DISCLAIMER

The South Carolina Legislative Council is offering access to the unannotated South Carolina Code of Laws on the Internet as a service to the public. The unannotated South Carolina Code on the General Assembly's website is now current through the 2009 session. The unannotated South Carolina Code, consisting only of Code text and numbering, may be copied from this website at the reader's expense and effort without need for permission.

The Legislative Council is unable to assist users of this service with legal questions. Also, legislative staff cannot respond to requests for legal advice or the application of the law to specific facts. Therefore, to understand and protect your legal rights, you should consult your own private lawyer regarding all legal questions.

While every effort was made to ensure the accuracy and completeness of the unannotated South Carolina Code available on the South Carolina General Assembly's website, the unannotated South Carolina Code is not official, and the state agencies preparing this website and the General Assembly are not responsible for any errors or omissions which may occur in these files. Only the current published volumes of the South Carolina Code of Laws Annotated and any pertinent acts and joint resolutions contain the official version.

Please note that the Legislative Council is not able to respond to individual inquiries regarding research or the features, format, or use of this website. However, you may notify Legislative Printing, Information and Technology Systems at LPITS@scstatehouse.gov regarding any apparent errors or omissions in content of Code sections on this website, in which case LPITS will relay the information to appropriate staff members of the South Carolina Legislative Council for investigation.

CHAPTER 15.

 BONDS OF POLITICAL SUBDIVISIONS

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 11‑15‑10.** Record of public bond issues shall be kept and filed.

In case any county, township, school district, city, town or other municipality is authorized to issue bonds in pursuance of law, the persons and officers charged therewith shall make a full record of the proceedings connected with such bond issue, and a copy of the record of such proceedings shall be filed and indexed in the office of the clerk of court of the county in a special book to be furnished therefor.

**SECTION 11‑15‑20.** Records of bond issues shall be made by State agencies; filing and indexing of such records.

(1) Definitions:

(a) “Bonds” shall include general obligations of the issuer and obligations of the issuer payable in whole or in part from any special fund or other source, any part of which is expressed to mature more than twelve months from the date thereof but shall not include obligations issued in anticipation of the collection of taxes or in anticipation of the issuance of bonds.

(b) “State agency” shall mean the State of South Carolina, its agencies and institutions.

(c) “Governing board” shall mean the board, commission, board of trustees, authority, or any other public body upon which is devolved by law the administrative and executive duties relating to the issuance of bonds of any State agency.

(2) In every instance where the governing board of any State agency shall propose to effect the issuance of bonds, it shall make a full record of the proceedings relating to the issuance of such bonds, exclusive of papers and documents relating to the delivery of such bonds, and shall, prior to the delivery of such bonds, file a copy of such record in the office of the Secretary of State. It shall be the duty of the Secretary of State to file and index the record in a special book to be kept by such officer for such purpose. The Secretary of State shall be authorized to prepare and deliver certified copies of the records as thus filed and to deliver them to the purchasers of the bonds or other interested parties. For each such certification a reasonable fee may be charged.

**SECTION 11‑15‑30.** Bonds shall be incontestable from twenty days after filing and indexing.

No action shall be commenced on account of the issuance of any such bonds after the expiration of twenty days from the date of the filing and indexing of such records as prescribed by Sections 11‑15‑10 and 11‑15‑20, and such bonds so issued, when in the hands of a bona fide purchaser for value, shall be incontestable, but the period within which such actions may be commenced shall not begin to run until such records have been filed as herein prescribed.

**SECTION 11‑15‑90.** Failure to make payment or remit funds for payment of obligations.

If any disbursing officer shall fail or refuse to make payment of any obligations when they shall fall due, at his office, or shall fail or refuse to remit funds for such payment to the agreed place for payment in sufficient time for such payment, funds for such payment being in his hands, whether or not such payments or remission for payment shall have been ordered by any board or officer, the disbursing officer so failing or refusing shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment for a term of not less than thirty days and not more than one year and a fine of not less than two hundred dollars and not more than five hundred dollars, either or both within the discretion of the court.

