

CHAPTER 315

PORT FACILITIES FINANCING

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315.01 Short title.—This law shall be known and may be cited as the “1959 Port Facilities Financing Law.”
History.—s. 1, ch. 59-411.

315.02 Definitions.—As used in this law, the following words and terms shall have the following meanings:

(1) The term “port district” or the word “district” shall mean any district created by or pursuant to the provisions of any general or special law and authorized to own or operate any port facilities.

(2) The term “port authority” or the word “authority” shall mean any port authority in Florida created by or pursuant to the provisions of any general or special law or any district or board of county commissioners acting as a port authority under or pursuant to the provisions of any general or special law.

(3) The word “county” shall mean any county and the word “municipality” shall mean any municipality in Florida.

(4) The word “unit” shall mean any county, port district, port authority or municipality.

(5) The term “governing body” shall mean the board or body in which the general legislative powers of a unit shall be vested.

(6) The term “port facilities” shall mean and shall include harbor, shipping, and port facilities, and improvements of every kind, nature, and description, including, but without limitation, channels, turning basins, jetties, breakwaters, public landings, wharves, docks, markets, parks, recreational facilities, structures, buildings, piers, storage facilities, public buildings and plazas, anchorages, utilities, bridges, tunnels, roads, causeways, and any and all property and facilities necessary or useful in connection with the foregoing, and any one or more or any combination thereof and any extension, addition, betterment or improvement of any thereof.

(7) The word “cost” as applied to any port facilities shall mean and shall include the cost of acquisition or construction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during construction and for 1 year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, all other expenses necessary or incident to determining the feasibility or practicability of such construction, the cost of acquiring or improving, enlarging and extending existing port facilities and preparing the same for sale or lease to provide funds for financing port facilities under the provisions of this law if, in the determination of the governing body, such acquisition, such improvement, enlargement and extension or such preparation for sale or lease are necessary to such financing, administrative expenses and such other expenses as may be necessary or incident to any financing herein authorized. Any obligation or expense heretofore or hereafter incurred by a unit in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to the unit out of the proceeds of port facilities bonds issued under the provisions of this law.

History.—s. 2, ch. 59-411; s. 1, ch. 67-317.

315.03 Grant of powers.—Each unit is hereby authorized and empowered:

(1) To acquire, construct, lease, operate and maintain any port facilities either within or without or partly within and partly without the corporate limits of the unit, or within or partly within the corporate limits of any other unit on property owned or acquired by it; provided, however, that no unit shall acquire, construct, lease, operate or maintain port facilities other than channels or turning basins in any county of the state other than the county in which such unit is located without securing the prior approval or consent of the unit or units in which such port facilities are proposed to be located, which approval or consent, if given, shall be evidenced by a resolution or ordinance duly adopted.

(2) To acquire by purchase, grant, gift or lease or by the exercise of the right of eminent domain and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property, for or in connection with any port facilities, whether or not subject to mortgage, liens, charges or other encumbrances.

(3) To add to or extend, or cause or permit to be added to or extended, any existing lands or islands now or hereafter owned by a unit bordering on or being in any waters by the pumping of sand or earth from any land under water or by any other means of construction, as a part of or for the purpose of providing any port facilities or for the purpose of improving, creating or extending any property of the unit for use of or disposal by the unit.

(4) To construct, or cause or permit to be constructed, an island or islands in any waters by the pump-

ing of sand or earth from any land under water or by any other means of construction, as a part of or for the purpose of providing any port facilities.

(5) To construct any bridge, tunnel, road or causeway, or any combination thereof, to, from or between any port facilities.

(6) To dredge or deepen harbors, channels and turning basins, to cooperate with the United States or any agency thereof in the dredging or deepening of any harbor, channel or turning basin, to enter into contracts with the United States or with any agency thereof concerning any such dredging or deepening project, and to pay such amounts to the United States or any agency thereof or to others as shall be required by the terms of any such contract.

(7) To fill in, extend and enlarge, or cause or permit to be filled in, extended and enlarged, any existing port facilities, to demolish and remove any and all structures thereon or constituting a part thereof, and otherwise to prepare the same for sale or lease to provide funds for financing port facilities under the provisions of this law.

(8) To acquire any existing port facilities and to fill in, extend, enlarge or improve the same, or to cause or permit the same to be extended, enlarged or improved, for any public purpose or for sale or lease for the purpose of providing funds for the acquisition by the unit of any port facilities or for the payment of bonds, notes or other obligations of the unit for or in connection with any port facilities.

