

Conduit Financing for School Improvement Projects

The following is an example of conduit financing, also known as lease-revenue financing. The example is for a school district, but could also apply to other public entities with the same facts and circumstances. A school district contracts for a loan from a public trust (typically a County Finance Authority) for capital improvements on land it owns. Public trusts are organized under Title 60 Section 176. The loan agreements provide security for repayment. The public trust issues “lease-revenue” bonds with the approval of the authorizing local board of county commissioners for the benefit of the school district. The public trust assigns the loan agreements and the underlying security to a third party “debt trustee” (typically the trust department of a bank). Proceeds from the lease-revenue bonds are deposited with the debt trustee for disbursement to the school district for construction of the improvements. The improvements are typically completed within 12 to 18 months. The loan agreements establish a repayment schedule, generally from 12 to 15 years. The public trust has no taxing authority. Revenue to repay the lease-revenue bonds will be provided by the school district under the

terms of the loan agreements. The structure requires the school district to issue interest bearing General Obligation Bonds in series over a period of several years to repay the lease-revenue bonds, or face contractual penalties for default. Thus, the school district must repay principal, interest, and fees on two sets of bonds - the lease-revenue bonds and the General Obligation Bonds. In effect, the school district has become indebted "in a manner" to the public trust, through the debt trustee, and they are also indebted to their General Obligation Bond holders. After the improvements are completed, if the amount of the loan plus existing debt exceeds 10% of the assessed value of the property in the district, my contention is that Article 10 Section 26 of the Oklahoma Constitution is violated. I have challenged the constitutionality of a conduit financing proposal for the Luther School District in Oklahoma County. The case number is 123062 pending before the Oklahoma Supreme Court.

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