

Key Ideas

Chapter 10: Incurring Debt



In this section, we will discuss the following:

- *Procedures for emergency borrowing or borrowing for fire fighting apparatus or equipment.*
- *Procedures for issuing bonds or executing a lease*
- *Use of the Cumulative Fire Fund for payments.*

**PROVISIONS FOR EMERGENCY BORROWING (IC 36-6-6-14)
& BORROWING FOR FIRE FIGHTING APPARATUS, EQUIPMENT AND HOUSING OF SAME
(IC 36-8-13-6)**

For townships wanting to borrow money for emergencies under IC 36-6-6-14 and/or for fire apparatus, equipment or housing of equipment under IC 36-8-13-6, the following steps should be followed. Indebtedness of the township must be approved by the Department of Local Government Finance under IC 6-1.1-18.5-8(b).



*Indebtedness of the township must be approved by the
Department of Local Government Finance.*

The following outlines the procedures for emergency borrowing or borrowing for fire fighting apparatus or equipment.

STEP 1: NOTICE OF PUBLIC HEARING IS PUBLISHED

A *Notice of Public Hearing* (recommended form attached at the end of the chapter) should be published pursuant to IC 5-3-1-2(b) one (1) time at least ten (10) days before the public hearing in two newspapers that are published in the township. If no newspapers are published in the township, then two newspapers published in the county may be used. If only one newspaper is published in the county, then publication in one newspaper that circulates in the township is sufficient. The number of newspapers used has nothing to do with the number of times it must appear in the paper. The political affiliation of the newspaper is no longer relevant when publishing notices. Ex: Public hearing is to be held June 25; the notice should be published no later than June 15.



*A Notice of Public Hearing (recommended form attached)
should be published pursuant to IC 5-3-1-2(b) one (1) time at
least ten (10) days before the public hearing in two newspapers
that are published in the township.*

STEP 2: PUBLIC HEARING CONCERNING BORROWING IS HELD

For either type of borrowing, a special meeting is held to determine whether or not to borrow money for the emergency (IC 36-6-6-14) or fire equipment and/or housing of fire equipment (IC 36-8-13-6).

IC 36-6-6-14 states: " (a) a special meeting may be held by the legislative body (township board) if the executive (trustee), the chairman of the legislative body, or a

majority of the members of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place and purpose of the meeting."

STEP 3: RESOLUTION TO BORROW IS ADOPTED/ PETITION FOR APPROVAL OF DEPARTMENT OF LOCAL GOVERNMENT FINANCE IS ADOPTED

At the public hearing, the executive (trustee) and legislative body (township board) determines whether or not to borrow the necessary money from a financial institution *in Indiana*. The maximum amount of the loan is designated at the hearing.

EMERGENCY LOANS:

IC 36-6-6-14 specifically states: "(b) At the special meeting, if two (2) or more members give their consent, the legislative body may determine whether there is an emergency requiring the expenditure of monies not included in the township's budget estimates and levy. Subject to section 14.5 of this chapter, if the legislative body finds that such an emergency exists, it may issue a special order, entered and signed on the record, authorizing the executive to borrow a specified amount of money sufficient to meet the emergency."

FIRE LOANS/INSTALLMENT CONTRACTS:

IC 36-8-13-6 states: "(a) . . . the executive (trustee) and legislative body (township board), on behalf of the township, may also borrow the necessary money from a financial institution in Indiana to make the purchase on the same terms. They shall, on behalf of the township, execute and deliver to the institution the negotiable note or bond of the township for the sum borrowed. The note or bond must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years."

Townships, Fire Districts or Fire Protection Territories may borrow for a period not to exceed fifteen (15) years if:

the total assessed value of the district is twenty million dollars (\$20,000,000) or less, as determined by the Department of Local Government Finance; and is purchasing the fire fighting equipment with funding from the:

- State or its instrumentalities; or
- Federal government or its instrumentalities.

