

Agricultural and Resource-Based Industry Development Corporation

This Act creates an Agricultural and Resource-Based Industry Development Corporation as a public corporation and instrumentality of the state to develop agricultural industries and markets; support appropriate commercialization of agricultural processes and technology; and alleviate the shortage of nontraditional capital credit available at affordable interest rates for investment in agriculture and sale of related products and services, as well as capital investment in agricultural projects by providing capital and credit within the financial means of the recipient.

The corporation is exempt from state and local taxes, as well as state laws governing procurement and personnel. It is not exempt from state ethics laws or the state Public Information Act. This corporation may receive annual funding through a state budget appropriation and may receive funds for projects included in state agency budgets. The bill's stated intent is that state funding be provided to the corporation with existing resources from the departments of agriculture, budget and management, the environment, business and economic development, and housing and community development, and other relevant state agencies. The bill further states that additional funding (beyond existing resources) may not be provided for staffing, operations, or capital needs of the corporation until the state's fiscal crisis and structural deficit are resolved. The corporation must conduct its financial affairs so that it is self-sufficient by 2020.

The bill provides the corporation with powers generally given to corporations, including the authority to issue revenue bonds (for up to 40-year terms), enter into contracts, foreclose on mortgages, make grants or provide equity investment, buy land, and purchase and sell agricultural loans, which must be fully insured. Bonds issued by the Agricultural and Resource-Based Industry Development Corporation are not backed by the full faith and credit of the state and the development corporation is solely responsible for any debts, obligations, or liabilities it incurs.

The bill broadly defines agriculture for the purpose of eligible assistance to mean commercial production, storage, processing, marketing, distribution, or export of an aquacultural, equine, floricultural, horticultural, ornamental, silvicultural, or viticultural crop. Loans provided by a lending institution can be used to finance a variety of agricultural processes, including land acquisition, soil conservation, pond construction, and building expansion or construction, as well as for the purchase of livestock, seeds, fertilizers, and pesticides.

Submitted as:

Maryland

[Chapter 467 of 2004](#)

Status: Enacted into law in 2004.

Suggested State Legislation

1 Section 1. [*Short Title.*] This Act may be cited as “An Act to Create an Agricultural and
2 Resource-Based Industry Development Corporation.”

3

4 Section 2. [*Definitions.*] As used in this Act:

5 A. “Agricultural loan” means a loan made by a lending institution to any person for the
6 purpose of financing:

7

1. land acquisition or improvement;

8 2. agricultural, aquacultural, equine, horticultural, or silvicultural production;
9 3. soil conservation;
10 4. pond construction;
11 5. irrigation;
12 6. water well drilling;
13 7. construction, renovation, or expansion of buildings and facilities;
14 8. purchase of farm fixtures, livestock, or poultry; fish, crustaceans, and mollusks
15 of any kind; seeds, plants, and trees; fertilizers; pesticides; feeds; machinery; equipment; or
16 containers or supplies employed in the production, cultivation, harvesting, processing, storage,
17 marketing, distribution, or export of agricultural products.

18 B. "Agriculture" means the commercial production, storage, processing, marketing,
19 distribution, or export of an agronomic, aquacultural, equine, floricultural, horticultural,
20 ornamental, silvicultural, or viticultural crop, including:

- 21 1. farm products;
- 22 2. livestock and livestock products;
- 23 3. poultry and poultry products;
- 24 4. milk and dairy products;
- 25 5. timber and forest products;
- 26 6. fruit and horticultural products; and
- 27 7. seafood and aquacultural products.

28 C. "Board" means the board of directors of the corporation.

29 D. "Bond" means a bond, note, renewal note, refunding bond, interim certificate,
30 certificate of indebtedness, debenture, warrant, commercial paper, or other obligation or
31 evidence of indebtedness authorized to be issued by the corporation under this Act.

32 E. "Corporation" means the state agricultural and resource-based industry development
33 corporation established under this Act.

