

**RULES  
OF  
BUILDING FINANCE COMMITTEE  
TENNESSEE BOARD FOR ECONOMIC GROWTH**

**CHAPTER 0500-2-2**

**RULES FOR MAKING APPLICATION TO THE BUILDING FINANCE COMMITTEE FOR  
CERTIFICATE OF PUBLIC PURPOSE AND NECESSITY UNDER THE INDUSTRIAL BUILDING  
BOND ACT OF 1955.**

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**0500-2-2-.01 PURPOSE.**

In order to comply with the statutes of the State of Tennessee (Section 6-2813 and 6-2906, Tennessee Code Annotated), to insure reasonable industrial development under the Industrial Building Bond Act of 1955, and to adequately protect the taxpayers of the State of Tennessee, the following Regulations and Rules of Procedure are hereby promulgated by the Building Finance Committee of the Tennessee Industrial and Agriculture Development Commission.

**Authority:** TCA §§ 6-2906; TCA 6-2813. **Administrative History:** Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.02 LIMITATIONS.**

- (1) Net worth of the prospective industrial lessee, as demonstrated by the most recent certified audit, must be at least 1 1/2 times the amount of the proposed bond issue, or in lieu thereof adequate additional security may be accepted, subject to approval of the municipality or county and the Building Finance Committee.
- (2) The Committee will not approve applications for Certificates of Public Purpose and Necessity on any projects for which issues of both Revenue and General Obligation bonds are proposed.
- (3) Applications for Certificates will be refused on proposed projects for which building contractor and/or securities dealers have been granted commitments in advance by either the municipality or industry involved. The municipality or county, as the agency authorized to issue bonds and as owner of the proposed building, shall have exclusive control of the project, subject to these rules and regulations.
- (4) A Certificate will not be granted authorizing a municipality or county to issue bonds for the purchase of an industrial facility to be constructed by a private or semiprivate industrial group. After the facility is completed, however, a Certificate may be granted authorizing issuance of bonds for its purchase at a price based on appraisals by three (3) competent independent realty appraisers.

**Authority:** TCA §§ 6-2906; TCA 6-2813. **Administrative History:** Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.03 PUBLIC SALE OF BONDS.**

- (1) Public sales of all General Obligation bonds authorized under provisions of the Industrial Building Bond Act of 1955 must be advertised in a newspaper of general circulation published in the municipality and THE BOND BUYER, at least fourteen (14) days prior to date of sale. In no case shall bonds be sold privately. All bonds must be sold after advertisement and at public sales held in the municipality issuing them.
- (2) All General Obligation bonds issued under the provisions of the Industrial Building Bond Act of 1955 shall be sold under the conditions stated above. Copies of the bond sale resolution, advertisements and bond prospectus shall be filed with the Building Finance Committee and the Comptroller of the Treasury not later than fifteen (15) days prior to date of sale. After bonds are sold, the municipality shall file with the Building Finance Committee a report of such sale, including information on identity of bidders, buyer or buyers, interest rates and average interest rate.

*Authority:* TCA §§ 6-2906; TCA 6-2813. *Administrative History:*. Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.04 CONSTRUCTION CONTRACTS.**

- (1) Construction contracts shall be awarded on the basis of sealed bids opened and read publicly. Bids shall be solicited by advertisement at least two (2) weeks prior to opening, in a newspaper of general circulation in the area in which the construction is proposed.
- (2) Contracts for construction shall be awarded in compliance with conditions stated above. Copies of the advertisement for bids, list of bidders with amount bid by each, name of concern to which contract is awarded, and performance bond executed by the successful bidder shall be filed with the Building Finance Committee and the Comptroller of the Treasury.

Authority: TCA Section 7-55-106; TCA Section 7-53-307.

**0500-2-2-.05 CONTRACTS FOR SERVICES.**

- (1) When the services of engineers, architects, attorneys, fiscal agents, etc., have been engaged by the municipality, copies of such contracts shall be filed with the Committee as a part of the application.
- (2) Contracts for services of independent architects, engineers, attorneys and fiscal agents. Affiliation of any person or persons so engaged with bond underwriters or construction firms may disqualify such firms from bidding on bonds or construction contracts.

