call for prior redemption, the holder thereof shall, subject to subsection (b) of this section, and to any reasonable limitations upon individual rights of action properly provided in the bond ordinance, have the right to recover the amount due in an action in assumpsit in the court of common pleas of the county, but the judgment shall be limited to payment out of the assessments, revenues, rates, rents, tolls and charges from the project which are pledged for the payment of such bonds.

(b) Notwithstanding any provision in the bonds or in the bond ordinance, if a city shall default in the payment of the principal or of the interest on any series of bonds after the same shall become due, whether at the stated maturity or upon call for prior redemption, and such default shall continue for thirty days, or if a city shall fail to comply with any provision of the bonds, or in any bond ordinance, the holders of twenty-five per cent in aggregate principal amount of the bonds of such series then outstanding, by an instrument or instruments filed in the office for the recording of deeds in the county, signed and acknowledged in the same manner as a deed to be recorded, may appoint a trustee, who may be the sinking fund depository, to represent the holders of all such bonds, and such representation shall be exclusive for the purposes herein provided.

Such trustee may, and upon written request of the holders of twenty-five per cent in principal amount of such bonds then outstanding and upon being furnished with indemnity satisfactory to it, shall in its own name, take one or more of the actions set forth below and the taking of such actions shall preclude similar action whether previously or subsequently initiated by individual holders of bonds:

(1) By mandamus or other suit, action or proceeding at law or in equity enforce all rights of the holders of the bonds, including the right to require the city to impose and collect rents, rates, tolls or charges, for the use of the project or projects financed by such bonds, or to require the city to carry out any other agreements with the holders of such bonds.

(2) Bring suit on the bonds without the necessity for producing the bonds, and with same effect as a suit by any holder.

(3) Bring suit in equity to require the city to account as if it were the trustee of an express trust for the holders of such bonds, for any pledged revenues received and/or to enjoin any acts or things which may be unlawful or in violation of the rights of the holders of any bonds.

(4) After thirty days prior written notice to the city, and subject to any limitations in the bond ordinance, declare the unpaid principal of all bonds to be, and it shall thereby become forthwith due and payable with interest at the rates stated in the bonds until final payment, and, if all defaults shall be made good then to annul such declaration and its consequences.

(c) The courts of common pleas of the counties in which first class cities are located shall have jurisdiction of any suit, action, or proceeding by the trustee on behalf of bondholders under this section, and, in cases of extreme hardship may provide for the payment of sums levied in five or less annual installments with interest at a rate sufficient to cover the interest accruing on the bonds. Appeals shall be to the Commonwealth Court in accordance with the Appellate Court Jurisdiction Act of 1970.

Section 21. Costs of Suits or Proceedings.—In any suit, action or proceeding by or on behalf of the holders of defaulted bonds of a city brought under this act the fees and expenses of a trustee, including operating costs of a project and reasonable counsel fees, shall constitute taxable costs, and all such costs and disbursements allowed by the court shall be deemed additional principal due on the bonds, and shall be paid in full from any recovery prior to any distribution to the holders of the bonds.

Section 22. Distribution of Moneys Realized for Bondholders.—Moneys or funds collected for the holders of defaulted bonds entitled to share equally and ratably therein shall, after the payment of costs and fees as provided in section 21 of this act be applied by the trustee, unless the terms of the bonds provide otherwise, as follows:

(1) Unless the principal of all of the bonds represented shall have become or have been declared due and payable, (i) to the payment to the persons entitled thereto of all installments of interest then due in the order of the stated maturity dates of such installments of such interest and, if the amount available shall not be sufficient to pay any installment in full, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest expressed in the bonds or coupons for interest; and (ii) to the payment to the persons entitled thereto of the unpaid principal of any bonds which shall have become due, whether at stated maturity dates or by call for redemption, in the order of their respective due dates, and if the amount available shall not be sufficient to pay in full all bonds due on any date, then to the payment ratably, according to the amounts of principal due

on such dates, to the persons entitled thereto without any discrimination or preference.

(2) If the principal of all of the bonds entitled to share equally in such moneys shall have become or shall have been declared due and payable, to the payment of the principal and interest then due and unpaid upon the bonds without preference or priority of principal over interest or interest over principal, or of any installment of interest over any other installment of interest, or of any bond over any other bond ratably according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the bonds and coupons.

(3) If more than one series is involved and the principal of all bonds of one or more series has become or has been declared due and payable, and if one or more others has not, the funds available shall be apportioned to each series then outstanding less, as to each series any amounts held earmarked for such series, and distribution to the holders of the bonds and coupons of each series shall be made according to whichever of clauses (1) and (2) of this section may be applicable.

Section 23. Refunding Revenue Bonds by the Issuance of General Obligation Bonds.—If, for any reason, the project revenues pledged for the payment of revenue bonds issued under this act shall become insufficient to meet the requirements of the bond ordinance under which such bonds were issued, the chief fiscal officer of the city shall certify such fact and the reasons therefor to the city council and the city council shall then have the power, subject to constitutional debt limitations, to authorize the issuance and sale of general obligation refunding bonds of the city without limitation as to rate of interest and in such principal amount as may be required, together with other available funds, to pay and redeem such revenue bonds including principal, interest to the date fixed for redemption or payment and premium, whether or not the revenue bonds to be refunded shall have matured or are about to mature, and whether or not the principal of or interest on the refunding bonds shall exceed the principal of or interest on the bonds to be refunded. Such refunding bonds may be exchanged for outstanding revenue bonds to be refunded or may be sold in the manner and subject to the terms and conditions, to the extent not inconsistent with this section, as provided by law for the sale of general obligation bonds generally, and the proceeds applied to the purchase, redemption or payment of the revenue bonds to be refunded.

Section 24. Repealer.—All acts and parts of acts inconsistent with this act are hereby repealed to the extent of such inconsistency but nothing in this act shall be deemed or construed to enlarge or curtail the purposes for which the city may now or hereafter be authorized to borrow money nor prevent the financing of projects under other applicable statutes.

Section 25. Effective Date.—This act shall take effect immediately.

APPROVED—The 18th day of October, A. D. 1972.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly
No. 234.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style.

Secretary of the Commonwealth.