STEP 4: NOTICE OF DETERMINATION TO INCUR DEBT IS PUBLISHED

Within 30 days after a determination is made to incur debt (at the public hearing) under IC 36-6-6-14 or IC 36-8-13-6, a notice (recommended format attached at the end of the chapter) is published according to IC 5-3-1-2(h), one (1) time in two newspapers that

are published in the township. If no newspapers are published in the township, then two newspapers published in the county may be used. If only one newspaper is published in the county, then publication in one newspaper that circulates in the township is sufficient. The number of newspapers used has nothing to do with the number of times it must appear in the paper.

Ex. Public hearing was held on June 25. At that time, the township board decided to incur a debt in the amount of \$100,000. A second notice is published by July 25 that notifies taxpayers of the township's intent to borrow \$100,000 and the time frame for any objecting petitions to be filed.

NOTICE OF DETERMINATION (sample on page 105) should state the amount and purpose of the loan. The amount stated should not exceed what the Township Board authorized the trustee to borrow at the public hearing. The notice should also state that ten (10) taxpayers disagreeing with the determination may file a petition in the County Auditor's office. If no objection petition is filed, a CERTIFICATE OF NO OBJECTION (sample form at end of chapter) must be obtained from the County Auditor. It is the trustee's responsibility to obtain the Certificate of No Objection from the County Auditor. If no objecting petition is filed, skip to STEP 8.



The amount stated should not exceed what the Township Board authorized the trustee to borrow at the public hearing. The notice should also state that ten (10) taxpayers disagreeing with the determination may file a petition in the County Auditor's office.

STEP 5: TAXPAYERS MAY FILE AN OBJECTING PETITION

Not more than 30 days after the NOTICE OF DETERMINATION is published, ten (10) or more taxpayers who disagree with the determination to obtain a loan may file a petition with the County Auditor. The petition must state the taxpayer's objections and the reasons why the taxpayers believe the borrowing to be unnecessary or unwise.

STEP 6: COUNTY AUDITOR CERTIFIES OBJECTING PETITION TO THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE

The County Auditor shall immediately certify a copy of the objection petition indicating which signatures are taxpayers of the taxing districts affected by the borrowing. The certification together with other data necessary to present the questions involved is sent to the Department of Local Government Finance.

STEP 7: DEPARTMENT OF LOCAL GOVERNMENT FINANCE HOLDS OBJECTION HEARING IN THE COUNTY WHERE THE TOWNSHIP IS LOCATED

Upon receipt of the certified objection petition and other data, the Department of Local Government Finance shall fix a time and place for a hearing of the matter. The hearing shall be held not less than five (5) and not more than thirty (30) days after receipt of the certified documents.

The hearing shall be held in the county where the petition arose. The Department of Local Government Finance shall by mail give Notice of Hearing to the township and the first ten (10) taxpayer petitioners listed on the petition. This letter shall be sent to the taxpayer's usual place of residence at least five (5) days before the hearing.

STEP 8: QUOTES SOLICITED FROM BANKS ON INTEREST RATES
(This step may occur any time after STEP 2 but before STEP 9.)

Banks are contacted for quotes on interest rates, terms and amortization schedules. It is not required that the township use the bank(s) where other funds are deposited. In addition, banks outside the township or county may be used for these types of loans. The bank must be located in the State of Indiana.

Interest rates above 8% require special approval from the Department of Local Government Finance (IC 6-1.1-20-7). Emergency loans (IC 36-6-6-14) are to be repaid in one year. Exceptions to one-year repayment are granted only under extreme circumstances. Fire loans must by statute not extend beyond six (6) years or fifteen (15) years if the assessed value of the township is below \$60,000,000.



It is not required that the township use the bank(s) where other funds are deposited. In addition, banks outside the township or county may be used for these types of loans.