34 F. "Lending institution" means a bank, bank or trust company, federal land bank, farm
35 credit association, bank for cooperatives, building and loan association, homestead, insurance
36 company, investment banker, mortgage banker or company, pension or retirement fund, savings
37 bank or savings and loan association, small business investment company, credit union, or any
38 other financial institution authorized to do business in the state or operating under the
39 supervision of a federal unit.

40 G. "Person" means an individual, receiver, trustee, guardian, personal representative,
41 fiduciary, representative of any kind, partnership, firm, association, corporation, or other entity.
42 "Person" includes a unit of a state or of the federal government.

43 H. "Project" means a property, the acquisition, construction, reconstruction, equipping,
44 expansion, extension, improvement, rehabilitation, or remodeling of which the board, in its sole
45 and absolute discretion, determines by resolution will accomplish at least one of the purposes
46 listed in this Act, whether the property, or any interest in the property:

- 47 1. is or will be used or operated for profit or not for profit;
- 48 2. is or will be located on a single site or multiple sites; or
- 49 3. may be financed by bonds, the interest on which is exempt from federal income
50 taxation under federal law. Project includes:

- 51 1. land or any interest in land;
- 52 2. buildings, structures, machinery, equipment, furnishings, rail or motor vehicles,
53 barges, and boats;
- 54 3. real or personal property, or any combination of them, and rights related to the
55 property, appurtenances, rights-of-way, franchises, easements, and other interests in land;
- 56 4. land and facilities functionally related and subordinate to the project; and

57 5. patents, licenses, and other rights necessary or useful in the construction or
58 operation of a project.

59 I. "Revenue" means the income, revenue, and other money received by the corporation
60 from or in connection with a project. "Revenue" includes grants, rentals, rates, fees, charges for
61 the use of the services furnished or available, and all other income inuring to the corporation.
62 The corporation may further define or limit the term "revenue" as applied to a particular project,
63 financing, or other matter.

64
65 Section 3. [*Legislative Findings.*] The [Legislature] finds that:

66 A. The state's agricultural and resource-based industries continue to underpin the local
67 economies of rural communities, but are increasingly under threat from national and
68 international market competition, urban encroachment and land development pressure, and
69 environmental and regulatory influences;

70 B. The construction and renovation of food and fiber processing and secondary
71 manufacturing facilities often require credit and capital in amounts that far exceed the available
72 resources of individual small producers and small businesses;

73 C. Private enterprise and existing federal and state governmental programs have not
74 adequately addressed agricultural industry support or developmental opportunities relating to
75 emergent value-added agricultural processing activities, new or alternative markets development,
76 primary and secondary manufacturing, assistance for beginning farmers and producers, and
77 financial support for environmental or technological enhancements;

78 D. While some traditional agricultural enterprises in the state may have access to
79 markets, capital, and credit, other existing or emerging segments of the agricultural industry lack
80 market access, capital, and credit available for investment in agriculture, for domestic and
81 export purposes, and at interest rates within the financial means of people engaged in agricultural
82 production and agricultural exports;

83 E. In conjunction with the financial and other challenges associated with traditional
84 agricultural industry, there is a need to provide economic and market development assistance to
85 those individuals who wish to start, convert, or diversify their agricultural operations, or to make
86 improvements associated with environmental regulations and potential market opportunities; and

87 F. It is a matter of significant rural economic development importance that a state
88 agricultural and resource-based industry development corporation be created and authorized to:

89 1. develop agricultural industries and markets;
90 2. support appropriate commercialization of agricultural processes and
91 technology; and

92 3. alleviate the shortage of nontraditional capital and credit available at
93 affordable interest rates for:

94 I. investment in agriculture to promote and assist agriculture in the state;
95 II. the sale of agricultural products, commodities, and services; and
96 III. capital investment in agricultural projects by providing capital and
97 credit within the financial means of people engaged in agriculture in the state.

98
99 Section 4. [*Establishing an Agricultural and Resource-based Development Corporation.*]

100 A. There is a [insert state] Agricultural and Resource-Based Industry Development
101 Corporation.

102 B. The corporation is:

- 103 1. a public corporation; and
- 104 2. an instrumentality of the state.