*Authority:* TCA §§ 6-2906; TCA 6-2813. *Administrative History:*. Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.06 LESSOR TO FURNISH FINANCIAL STATEMENT.**

The company leasing the industrial building authorized by grant of a Certificate of Public Purpose and Necessity, and any guarantors of said lease, shall furnish to the Building Finance Committee a certified audit of each annual financial statement (Balance Sheet and Operating Statement) during the period in which any of the bonds authorized by the Certificate are outstanding. These statements shall be furnished within one hundred eighty (180) days after the end of the company's and/or guarantor's fiscal year.

*Authority:* TCA §§ 6-2906; TCA 6-2813. *Administrative History:*. Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.07 APPLICATION FOR CERTIFICATE - FORM AND CONTENT.**

Applications for Certificates of Public Purpose and Necessity shall be signed and sworn to by the chief officer of the county or municipality and shall include twelve (12) copies of each of the following in the body of the application or as exhibits thereto:

- (1) The purpose for which the Certificate of Public Purpose and Necessity is sought.
- (2) The identity of the lessee and any guarantors of the lease.
- (3) The term of the lease (years).
- (4) A general description of the proposed operations by the lessee,
- (5) A plat and legal description of the property to be acquired, and the appraised value thereof as determined by competent and independent real estate appraisers.
- (6) Itemized estimates of expenditures required for:
  - (a) Purchase of land,
  - (b) Purchase of existing building,
  - (c) Improvements to existing building,
  - (d) Construction of industrial building including site improvement, landscaping, etc.,
  - (e) Architectural and engineering costs,
  - (f) Fiscal and legal expenses,
  - (g) Interest accruing during the construction period and for six (6) months thereafter on money to be borrowed in connection with the project for which the petition is filed, and
  - (h) Holding referendum.
- (7) A statement that sealed bids will be invited for all construction work on the proposed project not performed by regular employees of the municipality or county, and that all bids may be rejected or the contract awarded to the lowest and best bidder.
- (8) A statement that all bonds issued for the proposed project under the provisions of Section 7-53-306 or Section 7-55-101 et. seq., Tennessee Code Annotated,, will be advertised in THE BOND BUYER and in local newspapers, and sold publicly to the highest and best bidder.
- (9) A statement that no other bonds or obligations of any kind, constituting an encumbrance against the proposed industrial facilities or a lien on the revenues therefrom, will be issued or authorized by the municipality or county without the approval of the Building Finance Committee.
- (10) Resolution by governing body authorizing municipality or county to execute lease agreement with industrial lessee and to apply to Building Finance Committee for Certificate of Public Purpose and Necessity.
- (11) Executed lease agreement by municipality or county and industrial lessee. No real estate firm, factory locating service, consulting engineering concern, private industrial development corporation, or other advisory or professional individual or group will be recognized as parties to this agreement.

(Rule 0500-2-2-.07, continued)

Any contract for services of such organization must be separate, and copies furnished to the Committee as a part of the application. The lease agreement shall set out the following:

- (a) That rental payments are sufficient to pay said bonds and interest thereon as they become due, and to create and maintain such reserves therefore, as may be deemed necessary by the Building Finance Committee,
  - (b) The term (not to exceed forty (40) years) of the lease contract.
  - (c) That on or before delivery date of bonds a firm lease contract, including monthly rentals, maturity schedule and options for renewal, if any, will be executed by municipality or county and industrial lessee,
  - (d) Adequate insurance coverage to be provided by lessee,
  - (e) Adequate provisions for maintenance of the property by the lessee, and
  - (f) That the lessee will furnish to the Building Finance Committee the financial statements described in Regulation 0500-2-2-.07.
- (12) Comparative balance sheets and operating statements of leasing company for past five (5) years certified by CPA (including parent or subsidiary companies). Interim statements within six (6) months of filing must be furnished when necessary.
  - (13) History and background of proposed lessee, including brief biographies of key officials, signed by top company officials.
  - (14) Statement giving unquestionable evidence of sufficient natural resources readily available for the use and operation of the proposed enterprise for at least ten (10) years or the period of time for which any bonds are issued for acquiring or constructing said industrial building. If no local natural resources are required, that fact shall be stated.
  - (15) Statements giving unquestionable evidence of the availability of 1 1/2 workers for each operative job in the proposed enterprise in a twenty-five (25) mile radius of the proposed location.
  - (16) Certified statement of latest assessed valuation of municipality or county - usually obtainable from County Trustee or City Recorder (total bonded indebtedness solely for purposes of these Acts cannot exceed 10% of total assessed value of all property in municipality or county).
  - (17) Proposed schedule of bond maturity dates.
  - (18) Tentative (or final) plans and specifications for construction of proposed industrial building.