STEP 9: TOWNSHIP PETITION FOR APPROVAL OF INDEBTEDNESS IS SENT TO THE DEPARTMENT OF LOCAL GOVERNMENT FINANCE

IC 6-1.1-18.5-8(b) requires that before a civil taxing unit may incur indebtedness, the unit must obtain approval from the Department of Local Government Finance. This approval insures that an exempt levy (debt service outside the maximum levy limitations) may be charged for loan payments. *Even if the Cumulative Fire Fund (also outside the levy limitations when established by a township) is used for payments, IC 6-1.1-18.5-8(b) must be followed.* The Cumulative Fire Fund is not an entitlement once established. It is annually subject to taxpayer objection rights and the annual budget process. Once a

loan is approved by the Department of Local Government Finance, the Department must insure that tax levies are included in the township budget for loan payments. This protects the entity making the loan and protects the taxpayers' investment in items purchased.



Even if the Cumulative Fire Fund (also outside the levy limitations when established by a township) is used for payments, IC 6-1.1-18.5-8(b) must be followed.

In order to obtain Department approval, the township must forward a petition and complete transcript of proceedings to:

LOCAL GOVERNMENT TAX CONTROL BOARD
ADMINISTRATIVE OFFICER
100 N. SENATE AVE., IGCN ROOM N1058
INDIANAPOLIS IN 46204.

The transcript must include:

1. Proofs of Publication from the Notices of Public Hearing and the Notice to Incur Debt;
2. Resolution of Determination to Incur Indebtedness; and
3. Petition for Approval to Incur Debt.
4. County Auditor's Certificate of No Remonstrance.
5. Petition to the DLGF for approval of indebtedness and request to be placed on the Local Government Tax Control Board (LGTCB) agenda.
6. Completed hearing information sheet (See step 10).

STEP 10: DEPARTMENT FORWARDS PETITION FOR APPROVAL OF INDEBTEDNESS TO THE LGTCB. LGTCB INFORMATION SHEET IS RECEIVED BY THE TOWNSHIP, COMPLETED & RETURNED

The Township's petition to Department of Local Government Finance for debt approval will be referred to the Local Government Tax Control Board (LGTCB) for recommendation (IC 6-1.1-18.5-8(b)). The Administrative Officer of the Control Board will schedule the request for the next LGTCB meeting. These meetings are normally held on the 4th Thursday of each month. To be on a particular month's agenda, the petition must be received no later than one month in advance of the Control Board meeting. An information sheet concerning the amount of loan requested, the need for the loan and tax rate impact will be sent to the Trustee. The information sheet and other relevant data must be completed and submitted to the Administrative Officer at the same time the petition is sent requesting to be placed on the agenda.



To be on a particular month's agenda, the petition and all other relevant information must be received no later than one month in advance of the Control Board meeting.

If STEPS 6-8 occur, the recommendation of the Hearing Officer from the objection hearing may be provided to the Control Board as reference material.

STEP 11: TOWNSHIP ADVERTISES FOR AND OPENS BIDS FOR PROJECTS WHERE THE PURCHASE PRICE, OR WHEN THE TOTAL PAYMENTS OF AN INSTALLMENT CONTRACT EXCEEDS \$75,000

(This step may occur anytime after STEP 2 and before STEP 12).

If there are questions concerning the bid process, please contact State Board of Accounts at 317-232-2520. IC 36-1-9.5 and IC 5-22-8 outlines bid requirements.

Notice of the request for bids is given according to IC 5-3-1 which requires two (2) insertions at least one week apart, with the second publication made at least ten (10) days before the date the bids will be received in two newspapers that are published in the township. If no newspapers are published in the township, then two newspapers published in the county may be used. If only one newspaper is published in the county, then publication in one newspaper is sufficient. The number of newspapers used has nothing to do with the number of times it must appear in the paper.

Ex: Bids will be opened on June 25. The first insertion must be no later than June 8 with the second insertion no later than June 15. This meets the requirements of one week between the notices with the second notice at least ten days before the opening of bids.



Notice of the request for bids is given according to IC 5-3-1 which requires two (2) insertions at least one week apart, with the second publication made at least ten (10) days before the date the bids will be received in two newspapers that are published in the township.

STEP 12: LOCAL GOVERNMENT TAX CONTROL BOARD HEARING

Notice of the hearing day and time will be sent to the trustee. Due to the nature of these requests, a representative of the unit must attend the hearing to present requests and answer questions for the Local Government Tax Control Board members.