(9) To sell at public or private sale or lease for public or private purposes all or any portion of any port facilities now or hereafter owned by the unit, including any such facilities as extended, enlarged or improved, and all or any portion of any property of the unit improved, created, extended or enlarged under the authority of this law, on such terms and subject to such conditions as the governing body shall determine to be in the best interests of the unit.

(10) To contract for the purchase by the unit of any port facilities to be constructed, enlarged, extended or improved by any public body, agency or instrumentality or by any private person, firm or corporation, and to provide for payment of the purchase price thereof in such manner as may be deemed by the governing body to be in the best interests of the unit, including, but without limitation, the sale or exchange of any property of the unit therefor or the issuance of bonds or other obligations of the unit.

(11) To accept loans or grants of money or materials or property at any time from the United States or the State of Florida or any agency, instrumentality or subdivision thereof, upon such terms and conditions as the United States, the State of Florida, or such agency, instrumentality or subdivision may impose.

(12) To exercise jurisdiction, control and supervision over any port facilities now or hereafter acquired, owned or constructed by the unit.

(13) To operate and maintain, and to fix and collect rates, rentals, fees and other charges for any of the services and facilities provided by the port facilities now or hereafter acquired, owned or constructed by the unit excluding state bar pilots.

(14) To lease or rent, or contract with others for the operation of all or any part of any port facilities now or hereafter acquired, owned or constructed by the unit, on such terms and for such period or periods and subject to such conditions as the governing body shall determine to be in the best interests of the units.

(15) To contract debts for the acquisition or construction of any port facilities or for any other purposes of this law, to borrow money, to make advances, and to issue bonds or other obligations to finance all or any part of such acquisition or construction or in the carrying out of any other purposes of this law.

(16) To make advances to the United States or any agency or instrumentality thereof in connection with any port facilities, including the dredging or deepening of any harbor, channel or turning basin to serve any port facilities.

(17) To enter on any lands, waters or premises, within or without the unit or within the corporate limits of any other unit, for the purpose of making surveys, soundings and examinations with relation to any existing or proposed port facilities.

(18) To contract with the United States or the State of Florida or any agency or instrumentality thereof or with any public body or political subdivision or with any private person, firm or corporation with reference to any of the powers hereby granted.

(19) To perform any of the acts hereby authorized through or by means of its own officers, agents or employees or by contract.

(20) To do all acts and things and to enter into all contracts and agreements necessary or convenient to carry out the purposes of this law.

(21) To expend funds to finance the cost of implementing recommendations made pursuant to s. 161.161 to mitigate the adverse impacts of inlets on beaches.

History.—s. 3, ch. 59-411; s. 1, ch. 67-137; s. 10, ch. 86-138.

315.031 Promoting and advertising port facilities.

(1) Each unit is authorized and empowered:

(a) To publicize, advertise and promote the activities and port facilities herein authorized;

(b) To make known the advantages, facilities, resources, products, attractions and attributes of the activities and port facilities herein authorized;

(c) To create a favorable climate of opinion concerning the activities and port facilities herein authorized;

(d) To cooperate with other agencies, public and private, in accomplishing these purposes;

(e) To enter into agreements with the purchaser or purchasers of port facilities bonds issued under the provisions of this law to establish a special fund to be set aside from the proceeds of the revenues collected under the provisions of s. 315.03(13), during any fiscal year, for the promotional activities authorized herein.

Nothing herein shall be construed to authorize any unit to expend funds for meals, hospitality, amusement or any other purpose of an entertainment nature.

(2) All obligations, expenses and costs incurred under the provisions of this section shall be paid from such fund when vouchers thereof, approved by the governing body of the unit, are exhibited to the responsible authority making disbursements for the governing body.

History.—s. 1, ch. 67-228.

315.04 Other consents or approvals; use of state lands.—Except as hereinafter provided in this section, and except as provided in s. 315.03(1), the approval or consent of any other political subdivision or public body, agency or instrumentality of the State of Florida, except the Board of Trustees of the Internal Improvement Trust Fund, shall not be required for the exercise of any of the powers granted by this law. Any municipality located in a county authorized by law to operate port facilities or in which there is a port district or a port authority shall exercise any powers granted by this law only if the governing body of such county, port district or port authority shall by resolution determine that the best interests of the county will be served thereby and consent thereto. The State of Florida hereby consents to the exercise of any and all powers granted by this law without further authorization or approval thereof by any of its agencies or instrumentalities, except as may be required from the Board of Trustees of the Internal Improvement Trust Fund as to the use of any state lands lying under water which are necessary for the accomplishment of the purposes of this law.