**SECTION 11‑15‑100.** Requirements for incurring general obligation debt.

(A) Counties, municipalities, school districts, and special purpose districts shall not incur any general obligation or revenue obligation indebtedness unless there has been filed in the office of the State Treasurer the following information:

(1) date and title issue;

(2) type of indebtedness;

(3) the purpose of issuance;

(4) the original principal to be borrowed;

(5) interest rate;

(6) annual payments of principal;

(7) annual payments of interest.

(B) The State Treasurer shall prepare and make available to counties, municipalities, school districts, and special purpose districts blank forms upon which the information required in subsection (A) of this section must be reported.

(C) The State Treasurer shall annually survey the counties, municipalities, school districts, and special purpose districts concerning their general obligation and revenue obligation indebtedness so as to maintain a current record of these obligations. The survey must be conducted in such manner and on such forms as the State Treasurer shall prescribe. The survey for counties, school districts, and special purpose districts must be compiled by their respective county treasurers.

(D) On or before March thirty‑first of each year following the close of the fiscal year, the State Treasurer shall publish a statement of obligations of all political subdivisions showing each municipality, county, special purpose district, and school district in a county‑by‑county listing.

ARTICLE 3.

 PROTECTION OF SINKING FUNDS

**SECTION 11‑15‑210.** Investment of sinking funds of political subdivisions of the State; change.

The custodian of any sinking fund required to be established by the laws of this State for the retirement at maturity of bonds, notes or other obligations issued by any political subdivision of the State not maturing within one year from the date of issue shall invest, within six months from the collection of the tax levied for the establishment of such sinking fund, the funds so collected in bonds of the issue for which the sinking fund is created, in other outstanding issues of such political subdivision or in valid outstanding bonds of some other political subdivision of this State or in bonds of this State or the United States of America, with the privilege of changing the investments from such bonds to other such bonds of any such class, if in the opinion of the custodian of such sinking fund such change is necessary or advisable.

**SECTION 11‑15‑220.** When collections need not be invested.

When such collection for a sinking fund is to be applied to the payment of bonds maturing within twelve months from the date of such collection, then such collection to the amount of the bonds so about to mature need not be invested. And such investments need not be made unless the amount on hand for investment shall amount to one thousand dollars, it being the intention of this section and Section 11‑15‑210 that whenever the amount of any sinking fund collected shall be one thousand dollars or more the investment of one thousand dollars or any multiple thereof on hand shall then be made.

**SECTION 11‑15‑230.** Deposit of collections for sinking fund.

The custodian of any sinking fund affected by Section 11‑15‑210 may deposit collections for such sinking fund in any bank approved by the chief bank examiner.

**SECTION 11‑15‑240.** Holding of sinking fund investments.

Such investments shall be kept separate and distinct and properly earmarked with or registered in the name of the particular sinking fund to which they are applicable and shall be used for no other purpose and kept until such time before the maturity of the bonds for which the sinking fund is established as it may be necessary to sell or collect them in order to meet such obligations at maturity.

**SECTION 11‑15‑250.** Advertisements for purchase of securities.

In making such investment of sinking funds in securities other than those of the county in which such sinking fund was created the custodian shall advertise once a week for two weeks in one newspaper published in the county in which such a sinking fund is established or in a newspaper having a general circulation in such county for offers of sale of bonds of the issue for which the sinking fund is established and of bonds of political subdivisions of this State, with the right to reject any and all offers.

**SECTION 11‑15‑260.** Choice of investments.

If bonds of the issue for which the sinking fund is established are offered at a price not in excess of par and accrued interest or at a price not in excess of the lowest price at which the bonds of any other political subdivision of this State are offered, then the sinking fund shall be invested in such bonds. Otherwise it shall be invested in such other bonds as are offered at the lowest price, due regard being had, however, to the legality of such issue and the solvency of the maker or, in the discretion of the custodian, in bonds of the United States of America or of this State. In the purchase of bonds the custodian shall, if possible, purchase bonds with maturities coincident, or as nearly as possible coincident, with the maturities of the bonds for which the sinking fund was established.

**SECTION 11‑15‑270.** Sale of bonds in sinking fund.

No sale of bonds bought by the custodian for the investment of the sinking fund shall be made except after advertisement of such proposed sale for the same length of time and in the same manner and in the same newspapers as is provided in Section 11‑15‑250 for the purchasing of bonds.