The Control Board will make a recommendation to the Department of Local Government Finance to approve, disapprove, or modify the request. The Department of Local Government Finance makes a decision upon review of the testimony given and the evidence presented.



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STEP 13: DEPARTMENT ISSUES LOAN ORDER

An order approving, disapproving, or modifying the indebtedness request will be issued. While the Department must issue an order within three (3) months of the original request for approval, it normally takes less than two (2) weeks after the LGTCB hearing. Unless special permission has been requested and granted to exceed 8%, the order will be subject to an interest rate not exceeding 8%. Emergency loans must be repaid in one (1) year, and fire loans/installment contracts paid in no more than six (6) years.



Unless special permission has been requested and granted to exceed 8%, the order will be subject to an interest rate not exceeding 8%.

STEP 14: PROCEEDS OF LOAN ARE APPROPRIATED

When the township receives approval of the loan, it may appropriate the proceeds of the loan and other funds on hand for the purposes for which the loan was obtained. The trustee must follow the procedures for an additional appropriation. (See Chapter 7)

STEP 15: TOWNSHIP AWARDS BIDS IF PROJECT IS SUBJECT TO IC 5-22-16

After receipt of the debt approval order and additional appropriation order from the Department of Local Government Finance, the township board may award bids for the purchase (if the loan is for a purchase requiring bidding) to the lowest responsible and responsive bidder. To determine the criteria for responsive and responsible, see IC 5-22-16, or contact the State Board of Accounts.

STEP 16: TOWNSHIP BORROWS MONEY FROM FINANCIAL INSTITUTION

Based on interest rate quotes solicited from banks in STEP 9, the loan or installment contract is executed.

STEP 17: TOWNSHIP LEVIES DEBT SERVICE FUND WITH NEXT ANNUAL BUDGET TO PAY INTEREST AND PRINCIPAL ON LOAN

As a part of the annual budget, the township shall include a debt service fund to pay principal and interest on the loan or installment contract payments in the ensuing budget year. The Department of Local Government Finance must insure that the proper repayment amounts are calculated for the township debt service.



The Department of Local Government Finance must insure that the proper repayment amounts are calculated for the township debt service.

**SUMMARY OF THE PROCEDURES FOR EMERGENCY BORROWING OR
BORROWING FOR FIRE FIGHTING APPARATUS OR EQUIPMENT**

- Step 1:** Notice of public hearing is published.
- Step 2:** Public hearing concerning borrowing is held.
- Step 3:** Resolution to borrow is adopted
Petition for approval of the DLGF is adopted.
- Step 4:** Notice of determination to incur debt is published.
- Step 5:** Taxpayers may file an objecting petition.
- Step 6:** County Auditor certifies objection petition to the DLGF.
- Step 7:** Department of Local Government Finance holds objection hearing in the county where the township is located.
- Step 8:** The Trustee solicits quotes from banks on interest rates.
- Step 9:** Township Petition for Approval of Indebtedness is sent to Department.
- Step 10:** Department Forwards Petition for Approval of Indebtedness to the LGTCB. LGTCB information sheet is received by the township, completed & returned.
- Step 11:** Township advertises for and opens bids for projects where the purchase price, or when the total payments of an installment contract exceeds \$25,000.
- Step 12:** Local government tax control board hearing.
- Step 13:** The DLGF issues loan order .
- Step 14:** The Township board appropriates the proceeds of loan.
- Step 15:** Township awards bids if project is subject to IC 5-22-8 (\$75,000 or more)
- Step 16:** Township borrows money from financial institution.
- Step 17:** Township levies debt service fund with next annual budget to pay interest and principal on loan

Other Financing Available

The other methods available to townships to cover the costs of financing a project are:

- 1) Bonds
- 2) Leases
- 3) Public Works Project Loan

Bonds

Bonds are governed by the state statute I.C. 6-1.1-20. The definition of bonds is:

Sec. 1. For purposes of this chapter, the term "bonds" means any bonds or other evidences of indebtedness payable from property taxes for a controlled project, but does not include:

- (1) notes representing loans under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 which are payable within five (5) years after issuance;
- (2) warrants representing temporary loans which are payable out of taxes levied and in the course of collection;
- (3) a lease;
- (4) obligations; or
- (5) funding, refunding, or judgment funding bonds of political subdivisions.

