PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE VII. CITIES, TOWNS AND DISTRICTS

CHAPTER 40Q. DISTRICT IMPROVEMENT FINANCING

Chapter 40Q: Section 4. Revenue bonds for financing development program

Section 4. (a) A city or town may, by a two-thirds vote as defined in section 1 of chapter 44, authorize, issue and sell bonds including, but not limited to, general obligation or revenue bonds or notes, to finance all project costs needed to carry out the development program within a development district. Without limiting the generality of the foregoing, such bonds may be issued for the payment of project costs, which may include interest before and during the carrying out of a project and, for a reasonable time thereafter, such reserves as may be required by any agreement securing the bonds and all other expenses incidental to planning, carrying out and financing the project.

(b) The bonds of each issue shall be dated and may be made redeemable before maturity with or without premium. Subject to the authorizing vote, the officers authorized to sell the bonds shall determine: the date of the bonds which shall mature within 30 years from their respective dates; their denomination; the place of payment of the principal and interest, which may be at a bank or trust company within or without the commonwealth; their interest rate; maturity; redemption privileges, if any, and the form and other details of the bonds. Notwithstanding a municipal charter or any general or special law to the contrary, bonds issued hereunder may provide for annual or more frequent installments of principal in equal, diminishing or increasing amounts with the first installment of principal to be due at any time within 5 years after the date of issuance of the bonds and, subject to the authorizing vote, may provide for such rates of interest as the officers authorized to sell the bonds shall deem proper, including rates variable from time to time as determined by such index, banker's loan rate or other method as may be specified in such bond. The bond shall be signed by the mayor or city manager as the case may be of a city or by a majority of the board of selectmen or town council of a town either manually or by facsimile thereof. Any coupons attached thereto shall bear the facsimile signature of the city or town treasurer.

(c) If an officer whose signature, or a facsimile of whose signature, shall appear on any bonds, coupons or notes issued under this chapter shall cease to be such officer before the delivery thereof, his signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery.

(d) The bonds shall be issued in registered form. Subject to the authorizing vote, the officers authorized to sell the bonds may sell the bonds in such manner, either at public or private sale, and for such price as they may determine shall best effect the purposes of this chapter.

(e) Before the preparation of definitive bonds, the city or town may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Provision may be made for the replacement of any bonds that shall have become mutilated or shall have been destroyed or lost.

(f) Bonds or notes issued hereunder may be secured in whole or in part by letters or lines of credit or other credit facilities. An insurance letter or line of credit or credit facility may provide for reimbursement to be made over a period of time, not to exceed 2 years, beyond the maturity date of the bonds or notes so secured.

(g) In the discretion of the officers authorized to sell the bonds but subject to the vote authorizing the bonds, bonds issued hereunder may be secured by trust agreements between the city or town and a corporate trustee, which may be a

trust company or bank having the powers of a trust company within or without the commonwealth. A trust agreement hereunder shall be in such form and executed in such manner as may be determined by such officers. A trust agreement may pledge or assign project revenue, in whole or in part, and may provide that the owner or holder of bonds issued thereunder may have a lien or mortgage on a facility acquired, improved or constructed with the proceeds of the tax increment bonds, may contain provisions for protecting and enforcing the rights, security and remedies of the bondholders as may be reasonable and proper and not in violation of the law including, without limiting the generality of the foregoing: provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the city or town in relation to carrying out and otherwise administering the projects; the custody, safeguarding, investment and application of project revenues; the issuance of additional bonds hereunder; the determination of tax increments; the fixing of fees and charges, if any, in relation to the projects; the collection of project revenues; the use of any surplus bond proceeds; the establishment of reserve and the replacement of bonds or coupons which shall become mutilated, destroyed or lost. Subject to this chapter, moneys subject to the trust agreement shall be held, invested and applied as provided therein, but moneys not deposited in trust with a corporate trustee shall be in the custody of the city or town treasurer.

(h) A bank or trust company may act as a depository or trustee of proceeds of bonds or of other monies under a trust agreement and furnish such indemnifying bonds or pledge securities required by the trust agreement. Any such trust agreement or resolution may set the rights and remedies of the bondholders and of the trustees and may restrict the individual right of action by a bondholder. All expenses incurred in carrying out the trust agreement or resolution may be treated as operating expenses.