Authority: TCA Section 7-35-106; TCA Section 7-53-307.

#### **0500-2-2-.08 PROCEEDS FROM SALE OF BONDS.**

Proceeds from sale of bonds shall be paid to the Fiscal Officer of the municipality or county and shall be disbursed and accounted for by such officer.

*Authority:* TCA §§ 6-2906; TCA 6-2813. *Administrative History:*. Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.09 AUDIT**

After completion of project for which bonds are issued, municipality or county must file with the Building Finance Committee and the Comptroller of the Treasury a certified audit of all disbursements of the bond proceeds, or the Comptroller of the Treasury may conduct his own audit of the disbursements.

*Authority:* TCA §§ 6-2906; TCA 6-2813. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.10 PROCEEDS FROM LEASE OF BUILDING.**

Rental payments by lessee shall be made directly to County Trustee, City Treasurer or other municipality or county official responsible for city's or county's funds. Such rental funds shall be kept separately as required by Section 7-55-112, Tennessee Code Annotated.

Authority: TCA Section 7-55-106; TCA Section 7-53-307.

**0500-2-2-.11 CERTIFICATE TO CONTAIN CONDITIONS.**

Each Certificate issued by the Building Finance Committee shall contain the conditions upon which it is issued.

*Authority:* TCA §§ 6-2906; TCA 6-2813. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.12 SWORN STATEMENT.**

Upon completion of the building project the municipality or county shall file with the Building Finance Committee a sworn statement showing compliance with the conditions set forth in the Certificate.

*Authority:* TCA §§ 6-2906; TCA 6-2813. *Administrative History:* Original Rule filed November 8, 1977, effective December 8, 1977.

**0500-2-2-.13 PROCEDURE OF COMMITTEE IN REVIEWING CERTIFICATE.**

- (1) Application for Certificates of Public Purpose and Necessity (12 copies) must be received by the Building Finance Committee at least fifteen (15) days prior to the date on which the application is to be considered.
- (2) Each application for a. Certificate of Public Purpose and Necessity will be submitted to the Attorney General and the Comptroller of the Treasury for analysis prior to the Committee meeting.
- (3) At each hearing the Chairman of the Committee shall read or explain Section 7-53-307 or Section 7-55-106 of the Industrial Building Bond Act of 1955, and the Rules and Regulations which the Committee has adopted, to representatives of the municipality or county and the industry involved.
- (4) The Comptroller of the Treasury or a member of his staff selected by him will be invited to attend each meeting as an advisor to the Committee.
- (5) The Committee will review all evidence and documents presented and on the basis of these facts and, before a Certificate is issued, must favorably find that the industrial building and enterprise:
  - (a) Are well conceived,
  - (b) Have a reasonable prospect of success,
  - (c) Will provide proper economic development and employment, and

(Rule 0500-2-2-.07, continued)

- (d) Will not become a burden upon the taxpayers.
- (6) Before a Certificate is issued the Committee must fix and determine:
  - (a) The extent and amount to which a municipality or county may issue bonds or make expenditures for such industrial building,
  - (b) What property may be acquired therefore,
  - (c) Terms upon which such acquisition may be had,
  - (d) What expenditures may be made and for what purposes, and
  - (e) Method of lease, rental and operation of said building by said municipality or county.
- (7) The Committee may reject any application completely or may return same to the municipality or county with suggestions as to the changes required.
- (8) Copies of minutes of each meeting and each Certificate shall be mailed to all members of the Committee, whether present or not, as soon as possible after each meeting.

**Authority:** TCA §§ 6-2906; TCA 6-2813. **Administrative History:** Original Rule filed November 8, 1977, effective December 8, 1977.

#### **0500-2-2-.14 PROCEDURE OF MUNICIPALITY RECEIVING CERTIFICATE - REFERENDUM**

After receiving the Certificate, the governing body of the municipality or county by resolution - voted on by members then in office - declares its intention of entering into such plans and calls for an election on the maximum amounts of bonds to be issued and the purpose therefore,

- (1) Notice of election must be published not less than two (2) times in a newspaper of general circulation in the municipality or county, the first of such publications being not less than twenty (20) days prior to the date of the election.
- (2) Copies of the election resolution, election advertisements and certified reports of election results shall be filed with the Building Finance Committee.

**Authority:** TCA §§ 6-2906; TCA 6-2813. **Administrative History:** Original Rule filed November 8, 1977, effective December 8, 1977.