Leases

Leases are governed by the state statute IC 36-1-10. The following are excerpt from the code:

IC 36-1-10-1

Application of chapter:

Sec. 1. (a) Except as provided in subsection (b), this chapter applies to:

- (1) political subdivisions and agencies of political subdivisions that determine to acquire structures, transportation projects, or systems by lease or lease-purchase;
- (2) a convention and visitor bureau established under IC 6-9-2 that determines to acquire a visitor center by lease or lease purchase; and
- (3) a convention and visitor commission established by IC 6-9-11 that determines to acquire a sports and recreation facility by lease or lease purchase.

(b) This chapter does not apply to:

- (1) the lease of library buildings under IC 36-12-10, unless the library board of the public library adopts a resolution to proceed under this chapter instead of IC 36-12-10;
 - (2) the lease of school buildings under IC 21-5;
 - (3) county hospitals organized or operating under IC 16-22-1 through IC 16-22-5;
 - (4) municipal hospitals organized or operating under IC 16-23-1;
- or
- (5) boards of aviation commissioners established under IC 8-22-2.

IC 36-1-10-2

Definitions

Sec. 2. As used in this chapter “Leasing agent” means the board or officer of a political subdivision or agency with the power to lease structures.

“Parking facility” refers to a parking facility as defined in IC 36-9-1.

“Structure” means:

- (1) a building used in connection with the operation of a political subdivision; or
- (2) a parking facility.

The term includes the site, the equipment, and appurtenances to the building or parking facility.

“System” means:

- (1) a computer (as defined in IC 36-8-15-4);
- (2) a communications system (as defined in IC 36-8-15-3(1)); or
- (3) mobile or remote equipment that is coordinated by or linked with a computer or communications system.

“Transportation project” means a road or highway project jointly undertaken by the Indiana department of transportation and any county through which a toll road project under IC 8-15-2 passes. A transportation project must be located within an area described in IC 8-15-2-1(a)(3) or IC 8-15-2-1(a)(4).

IC 36-1-10-7

Lease of structures, systems, or transportation projects; petition; need

Sec. 7. A leasing agent may not lease a structure, transportation project, or system, unless:

- (1) the leasing agent received a petition signed by fifty (50) or more taxpayers of the political subdivision or agency, and
- (2) the fiscal body of the political subdivision determines, after investigation, that the structure, transportation project, or system is needed.

Public Works Project Loan

A public works project is defined in IC 36-1-12 as:

Sec. 2. As used in this chapter, "public work" means the construction, reconstruction, alteration, or renovation of a public building, airport facility, or other structure that is paid for out of a public fund or out of a special assessment. The term includes the construction, alteration, or repair of a highway, street, alley, bridge, sewer, drain, or other improvement that is paid for out of a public fund or out of a special assessment. The term also includes any public work leased by a political subdivision under a lease containing an option to purchase.

IC 36-1-12-3 further defines the requirements for a public works project:

Sec. 3. (a) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a

contract whenever the cost of that public work project is estimated to be less than one hundred thousand dollars (\$100,000). Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work. For purposes of this subsection, the cost of a public work project includes the actual cost of materials, labor, equipment, rental, a reasonable rate for use of trucks and heavy equipment owned, and all other expenses incidental to the performance of the project.

(b) When the project involves the rental of equipment with an operator furnished by the owner, or the installation or application of materials by the supplier of the materials, the project is considered to be a public work project and subject to this chapter. However, an annual contract may be awarded for equipment rental and materials to be installed or applied during a calendar or fiscal year if the proposed project or projects are described in the bid specifications.

