BONDS:
INDUSTRIAL DEVELOPMENT:
DIVISION OF COMMERCE
AND INDUSTRIAL
DEVELOPMENT:

A municipality which issues and sells industrial development revenue bonds incurs no liability to pay for said revenue bonds other than the responsibility to apply the revenue received from the project for which the bonds were sold to retiring the bonds.

OPINION NO. 134

February 8, 1971

FILED
134

Mr. Henry Maddox, Director
Division of Commerce and
Industrial Development
P. O. Box 118
Jefferson Building
Jefferson City, Missouri 65101

Dear Mr. Maddox:

This is in reply to your request for an official opinion from this office as follows:

> "On several occasions this Division has been queried as to the extent of liability on the part of the municipality where Industrial Development Revenue Bonds are issued and sold for a manufacturing facility.
>
> "This question arises at the community level, not only with the citizenry but the governing body of the municipality as well.
>
> "Although it has been our practice to answer the question by referring to Sections 100.100 as well as 100.150 of the 1969 Missouri Revised Statutes, which appears quite clear that the liability

> of the municipality is limited only by the revenue received from the project, we feel an opinion from your Department would dispel any doubts."

Section 100.100, RSMo 1969, states as follows:

> "Any municipality may issue revenue bonds to provide funds for the carrying out of a project under sections 100.010 to 100.200. The revenue bonds shall be paid solely from revenue received from the project, and shall not be a general obligation of the municipality."

Section 100.150, RSMo 1969, states as follows:

> "Revenue bonds issued under sections 100.010 to 100.200 shall not be payable from or charged upon any funds, other than the revenue pledged to the payment thereof, nor shall the municipality issuing the bonds be subject to any pecuniary liability thereon. Each revenue bond issued under sections 100.010 to 100.200 shall recite, in substance, that the bond, including interest thereon, is payable solely from the revenue pledged to the payment thereof and that the bond does not constitute a debt of the municipality within the meaning of any constitutional or statutory limitation."

In addition, Article VI, Section 27, of the Constitution of Missouri states as follows:

> "Any city or incorporated town or village in this state, by vote of four-sevenths of the qualified electors thereof voting thereon, may issue and sell its negotiable interest bearing revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing, extending or improving any of the following: (1) revenue producing water, gas or electric light works, heating or power plants; (2) plants to be leased or otherwise disposed of pursuant to law to

> private persons or corporations for manufacturing and industrial development purposes, including the real estate, buildings, fixtures and machinery; or (3) airports; to be owned exclusively by the municipality, the cost of operation and maintenance and the principal and interest of the bonds to be payable solely from the revenues derived by the municipality from the operation of the utility of the lease of the plant."

From the above and foregoing statutory sections and constitutional provision, it seems clear that a community incurs no liability from the issuance and sale of industrial development revenue bonds other than the responsibility of applying all revenue from the project for which the bonds were sold to retiring the bonds.

In the case of Ring v. City of Jefferson, 413 S.W.2d 292 (1967), the Supreme Court of Missouri in discussing industrial development revenue bonds said l.c. 298:

> ". . .Even if this contention, so far as it goes, were sound, it does not take into consideration the force and effort of § 27 of Art. 6 [Missouri Constitution] which authorizes the proceeds of the bonds to be used to pay the cost of purchasing and constructing the facility as well as the provision that the bonds must be paid solely from the revenue derived from the facility."

The court further stated l.c. 300, 301:

> ". . .The basic theory of revenue bonds as expressed in § 27 is to prevent the cities from becoming indebted for any of the projects authorized. The latter part expressly provides that the revenue bonds and interest shall be payable solely from the revenues derived from the facility. . .The language of § 27 and its constitutional context indicates an intention to avoid any general obligation or liability being imposed on the city in connection with the industrial plant proposed."

CONCLUSION

It is therefore the opinion of this office that a municipality which issues and sells industrial development revenue bonds incurs no liability to pay for said revenue bonds other than the responsibility to apply the revenue received from the project for which the bonds were sold to retiring the bonds.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Harvey M. Tettlebaum.

Very truly yours,

John C. Danforth

JOHN C. DANFORTH
Attorney General