105 C. The purposes of the corporation are to:

- 106 1. assist the viability of the state's diverse agricultural industry through new
107 markets development, capital and credit enhancements, and technical and other assistance to
108 support, create, and sustain agricultural businesses throughout the state;
- 109 2. provide financing and other assistance for product development, start-up and
110 scale-up of food and fiber-related growing and processing operations in this state, and for
111 technological enhancements that benefit the environment and water quality;
- 112 3. seek partnerships and leveraging opportunities with public and private for-
113 profit and not-for-profit entities in making capital and credit assistance available to individual
114 producers, producer cooperatives, and other agribusiness concerns operating in the state;
- 115 4. facilitate and support access to high quality technical resources for agricultural
116 entrepreneurs by incorporating existing support infrastructure including the development of
117 strategic partnering opportunities and business incubation;
- 118 5. foster cross-industry communication and assist other organizations in
119 transferring to the private sector and commercializing the results and products of scientific
120 agricultural research and development conducted by the federal government and colleges and
121 universities; and
- 122 6. work with public and private lending and grant-making institutions to:
- 123 I. make low- and no-interest loans and loan guarantees available for
124 agricultural product development, primary processing, and secondary manufacturing;
- 125 II. provide credit and capital to first-time farmers for land, equipment,
126 and working capital acquisition; and
- 127 III. make incentives available for activities related to small farm or small
128 landowner viability and best management practices.

129
130 Section 5. [*Board of Directors.*]

- 131 A. There is a board of directors of the corporation.
- 132 B. The board manages the corporation and exercises all of its corporate powers.
- 133 C. The board consists of the following members:
- 134 1. As ex officio members:
- 135 I. The [secretary of agriculture] or a [designee of the secretary] who
136 must be a [senior-level departmental official];
- 137 II. The [secretary of natural resources] or a [designee of the secretary]
138 who must be a [senior-level departmental official];
- 139 III. The [secretary of business and economic development] or a [designee
140 of the secretary] who must be a [senior-level departmental official];
- 141 IV. The [executive director of the food center authority];
- 142 V. The [executive director of the rural council];
- 143 VI. The [director of the state cooperative extension service]; and
- 144 2. [Eleven] people appointed by the [governor] with the advice and consent of
145 the [Senate] as follows:
- 146 I. [two] agricultural producers representing at least [two] different farm
147 commodity industries in the state;
- 148 II. [two] representatives from commercial lending institutions serving
149 rural regions in the state, [one] of whom must represent a major farm credit organization
150 operating in the state;
- 151 III. [one] representative of the timber and forest products industry;
- 152 IV. [one] representative of the aquaculture industry;
- 153 V. [one] representative of the commercial seafood harvesting and
154 processing industry;

155 VI.[one] individual with knowledge and experience in the area of
156 operating commercial food or fiber processing facilities;

157 VII. [one] individual with knowledge and experience in the area of
158 public finance;

159 VIII. [one] individual with knowledge and experience in the area of rural
160 economic development or agricultural marketing; and

161 IX. [one] individual with knowledge about the agricultural, forestry, or
162 seafood industries or agritourism in the state or with substantial and relevant economic
163 development experience.

164 D. In appointing board members under subsection (C)(2) of this section, the [governor]
165 shall consider all of the geographic regions of the state.

166 E. A board member must be a resident of the state.

167 F. A board member serves without compensation but is entitled to reimbursement for
168 expenses under the standard state travel regulations as provided in the state budget.

169 G. The [governor] may remove a board member for incompetence, misconduct, or
170 failure to perform the duties of the position.

171 H. The term of a board member appointed under subsection (C)(2) of this section is
172 [four] years.

173 I. The terms of the appointed members are staggered as required by the terms provided
174 for the members on [date].

175 J. At the end of a term, an appointed member continues to serve until a successor is
176 appointed and qualifies.

177 K. A member who is appointed after a term has begun serves only for the rest of the
178 term and until a successor is appointed and qualifies.