(c) A board of aviation commissioners or an airport authority board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work by means of its own workforce and owned or leased equipment, in the construction, maintenance, and repair of any airport roadway, runway, taxiway, or aircraft parking apron whenever the cost of that public work project is estimated to be less than fifty thousand dollars (\$50,000).

(d) Municipal and county hospitals must comply with this chapter for all contracts for public work that are financed in whole or in part with cumulative building fund revenue, as provided in section 1(c) of this chapter. However, if the cost of the public work is estimated to be less than fifty thousand dollars (\$50,000), as reflected in the board minutes, the hospital board may have the public work done without receiving bids, by purchasing the materials and performing the work by means of its own workforce and owned or leased equipment.

(e) If a public works project involves a structure, an improvement, or a facility under the control of a department (as defined in IC 4-3-19-2(2)), the department may not artificially divide the project to bring any part of the project under this section.

Designation of Debt

There are two designations of debt. They are

- (1) Controlled projects
- (2) Uncontrolled projects

Bonds and leases are defined as controlled or uncontrolled in I.C. 6-1.1-20-1.1, which reads:

As used in this chapter, “controlled project” means any project financed by bonds or a lease except

- (1) A project for which the political subdivision reasonably expects to pay:
 - (A) debt service; or
 - (B) lease rentals

from funds other than property taxes that are exempt from the levy limitations of I.C. 6-1.1-18.5 or I.C. 6-1.1-19. A project is not a controlled project even though the political subdivision has pledged to levy property taxes to pay the debt service or lease rentals if those other funds are insufficient.

- (2) A project that will not cost the political subdivision more than two million dollars (\$2,000,000)
- (3) A project that is being refinanced for the purpose of providing gross or net present value savings to taxpayers.
- (4) A project for which bonds were issued or leases were entered into before January 1, 1996, or where the state board of tax commissioners has approved the issuance of bonds or the execution of leases before January 1, 1996.
- (5) A project that is required by a court order holding that a federal law mandates the project.

Controlled Projects

The procedures for incurring debt for a controlled project are set out in IC 6-1.1-20, which reads as follows:

Sec. 3.1 A political subdivision may not impose property taxes to pay debt service or lease rentals without completing the following procedures:

- (1) The proper officers of a political subdivision shall:
 - a. Publish notice in accordance with IC 5-3-1; and
 - b. Send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices; of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.
- (2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:
 - a. Publication in accordance with IC 5-3-1; and
 - b. First class mail to the organizations described in subdivision (1)(b).
- (3) A notice under subdivision (2) of the preliminary determination of the political subdivision it issue bonds or enter into a lease must include the following information:
 - a. The maximum term of the bonds or lease
 - b. The maximum principal amount of the bonds or the maximum least rental for the lease
 - c. The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.
 - d. The purpose of the bonds or lease
 - e. A statement that any owners or real property within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition

that complies with subdivision (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

- (4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:
 - a. One hundred (100) owners of real property within the political subdivision; or
 - b. Five percent (5%) of the owners of real property within the political subdivision.
- (5) The state board of accounts shall design and, upon request by the county auditor, deliver to the county auditor of the county auditor's designated printer the petition forms to be used solely in the petition process described in this section. The county auditor shall issue to an owner or owners of real property within the political subdivision the number of petition forms requested by the owner or owners. Each form must be accompanied by instructions detailing the requirements that:
 - a. The carrier and signers must be owners of real property
 - b. The carrier must be a signatory on a least one (1) petition
 - c. After the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and
 - d. Govern the closing date for the petition period.Persons requesting forms may not be required to identify themselves and may be allowed to pick up additional copies to distribute to other property owners.
- (6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county auditor under subdivision (7).
- (7) Each petition must be filed with the county auditor not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.
- (8) The county auditor must file a certificate and each petition with:
 - a. The township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or
 - b. The body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;within fifteen (15) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision. If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

After all these procedures have been completed, the political subdivision must seek approval from the Department of Local Government Finance as required by IC 6-1.1-20-3.2(7):

- (6) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance required by IC 6-1.1-18.5-8 or IC 6-1.1-19-8.