**SECTION 11‑15‑280.** Statements to be filed.

When bonds are bought or sold as provided under the terms of this article, the custodian of the sinking fund effecting the purchase or sale shall file in the office of the clerk of court of the county in which the sinking fund is situate, for public inspection, a list of the bonds offered to him for purchase, showing their amount, price and interest rate and designating therein the bonds actually purchased, and in the event of the sale of bonds, shall file a statement showing all offers received for the purchase of the bonds, designating thereon the offer which was accepted. Such statements filed in the office of the clerk of court may be destroyed by the clerk one year thereafter.

**SECTION 11‑15‑290.** Failure to make investments in accordance with article shall be a misdemeanor.

The failure of the custodian of any such sinking fund to make such investments in accordance with the provisions of this article shall be a misdemeanor, and upon conviction thereof he shall be liable to a fine of not less than one hundred dollars nor more than one thousand dollars or imprisonment for not less than thirty days nor more than one year or both.

**SECTION 11‑15‑300.** Provisions are not applicable to certain counties.

The provisions of this article shall not apply to Abbeville, Anderson, Beaufort, Cherokee, Chester, Chesterfield, Clarendon, Colleton, Darlington, Edgefield, Georgetown, Greenville, Greenwood, Horry, Jasper, Kershaw, Laurens, Lee, Lexington, McCormick, Marion, Newberry, Oconee, Orangeburg, Richland, Saluda, Union, Williamsburg and York Counties. The investment of any sinking funds of Pickens County, under the provisions of this article, shall be optional with the custodian of such funds, and any investment thereof by such custodian shall be first approved by the attorney for the county of Pickens.

ARTICLE 5.

 REFUNDING ACT

**SECTION 11‑15‑410.** Short title.

This article may be cited as the “Refunding Act.”

**SECTION 11‑15‑420.** Declaration of purpose.

This article is intended to authorize and provide the procedure for the issuance of general obligation bonds whose proceeds are to be used to pay, in whole or in part, sums due on general obligation bonds previously issued.

**SECTION 11‑15‑430.** Definitions.

(1) The word “issuer,” as used in this article, shall mean any incorporated city or town, school district, county, or other political division or subdivision of the State which shall have outstanding and unpaid, whether matured or unmatured, bonds for whose payment the full faith, credit, taxing power and resources of such political division or subdivision have been pledged, whether or not such general obligation bonds be additionally secured by pledge of other revenues.

(2) The term “governing body” shall mean, in the case of incorporated cities or towns, the city council or town council and in other instances the commission, group, board or body to whom is delegated the administrative duties of the issuer.

**SECTION 11‑15‑440.** Extent to which refunding bonds may be issued.

The governing body of any issuer may issue general obligation bonds of such issuer to such extent as such issuer shall be indebted by way of principal, interest, and redemption premium upon any outstanding general obligation or revenue bonds, maturing or called for redemption, less all sinking funds and other monies on hand applicable thereto. The issuer may utilize the provisions of Sections 11‑27‑40 and 11‑27‑50 in connection with the issuance of such refunding bonds.

**SECTION 11‑15‑450.** When refunding bonds may be issued.

Such refunding bonds may be issued at any time, but not sooner than one year from the date the outstanding bonds fall due or have been called for redemption.

**SECTION 11‑15‑460.** Interest rate.

These refunding bonds must bear interest at those rates as may be determined by the governing body of the issuer. However, before the issuance of any refunding bonds, except in the case of the refunding of Qualified School Construction Bonds issued pursuant to the provisions of 26 U.S.C. Section 54F, the governing body shall determine that a savings can be effected through the issuance of these refunding bonds.

**SECTION 11‑15‑470.** Maturities.

Such refunding bonds shall mature in such annual series or installments, equal or unequal in amount, as the governing body shall provide, except that:

(1) The first maturing bonds shall mature within five years from the date as of which they are issued;

(2) Not less than two per cent of the aggregate of the issue shall mature in any year; and

(3) No bonds shall mature later than forty years from the date as of which they are issued.