179 L. The board shall elect a chair from among its members.

180 M. The board may act with an affirmative vote of [nine] members.

181 N. The initial terms of the [2] members of the board of directors of the agricultural and
182 resource-based industry development corporation appointed under of this Act, expire as follows:

183 1. [3 members in 2008];

184 2. [3 members in 2007];

185 3. [3 members in 2006]; and

186 4. [2 members in 2005].

187 O. The corporation shall employ an executive director with experience and
188 qualifications relevant to the activities and the purposes of the corporation.

189 P. The [attorney general] shall serve as legal advisor to the corporation.
190

191 Section 8. [*Powers of an Agricultural and Resource-based Development Corporation.*]

192 A. An Agricultural and Resource-based Development Corporation created under this Act
193 may:

194 1. adopt bylaws;

195 2. adopt a seal;

196 3. maintain offices at a place in the state that the corporation designates;

197 4. apply for and accept loans, grants, or assistance in any form from federal,
198 state, or local governments, colleges or universities, or private sources;

199 5. make, execute, and enter into any contracts or legal instruments;

200 6. sue or be sued;

201 7. acquire, construct, develop, manage, market, manufacture, license, sublicense,
202 reconstruct, rehabilitate, improve, maintain, equip, lease as a lessor or as a lessee, repair, and
203 operate any project in the state to carry out the purposes of the corporation;

204 8. acquire, purchase, hold, lease as a lessee, and use a franchise, patent, or license
205 and real, personal, mixed, or tangible or intangible property, or any interest in property;
206 9. sell, lease as a lessor, transfer, license, sublicense, assign, and dispose of any
207 property or interest in property, necessary or convenient to carry out its purposes;
208 10. acquire, directly or indirectly, by purchase, gift, or devise, land, real or
209 personal property, rights, rights-of-way, franchises, easements, and other interests in land,
210 including land lying under water and riparian rights, located in or outside the state as necessary
211 or convenient to construct, improve, rehabilitate, or operate a project, on terms and at prices the
212 corporation considers reasonable;
213 11. fix, revise, and collect rates, rentals, fees, royalties, and charges for the use of
214 or for services and resources provided or made available by the corporation;
215 12. make grants to or provide equity investment financing for agricultural and
216 resource-based businesses;
217 13. engage any necessary accountants, engineers, financial advisors, and other
218 consultants;
219 14. with the approval of the [attorney general], engage any necessary lawyers;
220 15. create, own, control, or be a member of, a corporation, limited liability
221 company, partnership, or other entity, whether operated for profit or not for profit;
222 16. enter into a project with a manufacturer to carry out the purposes of the
223 corporation;
224 17. exercise a power usually possessed by a private corporation in performing
225 similar functions unless to do so would conflict with the laws of the state; and
226 18. do anything necessary or convenient to carry out the powers granted by this
227 Act.

228 B. The corporation may, subject to the rights of holders of bonds of the corporation:
229 1. renegotiate, refinance, or foreclose on any mortgage, security interest, or lien;
230 2. commence any action to protect or enforce any right or benefit conferred on
231 the corporation by any law, mortgage, security interest, lien, contract, or other agreement; and
232 3. bid for and purchase property at any foreclosure or at any other sale or
233 otherwise acquire or take possession of any property, in which case the corporation may
234 complete, administer, pay the principal of any interest on any obligation incurred in connection
235 with the property, dispose of and otherwise deal with the property in any manner necessary or
236 desirable to protect the interest of the corporation or the holders of its bonds in the property;
237 4. procure or provide for the procurement of insurance or reinsurance against any
238 loss in connection with its property or operations, including insurance, reinsurance, or other
239 guarantees from any federal or state governmental unit or private insurance company for the
240 payment of any bonds issued by the corporation, or bonds, notes or any other obligations or
241 evidences of indebtedness issued or made by any lending institution or other entity or person, or
242 insurance or reinsurance against loss with respect to agricultural loans, mortgages or mortgage
243 loans, or any other type of loans, including the power to pay premiums on the insurance or
244 reinsurance;
245 5. insure, co-insure, reinsure, or cause to be insured, co-insured, or reinsured,
246 agricultural loans, mortgage loans or mortgages, or any other type of loans and pay or receive
247 premiums on the insurance, co-insurance, or reinsurance, and establish reserves for losses, and
248 participate in the insurance, co-insurance, or reinsurance of agricultural loans, mortgage loans or
249 mortgages, or any other type of loans with the federal or state government or any private
250 insurance company;
251 6. undertake and carry out or authorize the completion of studies and analyses of
252 agricultural conditions and needs in the state and needs relating to the promotion of agricultural

