

CHURCH BONDS

Adopted April 29, 1981

[INSTRUCTIONS FOR OFFERING CHURCH BONDS]

[¶ 1001]

[INTRODUCTION] The Guidelines which follow have been prepared to aid churches which wish to offer and sell Church Bonds. By their nature, guidelines cannot cover every conceivable situation that may arise, and, therefore, if there are questions regarding the applicability of any of the following provisions or questions about matters not addressed, you should contact the Administrators of the states in which you intend to offer and sell the Church Bonds.

Regulation of Securities. Section 3(a)(4) of the Federal Securities Act of 1933, as amended, exempts from registration "Any security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable or reformatory purposes and not for pecuniary profit, and no part of the net earnings of which inures to the benefit of any person, private stockholder, or individual." Church Bonds are securities, but no registration of such securities by churches which meet the above exemption need be made with or approved by the Securities and Exchange Commission which is the Federal agency primarily responsible for regulating the offer and sale of securities in the United States.

In addition to the Federal law, however, most of the individual states have adopted their own securities laws to govern the offer and sale of securities within their respective jurisdictions and Church Bonds are also securities under state law. Thus, there is dual jurisdiction in the United States over the regulation of securities such as Church Bonds, i.e., both the Federal government and the individual states regulate their offer and sale and the laws of each must be complied with. Most of the states, however, have now adopted laws based upon the Uniform Securities Act, as drafted and approved by the National Conference of Commissioners on Uniform State Laws ("Act") and this Act contains an exemption for Church Bonds similar to the exemption contained in the Federal law. In order to determine whether a particular state statute contains provisions similar to the citations from the Act which follow, however, you should consult your attorney or the Administrators of the states in which you intend to sell the Church Bonds. You should also be aware that there are certain states which do *not* (emphasis added) exempt Church Bonds from registration and, therefore, before offering or selling Church Bonds in any state you must carefully check the laws of that state to be sure that you do so in compliance with its laws. The following discussion relates only to states which follow the Act.

Section 301 of the Act provides that:

"It is unlawful for any person to offer or sell any security in this state unless (1) it is registered under this act or (2) the security or the transaction is exempted under Section 402."

Section 402(a)(9) of the Act then provides that the following securities are exempted from Sections 301 and 403 (requiring the filing of sales literature) thereof:

"(9) any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic or reformatory purposes..."

This section means that registration under Section 301 of the Act is not required for securities of Issuers meeting the above exemption but it does not mean that an Issuer of such securities has no other responsibilities under the Act.

Specifically, Section 101 of the Act provides that:

"It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly:

- (1) to employ any device, scheme or artifice to defraud;
- (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading; or
- (3) to engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person."

This section essentially requires that full disclosure of all material facts necessary to make an informed investment decision be made to all Investors including purchasers of securities offered pursuant to Section 402(a)(9) of the Act.

It may, in fact, be deemed by an Administrator to be a fraudulent transaction per se if an Issuer either (i) offers Church Bonds without the use of an Offering Circular substantially conforming to the disclosures contained in the following Guidelines, or (ii) offers Church Bonds which the Issuer cannot adequately demonstrate an ability to repay. The Guidelines which follow have been promulgated to attempt to insure that an Issuer utilizes a suitable disclosure document and meets the requisite financial tests necessary to evidence an ability to repay any Church Bonds offered.

An issuer offering Church Bonds which are not in compliance with the Act and the following Guidelines could be liable under both the civil and criminal sections of the Act which involve both fines and possible imprisonment. This liability could also extend to the officers and directors of the Issuer.

In addition, Section 401(b) of the Act defines the term "Agent" to mean:

"... any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities..."

Section 201(a) provides:

"It is unlawful for any person to transact business in this state as a broker-dealer or agent unless he is registered under this act..."

Thus, the Act requires that any person, including an officer or director of the Issuer, who wishes to offer or sell Church Bonds must either be a registered representative of a licensed securities broker-dealer, or alternately must file for registration as an agent with the Administrators of the states in which he intends to sell securities pursuant to Section 201 of the Act. This is true even if the Church Bonds themselves are exempt from registration under Section 402(a)(9) of the Act. Any person who sells Church Bonds without compliance with the agent registration provisions of the Act could also be liable under both the civil and criminal sections of the Act.

