

participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include ~~any~~ any a time-share interval as defined in section 557A.2 or an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period.

Approved May 20, 1985

CHAPTER 156

LEASE AND LEASE-PURCHASE BY LOCAL GOVERNMENTS

H.F. 523

AN ACT related to the right of cities and counties to lease or lease-purchase real and personal property.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 331.301, Code 1985, is amended by adding the following new subsection:
NEW SUBSECTION. 10. A county may enter into leases or lease-purchase contracts for real and personal property in accordance with the terms and procedures set forth in section 364.4, subsection 4, provided that the references to cities shall be to counties, the reference to section 384.26 shall be to section 331.442, the reference to section 384.25 shall be to section 331.443, the reference to section 384.95, subsection 1 shall be to section 331.341, subsection 1, the reference to division VI of chapter 384 shall be to part 3 of chapter 331, and reference to the council shall be to the board.

Sec. 2. Section 331.430, subsection 2, Code 1985, is amended by adding the following new lettered paragraph:

c. Payments required to be made from the debt service fund under a lease or lease-purchase agreement.

Sec. 3. Section 364.4, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Enter into leases or lease-purchase contracts for real and personal property in accordance with the following terms and procedures:

a. A city shall lease or lease-purchase real or personal property only for a term which does not exceed the economic life of the property, as determined by the council.

b. A lease or lease-purchase contract entered into by a city may contain provisions similar to those sometimes found in leases between private parties, including the obligation of the lessee to pay any of the costs of operation or ownership of the leased property, and the right to purchase the leased property.

c. A provision of a lease or lease-purchase contract which stipulates that a portion of the rent payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply.

d. The governing body must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase agreement made payable from the debt service fund, or to authorize any lease or lease-purchase contract which would result in the total of annual lease and lease-purchase payments of the city due from the general fund of the city in any future year for lease or lease-purchase contracts in force on the date of the authorization, excluding payments to exercise purchase options or to pay the expenses of operation or ownership of the property, to exceed ten percent of the last certified general fund budget amount. In all other cases, the authorization procedures of section 384.25 shall apply. Chapter 75 shall not be applicable. A city utility is a separate entity under the provisions of this section whether it is governed by the council or another governing body.

e. A lease or lease-purchase contract to which a city is a party or in which a city has a participatory interest, is an obligation of a political subdivision of this state for the purposes of chapters 502 and 682, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees and any other fiduciaries responsible for the investment of funds.

f. Property that is lease-purchased by a city is exempt under section 427.1, subsection 2.

g. A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section 384.95, subsection 1, except for purposes of section 384.102. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligation to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is a public improvement and is subject to division VI of chapter 384.

Sec. 4. Section 384.4, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Payments required to be made from the debt service fund under a lease or lease-purchase agreement.

Sec. 5. This Act, being deemed of immediate importance, takes effect from and after its publication in *The Clinton Herald*, a newspaper published in Clinton, Iowa, and in *The Dubuque Leader*, a newspaper published in Dubuque, Iowa.

Approved May 20, 1985

I hereby certify that the foregoing Act was published in *The Clinton Herald*, Clinton, Iowa on May 24, 1985 and in *The Des Moines Register*, Des Moines, Iowa on May 30, 1985 and *The Dubuque Leader*, Dubuque, Iowa on May 31, 1985.

MARY JANE ODELL, *Secretary of State*

Pursuant to the authority vested in the undersigned Secretary of State of the State of Iowa, because of inherent and imperative need, I hereby designate that the foregoing Act be published in *The Des Moines Register*, a newspaper published in Des Moines, Iowa in addition to the newspapers designated in the Act.

MARY JANE ODELL, *Secretary of State*