253 industries and ways of meeting those needs, and make the studies and analyses available to the
254 public and to the agricultural industries, and to engage in research or disseminate information on
255 agriculture and agricultural marketing and promotion;

256 7. accept federal, state, or private financial or technical assistance and comply
257 with any conditions for that assistance that are not in conflict with the intent of this Act;

258 8. establish and collect fees and charges in connection with its loans, deposits,
259 insurance commitments, and services, including reimbursement of costs of issuing bonds,
260 origination and servicing fees, and insurance premiums;

261 9. make loans to or deposits with lending institutions and purchase or sell
262 agricultural loans;

263 10. acquire or contract to acquire from any person, by grant, purchase, or
264 otherwise, movable or immovable property or any interest in property;

265 11. own, hold, clear, improve, lease, construct, or rehabilitate, and sell, invest,
266 assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber
267 property, subject to the rights of holders of the bonds of the corporation, at public or private
268 sale, with or without public bidding;

269 12. borrow money, issue bonds, and provide for the rights of the lenders or holder
270 thereof and purchase, discount, sell, negotiate and guarantee, insure, co-insure and reinsure
271 notes, drafts, checks, bills of exchange, acceptances, bankers' acceptances, cable transfers, letters
272 of credit, and other evidence of indebtedness;

273 13. subject to the rights of holders of the bonds of the corporation, consent to any
274 modification with respect to the rate of interest, time, payment of any installment of principal or
275 interest, security, or any other term or condition of any loan, contract, mortgage, mortgage loan,
276 or commitment or agreement of any kind to which the corporation is a party or beneficiary; and

277 14. issue revenue bonds under this Act.

278 C. 1. A corporation created under this Act may purchase or contract to purchase and
279 sell or contract to sell agricultural loans made by lending institutions, at the prices and on the
280 terms and conditions that it determines.

281 2. A lending institution may purchase and sell agricultural loans to the
282 corporation in accordance with the provisions of this section.

283 D. 1. The corporation may make, or contract to make, loans to and deposits with
284 lending institutions at interest rates, terms, and conditions that it determines. A lending
285 institution may borrow funds and accept deposits from the corporation in accordance with this
286 Act and the bylaws of the corporation.

287 2. The corporation shall require that all proceeds of its loans to or deposits with
288 lending institutions, or an equivalent amount, shall be used by the lending institutions to make
289 agricultural loans, subject to terms and conditions that the corporation may prescribe.

290 3. The corporation may insure and reinsure agricultural loans made by lending
291 institutions, subject to the terms, conditions, limitations, collateral and security provisions, and
292 reserve requirements determined by the corporation in accordance with the bylaws of the
293 corporation.

294 E. Unless otherwise determined by the corporation, agricultural loans shall be insured to
295 the amount of [100%] of the unpaid principal and interest on each loan.

296 F. An insured agricultural loan is in default when the holder of the loan applies to the
297 corporation for payment of insurance on the loan stating that the loan is in default in accordance
298 with the terms of any agreement with respect to the insurance executed in accordance with this
299 section.

300 G. A corporation created under this Act may enter into agreements with any person,
301 lending institution, or holder of an insured agricultural loan on terms that may be agreed on
302 between the corporation and the person, lending institution, or holder, to:

303 1. provide for the administration, applications, and repayment of the loan; and
304 2. establish the conditions for payment of insurance by the corporation, and the
305 servicing, suit on, or foreclosure of the loan.