History.—s. 4, ch. 59-411; ss. 27, 35, ch. 69-106.

315.05 Port facilities bonds.—

(1) The governing body is authorized to provide by resolution, at one time or from time to time, for the issuance of bonds of a unit for the purpose of paying all or a part of the cost of any one or more port facilities. The bonds of each issue or series shall be dated, shall bear interest at such rate or rates, and shall mature at such time or times not exceeding 40 years from their date or dates, as may be determined by the governing body, and may be made redeemable before maturity, at the option of the unit, at such price or prices and under such terms and conditions as may be fixed by the governing body prior to the issuance of the bonds.

(2) The governing body shall determine the form of the bonds including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds, and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the state. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery, and any bond may bear the facsimile signature of, or may be signed by, such persons as at the actual time of the execution of such bond shall be the proper officers to sign such bond although at the date of such bond such persons may not have been such officers.

(3) Notwithstanding any other provisions of this law or any recitals in any bonds issued under the provisions of this law, all such bonds shall be deemed to be negotiable instruments under the laws of Florida. The bonds may be issued in coupon or in registered form, or both, as the governing body may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and

interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of coupon and registered bonds. The issuance of such bonds shall not be subject to any limitations or conditions contained in any other law, and any bonds issued by a unit under this law shall not be considered in computing the amount of indebtedness which the unit may incur under any other law.

(4) The governing body may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be for the best interests of the unit. Prior to the delivery of definitive bonds, the unit 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.

(5) The governing body may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost. Bonds may be issued under the provisions of this law without obtaining the consent of any commission, board, bureau or agency of the state, and without any other proceeding or the happening of any other condition or thing than those proceedings, conditions or things which are specifically required by this law.

History.—s. 5, ch. 59-411; s. 25, ch. 73-302; s. 1, ch. 79-401; s. 295, ch. 95-148.

315.06 Sources of payment and security for bonds.

(1) The governing body may provide that bonds issued under the provisions of this law shall be payable from and secured by a pledge of any one or more of the following sources:

(a) Revenues of any one or more port facilities now owned or hereafter acquired or constructed by the unit;

(b) Proceeds of the sale or lease of all or any part of any port facilities now or hereafter owned by the unit as such facilities may be extended, enlarged or improved, or of any property of the municipality improved, created, extended or enlarged or prepared for sale or lease under the authority of this law;

(c) Any money received by the unit from the United States or any agency or instrumentality thereof in connection with any port facilities or in repayment of any advances made by the unit for all or any part of the cost of any port facilities.

(2) The governing body may provide that such bonds shall be general obligations of the unit for which the full faith, credit and taxing power of the unit shall be additionally secured by a pledge of revenues, sale or lease proceeds or money received by the unit from the United States or any agency or instrumentality thereof as herein authorized. The governing body of such unit may provide that such bonds shall be payable as to principal and interest in the first instance from such revenues, sale or lease proceeds or money received by the unit from the United States or any agency or instrumentality. The governing body of any unit may additionally secure any such bonds by a mortgage or other encumbrance, subject to such terms and conditions as it shall provide, upon all or any part of any port facilities now or hereafter owned by the unit, as such facilities may be extended, enlarged or improved, or of any property of the unit improved, created, extended or enlarged or pre-

pared for sale or lease under the authority of this law, and the governing body is hereby authorized to sell at public or private sale or lease any of such port facilities or property, subject to such terms and conditions and for such price, payable at one time or from time to time in installments as the governing body may provide, and to apply the proceeds of any such sale or lease, after paying all costs in connection therewith, to payment of the cost of any port facilities financed under the provisions of this law or to the payment of the principal or of the interest or redemption premiums on any bonds issued hereunder or to the payment of any other obligation or obligations herein authorized.

History.—s. 6, ch. 59-411.

315.07 Contracts for borrowing of money.—The governing body may contract with any person, firm, corporation or public body or with the United States or any agency or instrumentality thereof for the borrowing of money for paying all or any part of the cost of any one or more port facilities, and any such contract may contain such terms, conditions or provisions as the governing body may determine not in conflict with the provisions of this law. The provisions of s. 315.06 applicable to bonds shall be applicable also to contracts entered into under the above provisions of this section. Any such contract may be hypothecated by the unit, and the unit may borrow money under such terms and conditions as it shall determine in anticipation of the receipt of funds under such contract.