Pursuant to the rule making power contained in Section 412 of the Act, an Administrator may waive the testing requirements for a securities agent's license, provided, however, that the offering is substantially in compliance with the following

Guidelines. Even if the Issuer utilizes registered agents, however, it must take the following steps to insure compliance with the anti-fraud provisions of the Act:

- (1) Prepare a letter to each Administrator of a state in which the Issuer intends to offer or sell stating that the Issuer wishes to offer or sell Church Bonds. and setting forth the facts necessary to substantiate the exemption under Section 402(a)(9) thereof. These facts should describe the operations of the Issuer and state the basis for its claimed exemption, e.g., establishing that it is a religious organization. The letter should be signed by an authorized officer of the Issuer. If the Issuer wishes to register its agents and not use a broker-dealer, it should also request registration forms for certain specified individuals. The Issuer should attach to this letter the name of each of the individuals, his home address, his business address, and his home and business phone numbers. The letter should also indicate as to each of the individuals whether they have been, or are now, registered securities agents or whether they have been subject to any previous order by any administrative agency or by any Administrator. The letter should also state whether any compensation will be paid or given to the agents for offering or selling the Church Bonds. The Administrator may waive the examination upon a showing of good cause. Significant factors to be considered in determining whether the examination will be waived would include the methods utilized to offer the Church Bonds, including the types of solicitations made by the agent, and the overall nature of the sales materials and efforts. If solicitations are made primarily through mailing of previously filed sales materials rather than by personal solicitations of the investors, the examination should typically be waived.
- (2) The Issuer should enclose with the letter the following documents:
 - A. Issuer's articles of incorporation, charter and any amendments thereto. and a copy of its bylaws, if any. If the Issuer is not a corporation, the equivalent governing instruments should be filed.
 - B. A copy of the Issuer's latest nonprofit corporation annual report, if any. required by the Issuer's state of domicile.
 - C. A draft copy of the Church Bond. It is recommended that the certificates not be printed until approval has been secured. Please label the certificates submitted with the words "specimen" or "void."
 - D. A copy of any proposed agreement or proposed form of agreement with a securities dealer, underwriter, or financing organization. (If there is or will be none, so state in the letter of transmittal.)
 - E. A copy of the preliminary or definitive Trust Indenture and/or trust agreement, if any.
 - F. Copies of all advertising materials to be used in connection with the offering.
 - G. An opinion of counsel attesting to the authority of the Issuer to offer and sell the Church Bonds and stating that after the sale the Church Bonds will be valid, binding obligation? of the Issuer in accordance with the Issuers governing documents.
 - H. A copy of the Issuer's resolution authorizing issuance of the Church Bonds.
- (3) Enclose with the letter two draft copies of the Offering Circular, prepared in accordance with the following Guidelines. The Offering Circular should not

be reproduced or distributed to Investors until approval is obtained. An approved Offering Circular may be reproduced in any legible fashion, and need not be printed nor reproduced on glossy paper.

GUIDELINES

[¶ 1002]

(Drafting Comment) These Church Bond Guidelines are only used to review offerings of Church Bonds by individual congregations or churches. The concern is to emphasize that the

Guidelines are not to be rigidly applied, but are only general parameters against which an individual issuer could be measured.

APPLICATION. These Guidelines are only applicable to offerings of debt securities in the form of notes, bonds or similar instruments ("Church Bonds") issued by a congregation or church (Issuer) the proceeds of which are to be utilized to finance or refinance the purchase, construction or improvement of buildings or related facilities (including the underlying property) of the Issuer, including church buildings, parsonages or church schools. It is not intended that these Guidelines be applied to general obligation financing by national religious denominations; that method of financing will be addressed in the future should the need arise. It is also not intended that an individual church or congregation be permitted to utilize general obligation financing except in the most unusual circumstances. The Guidelines which follow are intended to be broadly interpreted, therefore, certain portions of these Guidelines may be modified or waived at the discretion of the Administrator.

(Drafting Comment) The intent was primarily to provide broad standards to establish, in a general sense, whether a Church issuing Church Bonds was capable of repaying them and whether the documents describing the offering provided full and

adequate disclosure. It was of particular concern that Administrators be willing to waive or modify portions of the Guidelines where good cause can be shown or an alternative safeguard provided.

[¶ 1003]

DEFINITIONS. *Act:* The Uniform Securities Act, as drafted and approved by the National Conference of Commissioners on Uniform State Laws.

Administrator: The state securities commissioner or administrator of a state.

Audited Financials: Financial statements prepared in accordance with generally accepted accounting principles applied on a consistent basis, and examined and reported upon by independent certified public accountants or qualified public accountants.

Church Bonds: Certificates in the form of notes, bonds or similar instruments issued by a congregation or church which represent an obligation to repay a specific principal amount at a stated rate of interest.