306 H. 1. Except as provided in paragraph 2. of this subsection, the aggregate value of
307 all agricultural loans insured by a corporation created under this Act and outstanding at any one
308 time may not exceed [20] times the total value of funds, investments, properties, and other assets
309 of the corporation.

310 2. The aggregate value of agricultural loans insured and outstanding may be
311 further expanded by use of federal, state, or private loan insurance, reinsurance, or guarantees of
312 which the corporation is or shall become the beneficiary.

313 I. The corporation may provide by resolution for the issuance at one time, or in series
314 from time to time, of revenue bonds of the corporation to finance or refinance all or a part of the
315 costs of a project, and for other purposes of the corporation stated in this Act.

316 J. 1. The bonds shall be dated, shall bear interest at a rate or rates, and shall
317 mature at a time or times not exceeding [40 years] from the date or dates of their respective
318 issues, as the corporation may determine, and may be sold at the price or prices and under the
319 terms and conditions fixed by the corporation before issuing the bonds.

320 2. The proceeds of any bonds may be placed in escrow pending application of the
321 proceeds to the purposes for which the bonds are issued.

322 K. 1. I. The bonds may not be deemed to constitute a debt, liability, or a
323 pledge of the full faith and credit of the state or of any political subdivision of the state other than
324 the corporation.

325 II. The bonds shall be payable solely from the funds provided in this
326 section.

327 2. All bonds of the corporation shall contain on their face a statement to the
328 effect that:

329 I. Neither the state nor any political subdivision of the state other than
330 the corporation shall be obligated to pay the bond or the interest on the bond except from
331 revenues pledged to the bond; and

332 II. Neither the full faith and credit nor the taxing power of the state or any
333 political subdivision of the state is pledged to the payment of the principal of or the interest on
334 the bonds.

335 3. I. The issuance of a bond under this Act is not directly or indirectly or
336 contingently an obligation, moral or other, of the state or any political subdivision of the state to
337 levy or pledge any form of taxation for the bond or to make any appropriation for payment of the
338 bond.

339 II. Nothing in this section may prevent the corporation from pledging the
340 full faith and credit of the corporation to the payment of a bond authorized under this Act.

341 III. This section does not limit the ability of the state or a subdivision of
342 the state to set, impose, or collect an assessment, rate, fee, or charge to pay to the corporation the
343 cost of a project, including the principal of and interest on a bond, under an agreement between
344 the corporation and the state or political subdivision.

345 L. The corporation shall determine:

346 1. the form of the bonds;

347 2. the manner of executing the bonds;

348 3. the denomination or denominations of the bonds; and

349 4. the place or places of payment of principal and interest, which may be a bank
350 or trust company in or outside the state.

351 M. 1. The bonds shall be executed in the manner determined by the corporation.

352 2. The bonds may be executed by facsimile signature.

353 3. If any officer whose signature appears on a bond ceases to hold that office
354 before the bonds are delivered, the signature of the officer remains valid and sufficient for all
355 purposes, as if the officer had remained in office until delivery.

356 N. 1. All bonds issued under this section are negotiable instruments under the laws
357 of the state.

358 2. Provision may be made for the registration of bonds.

359 O. 1. The bonds shall be sold by the corporation, at public or private sale, in a
360 manner and for a price as the corporation may determine.

361 2. Bonds authorized under this section are exempt from [insert citation].

362 P. 1. I. The corporation may provide for the issuance of its bonds to refunding
363 any outstanding bonds, including the payment of any redemption premium and any interest
364 accrued or accruing to a later date of redemption, purchase, or maturity of the bonds, and, if the
365 corporation determines it advisable, for the additional purpose of paying all or any part of the
366 cost of a project.

367 II. Refunding bonds may be issued by the corporation for any corporate
368 purpose, including the public purposes of realizing savings in the effective costs of debt service,
369 directly or through a debt restructuring, or alleviating an impending or actual default, or
370 relieving the corporation of contractual agreements which, in the opinion of the corporation,
371 have become unreasonably onerous, impracticable, or impossible to perform.

