

## CHAPTER 75

## BOND VALIDATION

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**75.01 Jurisdiction.**—Circuit courts have jurisdiction to determine the validation of bonds and certificates of indebtedness and all matters connected therewith.

**History.**—s. 25, ch. 67-254.

**75.02 Plaintiff.**—Any county, municipality, taxing district or other political district or subdivision of this state, including the governing body of any drainage, conservation or reclamation district, and including also state agencies, commissions and departments authorized by law to issue bonds, may determine its authority to incur bonded debt or issue certificates of debt and the legality of all proceedings in connection therewith, including assessment of taxes levied or to be levied, the lien thereof and proceedings or other remedies for their collection. For this purpose a complaint shall be filed in the circuit court in the county or in the county where the municipality or district, or any part thereof, is located against the state and the taxpayers, property owners, and citizens of the county, municipality or district, including nonresidents owning property or subject to taxation therein. In actions to validate bonds or certificates of debt issued by state agencies, commissions or departments, the complaint shall be filed in the circuit court of the county where the proceeds of the bond issue are to be expended, or where the seat of state government is situated, and shall be brought against the state and the taxpayers, property owners and citizens thereof, including nonresidents owning property or subject to taxation therein.

**History.**—s. 1, ch. 6868, 1915; RGS 3296; s. 1, ch. 10036, 1925; s. 1, ch. 12003, 1927; CGL 5106, 5113, 5123; s. 1, ch. 25263, 1949; s. 25, ch. 67-254.

**75.03 Condition precedent.**—As a condition precedent to filing of a complaint for the validation of bonds or certificates of debt, the county, municipality, state agency, commission or department, or district desiring to issue them shall cause an election to be held to authorize the issuance of such bonds or certificates and show prima facie that the election was in favor of the issuance thereof, or, when permitted by law, adopt an ordinance,

resolution or other proceeding providing for the issuance of such bonds or certificates in accordance with law.

**History.**—s. 1, ch. 6868, 1915; RGS 3296; CGL 5106; s. 2, ch. 25263, 1949; s. 25, ch. 67-254.

**75.04 Complaint.**—

(1) The complaint shall set out the plaintiff's authority for incurring the bonded debt or issuing certificates of debt, the holding of an election and the result when an election is required, the ordinance, resolution, or other proceeding authorizing the issue and its adoption, all other essential proceedings had or taken in connection therewith, the amount of the bonds or certificates to be issued and the interest they are to bear; and, in case of a drainage, conservation, or reclamation district, the authority for the creation of such district, for the issuance of bonds, for the levy and assessment of taxes and all other pertinent matters.

(2) In the case of an independent special district as defined in s. 218.31(7), the complaint shall allege the creation of a trust indenture established by the petitioner for a bonded trustee acceptable to the court who shall certify the proper expenditure of the proceeds of the bonds.

**History.**—s. 2, ch. 6868, 1915; RGS 3297; s. 2, ch. 12003, 1927; CGL 5107, 5123, 5124; s. 1, ch. 14504, 1929; s. 25, ch. 67-254; s. 13, ch. 80-281.

**75.05 Order and service.**—

(1) The court shall issue an order directed against the state and the several property owners, taxpayers, citizens and others having or claiming any right, title or interest in property to be affected by the issuance of bonds or certificates, or to be affected thereby, requiring all persons, in general terms and without naming them and the state through its state attorney or attorneys of the circuits where the county, municipality or district lies, to appear at a designated time and place within the circuit where the complaint is filed and show why the complaint should not be granted and the proceedings and bonds or certificates validated. A copy of the complaint and order shall be served on the state attorney of the circuit in which such proceedings are pending, and when the municipality or district lies in more than one judicial circuit, on the state attorney of each of the circuits at least 20 days before the time fixed for hearing. The state attorney shall examine the complaint, and, if it appears or there is reason to believe that it is defective, insufficient, or untrue, or if in the opinion of the state attorney the issuance of the bonds or certificates in question has not been duly authorized, defense shall be made by said state attorney. The state attorney shall have access, for the purposes aforesaid, to all records and proceedings of the county, municipality, state agency, commission or department, or district, and any officer, agent or employee having charge, possession, or control of any of the books, papers, or records of the county, municipality, state agency, commission, department, or district shall exhibit them for examination on demand of the state attorney, and shall furnish, without

cost, duly authenticated copies thereof which pertain to the proceedings for the issuance of the bonds or certificates or which may affect their legality.