Uncontrolled Projects

Political subdivisions are not required to publish any notices before petitioning the Local Government Tax Control Board to appear for a recommendation for projects that are considered as uncontrolled. They must however, adopt a resolution approving the project and the financing.

Local Government Tax Control Board (LGTCB)

The taxing unit must petition the Local Government Tax Control Board to be placed on the agenda for the next meeting, per IC 6-1.1-18.5-8(a)(2). The taxing unit must appear at the meeting to present project and answer questions by the LGTCB members. The members will then make a recommendation to approve, modify or deny a debt service fund to finance the project to the Commissioner of the Department of Local Government Finance. The Commissioner will review the minutes of the meeting and the submitted documentation and make a final decision on whether to approve, modify or deny a debt service fund to finance the project. The department of local government finance shall render a decision within three (3) months after the date it receives a request for approval. However, the department of local government finance may extend this three (3) month period by an additional three (3) months if, at least ten (10) days before the end of the original three (3) month period, the department sends notice of the extension to the executive officer of the civil taxing unit. A civil taxing unit may petition for judicial review of the final determination of the department of local government finance under this section. The petition must be filed in the tax court not more than forty-five (45) days after the department enters its order under this section.

Approved Indebtedness

If the Department of Local Government Finance approves a bond issuance or execution of a lease for your county, then you must submit a final amortization schedule on or before December 31 of the current year for a tax rate to be imposed in the ensuing year. Based on the final amortization schedule, the amount needed to cover the bond or lease rental payment will be “worked” in during the certification of budgets, tax rates and tax levies for the county as a separate debt service fund. .

**PETITION TO THE LOCAL GOVERNMENT TAX CONTROL BOARD
TO INCUR INDEBTEDNESS**

Whereas, it has been determined by the Township Trustee and Township Board of
_____ Township, _____ County, Indiana, that a need exists for a:

(check one)

_____ Fire Loan IC 35-8-13-6 in the amount of \$ _____

_____ Emergency Borrowing IC 36-6-6-14 for: (check one)

_____ Fire in the amount of \$ _____

_____ Poor Relief in the amount of \$ _____

_____ Public Works Project Loan IC 36-1-12 in the amount of \$ _____

The loan/emergency borrowing is needed for the following purposes:

We respectfully request to be put on the agenda of the Local Government Tax Control Board for their meeting scheduled on _____, 2006, to seek approval to incur debt for _____ Township, located in _____ County, Indiana.

Dated this _____ day of _____, 2006.

_____, President

_____, Secretary

_____, Member

Attest: _____

The Department of Local Government Finance shall mail all correspondence to the following address:

(Name & Title) _____

(Address) _____

(City/State/Zip) _____

Phone # of contact person: _____

E-Mail address (optional) _____

NOTICE OF PUBLIC HEARING
TO TAXPAYERS OF _____ TOWNSHIP

The taxpayers of _____ township _____ County are notified that on _____, 20__, at _____ o'clock, the township trustee and township board will meet to discuss incurring indebtedness for:

\$ _____ for an emergency loan pursuant to IC 36-6-6-14

\$ _____ for the purchase of fire equipment/housing pursuant to IC 36-8-13-6.

\$ _____ for a public works project loan pursuant to IC 36-1-12

Taxpayers shall have the right to be heard. A determination whether or not to borrow and the maximum amount of loan may be made at this hearing. If a determination is made, a Notice will be published pursuant to statute. Affected taxpayers shall have the right to file objection petitions with the County Auditor within 30 days of publication of the Notice of Determination.

TOWNSHIP BOARD

TOWNSHIP TRUSTEE

**NOTICE OF DETERMINATION TO INCUR DEBT TO THE
TAXPAYERS OF _____ TOWNSHIP**

Notice is given to taxpayers of _____ township, _____ County that on _____, 20__ the trustee and township board of said township determined to incur a loan in the amount of \$_____ for the purpose of:
_____.

Said loan is to be repaid in (1 to 6) years. Repayment will begin with taxes payable in the year 20____. Ten (10) or more taxpayers objecting to this loan may file petitions within 30 days of this notice with the _____ County Auditor stating their objections to the loan and the reasons why the loan is unnecessary or unwise.