372 III. Refunding bonds in one or more series may be issued in an amount in
373 excess of that of the bonds to be refunded.

374 IV. Refunding bonds may be payable from:

375 a. escrowed bond proceeds;

376 b. interest, income, and profits, if any, on investments; and

377 c. any other source.

378 V. These sources may be in addition to other lawful uses and shall
379 constitute revenues of a project under this Act.

380 2. The proceeds of bonds issued for the purpose of refunding outstanding bonds
381 may, in the discretion of the corporation, be applied to the purchase or retirement at maturity or
382 redemption of the outstanding bonds on any subsequent redemption date, and may, pending that
383 application, be placed in escrow to be applied to the purchase or retirement at maturity or
384 redemption on a date determined by the corporation.

385 3. I. Any escrowed bond proceeds, pending application, may be invested
386 and reinvested in investments and other obligations maturing at a time or times appropriate to
387 assure the prompt payment, as to principal, interest, and redemption premium, if any, of the
388 outstanding bonds to be refunded.

389 II. The investment of the bond proceeds shall be:

390 a. determined by the corporation; or

391 b. if the proceeds of the bonds are being loaned by the corporation
392 to a person, determined by the person.

393 III. The interest, income, and profits, if any, earned or realized on the
394 investments or other obligations may also be applied to the payment of the outstanding bonds to
395 be refunded.

396 IV. After the terms of the escrow have been fully satisfied and carried out,
397 any balance of the proceeds and interest, income, and profits, if any, earned or realized on the

398 investments or other obligations may be returned to the corporation or the person being loaned
399 the proceeds of the bonds for use in any lawful manner.

400 Q. 1. The portion of the proceeds of any bonds issued for the purpose of paying all
401 or any part of the cost of a project may be invested and reinvested in investments and any other
402 obligations maturing not later than the time or times when the proceeds will be needed for the
403 purpose of paying all or any part of the cost of the project.

404 2. The investment of bond proceeds shall be determined:

405 I. by the corporation; or

406 II. if the corporation is loaning the proceeds to a person, by the person.

407 3. The interest, income, and profits, if any, earned or realized on the investments
408 or other obligations may be applied to the payment of all or any part of the cost or may be used
409 by the corporation or the person being loaned the proceeds of the bonds in any lawful manner.

410 R. 1. The corporation may pledge or assign all or any portion of its revenues, its
411 rights to receive them, or moneys and securities in the funds and accounts established to secure
412 its bonds and any lien or security interest granted or assignment made by the corporation.

413 2. Any pledge or assignment shall be:

414 I. valid and binding against any person having a claim of any kind
415 against the corporation, in contract, tort, or otherwise, regardless of whether the person has
416 notice; and

417 II. prior to the claim.

418 3. No resolution, trust indenture, assignment, financing agreement, or other
419 instrument creating a lien on, security interest in, or assignment of any revenues, its rights to
420 receive revenues or moneys and securities in the funds and accounts pledged to bonds of the
421 corporation need be filed or recorded except in the records of the corporation.

422 S. 1. The corporation may:

423 I. lend or otherwise make available the proceeds of its bonds to any
424 person in order to finance or refinance the costs of any project; and

425 II. enter into financing agreements, mortgages, and other instruments that
426 the corporation determines to be necessary or desirable to evidence or secure the loan.

427 2. If any project is leased to any person, the lease may provide that the lessee or
428 another person may or shall purchase or otherwise acquire the project for consideration, which
429 may be nominal, as the corporation may establish:

430 I. on the payment of the bonds that financed or refinanced the cost of the
431 project and interest on the bonds; or

432 II. on provision for payment that is satisfactory to the corporation.

433 T. 1. I. At the discretion of the corporation, the bonds may be secured by a
434 trust indenture by and between the corporation and corporate trustee, which may be any trust
435 company or bank that has the powers of a trust company in or outside the state.

436 II. either the resolution providing for the issuance of bonds or the trust
437 indenture may contain provisions for protecting and enforcing the rights and remedies of the
438 bondholders, including covenants stating the duties of the corporation in relation to the custody,
439 safeguarding, and application of all moneys.