(2) In the case of state agencies, commissions, or departments, a copy of the complaint and order shall be served on the state attorney of the circuit in which the action is pending and if pending in a county when the proceeds of the bond issue are to be expended in any other county, on the state attorney of each county in which it is proposed to expend the proceeds.

(3) In the case of independent special districts as defined in s. 218.31(7), a copy of the complaint shall be served on the Division of Bond Finance of the State Board of Administration. Notwithstanding any other provision of law, whether a general law or special act, validation of bonds to be issued by a special district, other than a community development district established pursuant to chapter 190, as provided in s. 190.016(12), is not mandatory, but is at the option of the issuer. However, the validation of bonds issued by such community development districts shall not be required on refunding issues.

**History.**—s. 2, ch. 6868, 1915; RGS 3297; s. 2, ch. 10036, 1925; s. 2, ch. 12003, 1927; CGL 5107, 5114, 5124; s. 1, ch. 14504, 1929; s. 1, ch. 22623, 1945; s. 3, ch. 25263, 1949; s. 25, ch. 67-254; s. 11, ch. 79-183; s. 32, ch. 89-169; s. 1, ch. 91-308; s. 141, ch. 92-279; s. 55, ch. 92-326.

#### **75.06 Publication of notice.—**

(1) Before the date set for hearing, the clerk shall publish a copy of the order in the county where the complaint is filed, and if plaintiff is a municipality or district in more than one county, then in each county, at least once each week for 2 consecutive weeks, commencing with the first publication, which shall not be less than 20 days before the date set for hearing but if there is a newspaper published in the territory to be affected by the issuance of the bonds or certificates, and in the county or counties the publication shall be therein unless otherwise ordered by the court. By this publication all property owners, taxpayers, citizens, and others having or claiming any right, title or interest in the county, municipality or district, or the taxable property therein, are made parties defendant to the action and the court has jurisdiction of them to the same extent as if named as defendants in the complaint and personally served with process.

(2) In actions to validate the bonds of state agencies, commissions or departments, the order shall be published in the same manner in a newspaper in each of the counties where the proceeds of bonds are to be expended, and in a newspaper published in the county in which the seat of state government is located if the action is brought therein.

**History.**—s. 2, ch. 6868, 1915; RGS 3297; s. 3, ch. 10036, 1925; s. 2, ch. 12003, 1927; CGL 5107, 5115, 5124; s. 1, ch. 14504, 1929; s. 1, ch. 22633, 1945; s. 4, ch. 25263, 1949; s. 25, ch. 67-254; s. 3, ch. 90-279.

**75.07 Intervention; hearings.—**Any property owner, taxpayer, citizen or person interested may become a party to the action by moving against or pleading to the complaint at or before the time set for hearing. At the hearing the court shall determine all questions of law and fact and make such orders as will enable it to properly try and determine the action and render a final judgment with the least possible delay.

**History.**—s. 3, ch. 6868, 1915; RGS 3298; s. 1, ch. 11854; s. 3, ch. 12003, 1927; CGL 5108, 5125; s. 25, ch. 67-254.

**75.08 Appeal and review.—**Any party to the action whether plaintiff, defendant, intervenor or otherwise, dissatisfied with the final judgment, may appeal to the Supreme Court within the time and in the manner prescribed by the Florida Rules of Appellate Procedure.

**History.**—s. 3, ch. 6868, 1915; RGS 3298; s. 1, ch. 11854, s. 3, ch. 12003, 1927; CGL 5108, 5125; s. 10, ch. 63-559; s. 25, ch. 67-254.