History.—s. 7, ch. 59-411.

315.08 Trust agreement or resolution.—In the discretion of the governing body, any bonds issued under the provisions of this law may be secured by a trust agreement by and between the unit and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the unit in relation to the acquisition of property and the acquisition, construction, improvement, maintenance, repair, lease, operation and insurance of any port facilities in connection with which such bonds shall have been authorized, the custody, safeguarding or application of all moneys, and conditions or limitations with respect to the issuance of additional bonds. It shall be lawful for any bank or trust company incorporated under the laws of Florida which may act as depository of the proceeds of bonds or of revenue or other funds to furnish such indemnifying bonds or to pledge such securities as may be required by the governing body. Any such trust agreement or resolution may set forth the rights and remedies of the bondholders and of the trustee under any such trust agreement, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the governing body may deem reasonable and proper for the security of the bondholders. All expenses

incurred in carrying out the provisions of such trust agreement or resolution shall be treated as a part of the cost of the operation of the port facilities.

History.—s. 8, ch. 59-411.

315.09 Remedies.—Any holder of bonds issued under the provisions of this law or any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by such trust agreement or the resolution authorizing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or resolution, and may enforce and compel the performance of all duties required by this law or by such trust agreement or resolution to be performed by the unit or by any officer thereof, including the fixing, charging and collecting of rates, rentals and other charges.

History.—s. 9, ch. 59-411.

315.10 Refunding bonds.—The governing body is hereby authorized to provide by resolution for the issuance of refunding bonds of the unit for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this law or which shall have been issued to provide funds for the payment of the cost of any port facilities under the provisions of any other law, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the governing body, for the additional purpose of acquiring or constructing additional port facilities. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the unit in respect of the same, shall be governed by the provisions of this law insofar as the same may be applicable.

History.—s. 10, ch. 59-411.

315.11 Exemption from taxation.—As adequate port facilities are essential for the welfare of the inhabitants and the industrial and commercial development of the area within or served by the unit, and as the exercise of the powers conferred by this law to effect such purposes constitutes the performance of proper public and governmental functions, and as such port facilities constitute public property and are used for public purposes, the unit shall not be required to pay any state, county, municipal or other taxes or assessments thereon, whether located within or without the territorial boundaries of the unit, or upon the income therefrom, and any bonds issued under the provisions of this law, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the state. The exemption granted by this section shall not be applicable to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 11, ch. 59-411; s. 8, ch. 73-327.

315.12 Bonds, legal investments.—Bonds issued by a unit under the provisions of this law are hereby

made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or unit officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the unit is now or may hereafter be authorized by law.

History.—s. 12, ch. 59-411.

315.13 Action by resolution.—All action required or authorized to be taken under the provisions of this law by the governing body may be by resolution, which resolution may be adopted at the meeting of the governing body at which such resolution is introduced and shall take effect immediately upon such adoption. Except as otherwise provided in this law, no resolution under this law need be published or posted, nor shall any such resolution require for its passage more than a majority of all the members of the governing body then in office.

History.—s. 13, ch. 59-411.

315.14 Public purposes.—It is hereby determined and declared that each and all of the powers conferred by this law and the exercise thereof are proper public and municipal purposes.

History.—s. 14, ch. 59-411.

315.15 Additional and alternative method.—This law shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to the powers conferred by any other law, either general, special or local, and shall not be regarded as in derogation of any power now existing. Bonds may be issued and any other action may be taken hereunder notwithstanding that any other law, either general, special or local, may provide for the issuance of bonds for a like purpose or for the taking of like action and without regard to the requirements, restrictions or procedural provisions contained in any other law, either general, special or local.

History.—s. 15, ch. 59-411; s. 1, ch. 67-499.

315.16 Liberal construction.—This law, being necessary for the welfare of the inhabitants of the state, shall be liberally construed to effect the purposes thereof.

History.—s. 16, ch. 59-411.

315.17 Waiver of term limitation for leases entered into by county with another governmental entity for benefit of a seaport.—Notwithstanding any provision of law to the contrary, a lease entered into by a county with another governmental entity for the benefit of a seaport created or authorized under the provisions of s. 125.01 shall not be subject to the 30-year lease term limitation of s. 125.031.

History.—s. 11, ch. 95-257.