440 III. A corporation or trust company incorporated under the laws of the
441 state may:

442 a. Act as depository of the proceeds of the bonds or revenues; and

443 b. Furnish any indemnity bonds or pledge any securities that the
444 corporation requires.

445 2. I. The resolution or trust indenture may set forth the rights and remedies
446 of the bondholders and of any trustee, and may restrict the individual right of action of
447 bondholders.

448 II. The corporation may provide by resolution or by the trust indenture
449 for:

450 a. the payment of the proceeds of the sale of the bonds and the
451 revenues of the corporation to an officer, board, or depository that the corporation determines for
452 their custody; and

453 b. the method of disbursement, with safeguards and restrictions that
454 the corporation determines.

455 c. all expenses incurred in carrying out any trust indenture may be
456 treated as a part of the cost of operation of the corporation.

457

458 Section 9. [*Corporation Subject to an Audit.*] The books and records of a corporation
459 created under this Act are subject to audit:

460 A. by the state at its discretion; and

461 B. each year by an independent auditor approved by the [office of legislative audits].

462

463 Section 10. [*Reporting Requirements.*]

464 A. Within [90 days] after the start of each fiscal year, a corporation created under this
465 Act shall report on its status to the [governor], the [state agricultural commission], the [state
466 economic development commission] and to the [legislature].

467 B. The report shall state the complete operating and financial statement covering the
468 corporation's operations and summarize the corporation's activities during the preceding fiscal
469 year.

470

471 Section 11. [*Tax Exemptions.*]

472 A. A corporation created under this Act is exempt from state and local taxes.

473 B. A corporation created under this Act, its board of directors, and employees are subject
474 to [insert citations] concerning public ethics and public information.

475 C. 1. The corporation may receive annual funding through an appropriation in the
476 state budget.

477 2. The corporation may also receive funds for projects included in the budgets of
478 state units.

479 3. All unexpended and unencumbered funds appropriated to the corporation shall
480 remain with the corporation for future uses.

481 4. The corporation shall conduct its financial affairs in such a manner that, by the [year
482 2020], it shall be self-sufficient and in no further need of general operating support by the state.

483 D. The [department of agriculture], the [department of natural resources], the [department
484 of business] and [economic development], the [state food center authority], the [state economic
485 development corporation], the [state technology development corporation], the [rural council],
486 and [state cooperative extension service] may provide technical and other support to the
487 corporation.

488 E. Each unit in the executive branch of state government and each institution of higher
489 education in the state may work with the corporation on matters relating to the unit.

490 F. Each county, municipal corporation, and regional planning and development council
491 in the state may work with the corporation on matters relating to the political subdivision or
492 entity.

493

494 Section 12. [*Debts, Claims, Obligations, and Liabilities of an Agricultural and*
495 *Resource-based Development Corporation.*]

496 A. All debts, claims, obligations, and liabilities of a corporation created under this Act,
497 whenever incurred, shall be the debts, claims, obligations, and liabilities of the corporation only
498 and not of the state, units of state government, other state instrumentalities, or state officers or
499 employees.

500 B. The debts, claims, obligations, and liabilities of a corporation created under this Act
501 may not be considered a debt of the state or a pledge of its credit.

502

503 Section 13. [*Funding from Existing Resources.*]

504 A. It is the intent of the [general assembly] that state funding for a corporation created
505 under this Act should be provided within existing resources of the [departments of agriculture],
506 [budget and management], [business and economic development], [environment], and [housing
507 and community development] and any other state agency determined to be appropriate by the
508 [secretary of budget and management].

509 B. Other than existing resources, additional funding may not be provided for the
510 staffing, operations, or capital needs of the corporation until the state's fiscal crisis and structural
511 deficit is resolved.

512

513 Section 14. *Severability.*] [Insert severability clause.]

514

515 Section 15. [*Repealer.*] [Insert repealer clause.]

516

517 Section 16. [*Effective Date.*] [Insert effective date.]