(i) Notwithstanding chapter 106 or any other general or special law to the contrary: (1) any pledge hereunder shall be valid and binding and shall be deemed continuously perfected from the time it is made; (2) no filing shall be required under said chapter 106 or otherwise; (3) unless otherwise provided in the financing instruments, a pledge of project revenues shall be deemed to include a pledge of any accounts or general intangibles from which such revenues are derived whether existing at the time of the pledge or thereafter acquired by the city or town and the proceeds of such accounts or general intangibles; and (4) the pledged project revenue accounts and general intangibles shall be subject to the lien of the pledge without delivery or segregating and the lien of the pledge shall be valid and binding against all parties having claims in contract, tort or otherwise against the city or town.

(j) A pledge of project revenues under this chapter shall constitute a sufficient appropriation thereof for the purposes of any provision for appropriation and such revenues may be applied as required by the pledge without further appropriation. Notwithstanding this subsection, administrative expenses shall be subject to appropriation.

(k) In anticipation of the issuance of bonds under this chapter and subject to the vote authorizing the bonds, the officers authorized to sell bonds may without further authorization issue temporary notes. The notes may be secured as in the case of bonds, and except as otherwise provided in this section, subsections (i), (k), (l) and (n) referring to bonds shall also be deemed to refer to the notes. The notes shall not require the seal of the city or town or a facsimile thereof. The notes shall be payable within 2 years from their respective dates, but the principal of and interest on notes issued for a short period may be refunded from time to time by the issuance of other notes maturing within 2 years from the original date of issuance of the indebtedness being refunded.

(l) A city or town may, when authorized by a majority vote as defined in section 1 of chapter 44, issue refunding bonds for the purpose of paying any of its bonds issued hereunder at maturity or upon acceleration of redemption. The refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the city or town deems to be in the public interest. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of the bonds, the expense of issuance of the refunding bonds, the expenses of redeeming the bonds being refunded and such reserves for debt service or other purposes from the proceeds of such refunding bonds as may be required by an agreement securing the bonds. The issuance of refunding bonds, the maturities and other details thereof, the security thereof, the rights of holders thereof and the rights, duties and obligations of the city or town with respect thereto shall be governed by this chapter relating to the issuance of bonds other than refunding bonds insofar as the same may be applicable.

(m) The bonds and notes issued under this chapter shall not at any time be included in the debt of the city or town for the purpose of ascertaining its legal borrowing capacity. Except as otherwise provided in this chapter, such bonds and notes shall not be subject to chapter 44.

(n) Subject to an agreement securing bonds or notes issued under this chapter, the proceeds of bonds or notes pledged for tax increments and other project revenues may be deposited or invested in such investments as may be lawful for fiduciaries in the commonwealth.

(o) All project revenues received pursuant to this chapter shall be deemed to be trust funds to be held and applied solely as provided in this chapter.

(p) A holder of bonds or notes issued under this chapter, or of any of the coupons appertaining thereto, and the trustee under any trust agreement securing the same, except to the extent the rights herein given may be restricted by an agreement securing the same, may bring suit upon the bonds, notes or coupons and may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights under the laws of the commonwealth or granted under this chapter or under any such agreement and may enforce or comply with the performance of all duties required by this chapter or by an agreement to be performed by the city or town or by any officer thereof.

(q) Bonds and notes issued under this chapter shall be securities in which insurance companies, trust companies, banking associations, savings banks, cooperative banks, investment companies, executors, trustees and other fiduciaries and all other persons whatsoever who are or may hereafter be authorized to invest in bonds or notes or other obligations of a similar nature may properly and legally invest funds, including capital deposits or other funds in their control and belonging to them. The debt obligations shall be securities which may properly and legally be deposited with and received by a state or municipal office, agency or political subdivision of the commonwealth for any purpose for which the deposits of bonds or other obligations of the commonwealth may now or hereafter be authorized by law.

(r) Notwithstanding this chapter or any recitals in any bonds or notes issued under this chapter, all bonds and notes shall be deemed to be investment securities under chapter 106.

(s) The bonds and notes issued under this chapter, their transfer and the income therefrom, including any profits made on the sale thereof, shall be at all times free from taxation within the commonwealth.