**75.09 Effect of final judgment.—**If the judgment validates such bonds, certificates or other obligations, which may include the validation of the county, municipality, taxing district, political district, subdivision, agency, instrumentality or other public body itself and any taxes, assessments or revenues affected, and no appeal is taken within the time prescribed, or if taken and the judgment is affirmed, such judgment is forever conclusive as to all matters adjudicated against plaintiff and all parties affected thereby, including all property owners, taxpayers and citizens of the plaintiff, and all others having or claiming any right, title or interest in property to be affected by the issuance of said bonds, certificates or other obligations, or to be affected in any way thereby, and the validity of said bonds, certificates or other obligations or of any taxes, assessments or revenues pledged for the payment thereof, or of the proceedings authorizing the issuance thereof, including any remedies provided for their collection, shall never be called in question in any court by any person or party.

**History.**—s. 4, ch. 6868, 1915; RGS 3299; s. 4, ch. 12003, 1927; CGL 5109, 5126; s. 1, ch. 29691, 1955; s. 9, ch. 57-1; s. 25, ch. 67-254.

**75.10 Recording of judgment in other counties.—**If any judgment extends into more than one county it shall be recorded in each county in which the plaintiff municipality or district extends.

**History.**—s. 4, ch. 10036, 1925; CGL 5116; s. 25, ch. 67-254.

#### **75.11 Stamping instruments validated.—**

(1) Bonds or certificates, when validated under this chapter, shall have stamped or written thereon, by the proper officers of such county, municipality or district issuing them, a statement in substantially the following form:

"This bond is one of a series of bonds which were validated by judgment of the Circuit Court for \_\_\_\_ County, rendered on \_\_\_\_, 19\_\_\_\_."

(2) A certified copy of the judgment or decree shall be received as evidence in any court in this state.

**History.**—s. 5, ch. 6868, 1915; RGS 3300; s. 5, ch. 12003, 1927; CGL 5110, 5127; s. 1, ch. 57-300; s. 25, ch. 67-254.

**75.12 Payment of costs.—**The costs shall be paid by the county, municipality, or district filing the complaint except when a taxpayer, citizen, or other person contests the action or intervenes, the court may tax the whole or any part of the costs against him or her as is equitable.

**History.**—s. 6, ch. 6868, 1915; RGS 3301; s. 6, ch. 12003, 1927; CGL 5111, 5128; s. 25, ch. 67-254; s. 367, ch. 95-147.

**75.13 Certain prior proceedings validated.—**Any action for validation heretofore brought by any municipality, special taxing district or political district or subdivision which extends into more than one county or judi-

cial circuit, whereby bonds or certificates of debt have been validated in which the proceedings have been brought in one county and a decree has been entered, said decree shall be binding on all of the citizens, property owners, or taxpayers of each municipality, district or subdivision.

**History.**—s. 5, ch. 10036, 1925; CGL 5117; s. 25, ch. 67-254.

**75.14 Landowner or taxpayer not disqualification of judge.**—No judge shall be disqualified in any validation action because the judge is a landowner or taxpayer of any county, municipality, or district seeking relief hereunder.

**History.**—s. 1, ch. 10164, 1925; CGL 5118; s. 25, ch. 67-254; s. 368, ch. 95-147.

**75.16 Certain orders and decrees validated.**—All orders, decrees, and judgments heretofore or hereafter made in actions for the validation of bonds or certificates of indebtedness by any judge disqualified by matters not apparent on the record are valid and binding on all parties unless attacked within 20 days of the entry thereof; and all orders, decrees, and judgments hereto-

fore made in such validation actions by judges other than the regular judge or those mentioned or designated in the notices, or at places other than, or dates subsequent to, those mentioned in said notices, when it appears that the regular judge was disqualified, absent, or disabled from discharging the duties of his or her office, are hereby ratified.

**History.**—s. 3, ch. 10164, 1925; s. 2, ch. 12066, 1927; CGL 5120, 5122; s. 25, ch. 67-254; s. 369, ch. 95-147.

**75.17 Commencement of action after validation; affidavit of good faith.**—Every person who commences an action as taxpayer or otherwise to challenge the validity of any bonds or certificates or to prevent the use of any moneys derived from the sale of the bonds or certificates after the bonds or certificates have been validated by courts of competent jurisdiction pursuant to this chapter, shall file an affidavit of good faith stating that the action is not filed for delay and setting forth with particularity why the objection was not made as part of the validation action.

**History.**—s. 1, ch. 61-508; s. 25, ch. 67-254.