**SECTION 11‑15‑480.** Redemption privilege.

All refunding bonds maturing subsequent to fifteen years from their date shall be subject to redemption not later than fifteen years from their date and on all subsequent interest payment dates prior to their respective maturities. Bonds may be issued with a provision permitting their redemption on any interest payment date prior to their respective maturities. Bonds made subject to redemption prior to their stated maturities may contain a provision requiring the issuer to pay a premium for the privilege of exercising the right of redemption in such amount as the governing body shall have prescribed in the proceedings taken to authorize the issuance of such bonds. All bonds that are subject to redemption shall contain a statement to that effect on the face of each bond. In the proceedings authorizing the issuance of such bonds provision shall be made specifying the manner of call and the notice thereof that must be given.

**SECTION 11‑15‑490.** Negotiability; registration.

All such refunding bonds shall be in the form of negotiable coupon bonds, payable to bearer, but may contain provisions granting to the holder the privilege of having them registered on the books of the treasurer of the issuer and the principal thus made payable to the registered holder (unless the last registered transfer shall have been to bearer) upon such conditions as the governing body may prescribe. Unless registered such bonds shall have all the qualities of negotiable instruments under the law merchant and the Uniform Commercial Code.

**SECTION 11‑15‑500.** Place of payment.

Such refunding bonds shall be made payable at such place or places, within or without the State as the governing body shall provide.

**SECTION 11‑15‑510.** Execution of bonds.

Such refunding bonds and the coupons annexed thereto shall be executed in the manner provided for by the governing body.

**SECTION 11‑15‑520.** Sale of bonds.

Such refunding bonds shall be sold at public sale, after advertisement of sale in a newspaper having general circulation in the State or in a financial publication published in the city of New York or, in the discretion of the governing body, in both such publications. Such advertisement shall appear not less than ten days prior to the occasion set for such sale. The bonds may be disposed of at private sale if there are no bids received or if all bids are rejected. The provisions of this section shall not prevent a private sale to the United States of America or any agency thereof.

**SECTION 11‑15‑530.** Sales price.

All refunding bonds must be sold at a price of not less than par and accrued interest to the date of delivery thereof.

**SECTION 11‑15‑540.** Pledges and covenants to ensure payment; ad valorem tax.

For the payment of the principal and interest of such bonds as they respectively mature and for the creation of such sinking fund as may be necessary to provide for the prompt payment thereof, the full faith, credit, taxing power and resources of the issuer shall be irrevocably pledged, and there shall be levied and collected annually upon all taxable property of the issuer an ad valorem tax, without limitation as to rate or amount, sufficient for such purposes. The governing body of the issuer may, in its discretion, additionally secure the refunding bonds by a pledge of such revenues as were pledged to secure additionally the outstanding bonds. If such refunding bonds be additionally secured, covenants similar to those made in issuing the outstanding bonds may be made.

**SECTION 11‑15‑550.** Exemption from taxes.

Refunding bonds issued under this article shall be exempt from all State, county, municipal, school district and other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

**SECTION 11‑15‑560.** Bonds shall be legal for fiduciary and sinking fund commission investment.

All executors, administrators, guardians, committees and fiduciaries and all sinking fund commissions may invest moneys in their hands in bonds issued under this article.

**SECTION 11‑15‑570.** Use of bonds to pay taxes.

The governing body of the issuer may provide in the proceedings taken in connection with the issuance of refunding bonds that either the bonds or the coupons shall be receivable for taxes due to the issuer during the year in which they respectively mature.

**SECTION 11‑15‑580.** Holder of bonds may require levying of taxes and enforce covenants.

In the event the governing body shall fail to levy the taxes required to be levied or to perform the covenants undertaken in the issuance of the bonds, any holder of any of the bonds or coupons may require the levy of taxes and enforce the performance of the covenants by mandamus in any of the courts of this State.

**SECTION 11‑15‑590.** Deposit and use of proceeds.

The proceeds derived from the sale of these bonds must be deposited in a special fund, separate and distinct from all other funds, and applied solely to the purposes for which the bonds are issued, except that the accrued interest, if any, must be used to discharge in part the first interest to become due on the bonds.

**SECTION 11‑15‑600.** Refunding of special obligation bonds.

Any issuer having outstanding special obligation bonds authorized by any special act of the General Assembly enacted prior to March 7, 1973, may utilize the procedure prescribed by this article to effect the refunding of such special obligation bonds, except that for the payment of the principal of and interest on such refunding bonds there shall be pledged all or any part of the revenues securing the outstanding bonds, and any and all covenants as may be deemed necessary or desirable may be made to implement such pledges.