

Article 5A.

Capital Appreciation Bonds.

§ 159-99. Definition; terms and conditions.

(a) Capital Appreciation Bond Defined. – For purposes of this Article, the term "capital appreciation bond" means a bond that meets all of the following conditions:

- (1) It is sold, at public or private sale, at a price substantially less, as conclusively determined by the issuer of the bond, than the principal amount of the bond.
- (2) Compounded interest on the bond is payable at maturity.
- (3) The bond is designated as a capital appreciation bond within the meaning of this Article by the proceedings of the issuer of the bond providing for its issuance.

(b) Calculating Principal Amount. – For purposes of calculating the aggregate principal amount of bonds within the meaning of any constitutional or statutory limitation on the incurrence of debt, the aggregate principal amount of any capital appreciation bonds is the aggregate of the initial offering prices at which the bonds are offered for sale to the public, including private or negotiated sales, or sold to the initial purchaser of the bonds in a private placement, in either case without reduction to reflect underwriters' discount or placement agents' or other intermediaries' fees.

(c) Terms and Conditions. – The proceedings providing for the issuance of any capital appreciation bonds may provide for the issuance of terms bonds or serial bonds, or both, the establishment of sinking funds for or the redemption of term bonds, the issuance of capital appreciation bonds at the same time and as part of the same issue of any other type of bonds, the method of calculating the principal amount of any such capital appreciation bonds outstanding for the purpose of determining, within the meaning of the proceedings and otherwise, application of debt service provisions, funds into which debt service payments are to be deposited, application of redemption provisions, bondowners' voting rights and consents, pro rata application of available funds, and any other matters the issuer considers appropriate. (1987, c. 650; 2004-170, ss. 40(a), 40(c).)