If an objecting petition is filed, the County Auditor shall certify the petition to the Department of Local Government Finance who shall hold a hearing on the matter in the county not less than five (5) or more than thirty (30) days after receipt of the certified petition from the County Auditor. Notice of hearing shall be provided by mail to the township and the first ten (10) taxpayers listed on the petition. Taxpayers present shall have the right to be heard. Determination of the Department of Local Government Finance is final.

_____ Township Trustee

RESOLUTION/SPECIAL ORDER DETERMINING TO INCUR DEBT

Minutes of the Township Board of _____ Township,
_____ County, held this _____ day of _____ 20__.

The Township Board of said Township did meet with the Trustee, at _____, at _____ o'clock a.m./p.m., pursuant to Notice of Hearing on incurring indebtedness with _____ members present. The meeting was called to order by said Trustee who read the Notice to Taxpayers, which stated the purpose of the meeting. The Township Board found that a need exists to incur a loan in the amount of \$_____, and proper notice having been given by publication the following resolution was presented:

BE IT RESOLVED by the Township Board of _____ Township, _____ County, Indiana that a need now exists for incurring a loan in the amount of \$_____.

BE IT FURTHER RESOLVED that this Board will adhere to the provisions of IC 36-8-13-6 / IC 36-6-6-14. Loan repayment may be levied outside the present maximum levy limitations for a period from 1 to 6 years. Repayment will be levied beginning with taxes payable beginning in the year 20____. Said loan is subject to the approval of the Department of Local Government Finance.

Duly adopted by the following vote of the members of said Township Board.

Dated this _____ day of _____, 20_____.

NAYS

AYES

-----President

-----Secretary

-----Member

Attest: _____ Trustee

_____ Township _____ County

CERTIFICATE OF NO OBJECTION

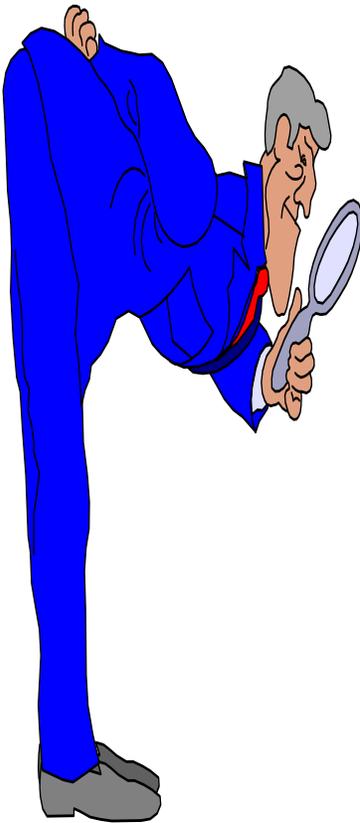
I, _____ Auditor of
_____ County, Indiana, do hereby certify
that there were no objections filed on the proposed
(Emergency Loan IC 36-6-6-14/ Fire Loan IC 35-8-13-6) as
adopted by the _____ township board
on _____. Notice of Determination to
Incur Debt was published on _____, 20____ in the
_____ newspaper and on _____, 20____
_____ newspaper.

Dated this _____ day of _____, 20____

_____ County Auditor

Summary

Chapter 10: Incurring Debt



In this section, we have discussed the following:

- *The township trustee must petition for approval of the indebtedness.*
- *The DLGF must approve the indebtedness of the township.*
- *There are five different types of financing available for townships*
- *The procedures that must be followed for indebtedness to be approved*
- *Notice of the request for bids is given according to IC 5-3-1 which requires two (2) insertions at least one week apart, with the second publication made at least ten (10) days before the date the bids will be received in two newspapers that are published in the township.*
- *Unless special permission has been requested and granted to exceed 8%, the order will be subject to an interest rate not exceeding 8%.*
- *The Department of Local Government Finance must insure that the proper repayment amounts are calculated for the township debt service.*