Service Agent: A nominee, independent of the Issuer, designated to monitor a bond issue on a continuing basis and to perform record keeping services for the Issuer.

Investor: A person who is offered, or purchases a Church Bond.

Issuer: A church or congregation which offers and sells Church Bonds.

Limited Graduated Payments: A method of amortizing the debt by making payments of principal and interest on Church Bonds in such a manner that the first years of payments may be lower than the later years of payments, provided that the

lowest payment is equal to at least the interest on the bonds and the highest payment does not exceed a payment amount 10% higher than the straight line payment, using the same total number of years.

Offering Circular: The disclosure document prepared by the Issuer to permit an Investor to make an informed investment decision with respect to the purchase of a Church Bond.

Paying Agent: A nominee, independent of the Issuer and the broker-dealer, designated by the Issuer to make payments to Investors on behalf of the Issuer pursuant to a Trust Indenture.

Straight Line: A method of amortizing the payments of principal and interest on Church Bonds in such a manner that all payments are equal (except that principal payments may be deferred until the estimated construction completion date but not to exceed 18 months from the date of the Offering Circular) and the final payment retires the remaining principal and interest. The period for amortization should typically not exceed 20 years.

Trustee: A corporation, individual, or other entity (independent of the Issuer) granted trust powers by the state, which holds title to the pledged properties securing the Church Bonds and administers the Trust Indenture.

Trust Indenture: The instrument under which the Trustee is given certain powers and controls over assets or property of the Issuer to secure an issuance of Church Bonds.

[¶1004]

FINANCIAL GUIDELINES. An Issuer should offer no more Church Bonds than it can reasonably expect to repay. Although each situation must be viewed in context of the individual facts, the following are among the principal standards which an Administrator will consider in reviewing a proposed issue. The issuer has the burden of proving substantial compliance with these principal standards. Issuers of Church Bonds should comply substantially with the following standards in an offering of Church Bonds:

1. (a) Total debt upon completion of the offering should not exceed four times the last twelve months' revenues. Such revenues shall not include nonrecurring bequests and other extraordinary forms of revenues.

(Drafting Comment) The test of limiting total debt to four times the last 12 months ordinary revenues must be reviewed in light of total expenses. Also excluded were bequests and extraordinary (nonrecurring) items which cannot be assumed to be

available from year to year. However, if extraordinary revenues are excluded "extraordinary" or non-fixed debts should likewise be excluded.

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- (b) The Offering must be secured by a Trust Indenture pledging the properties acquired to secure the Church Bonds, the Church Bonds must constitute a first lien on the pledged properties (or the Issuer must document the economic soundness of the financing) and the aggregate amount of the offering should not be in excess of 75% of the appraised value of the properties pledged as collateral (after completion of the building project).

(Drafting Comment) If the Trust Indenture is not a first lien on the property the Issuer should have a heavy burden of proof as to the fairness of the offer.

- (c) The Trust Indenture must provide for a Trustee, provide for the assignment or pledge of the Issuer's first receipts for timely payment of the Church Bonds, afford the usual contractual prohibitions including limitations on future offerings of securities (if they would impair the Issuer's ability to repay the Church Bonds) provide insurance coverage, include a provision for maintenance of the properties, contain prohibitions against further encumbrances upon the properties, and provide provisions to protect the rights of Investors.
- (d) The Trust Indenture must provide for regular payments to the Paying Agent sufficient to service the payments on the Church Bonds.
- (e) The Paying Agent Service Agent must immediately report to the Trustee each failure to cure a non-payment after thirty (30) days of the due date from which the non-payment occurred. The Trustee shall give the Administrator timely notice of each failure to cure a non-payment of principal or interest on any maturity date after sixty (60) days of the date from which the non-payment occurred.

(Drafting Comment) It was anticipated that each administrator would set up a workable system to ensure that the Notice provisions for non-payments would be quickly disseminated. Specific require-

ments were included only as parameters since it was felt that each Administrator could tailor this to staff needs.

- (f) An Issuer may not normally utilize financing other than Straight Line or Limited Graduated Payments. "Balloon payments" or other graduated payments normally will not be deemed acceptable.

(Drafting Comment) It is felt that this deviation from Straight Line amortization should be permitted only when the Issuer was able to demonstrate that it did not present a material potential risk for Investors. However, other forms of

graduated payments could be permitted depending upon the Issuer's financial condition. By defining a graduated payment method it should not be construed that this is the only acceptable means of having graduated payment.

- (g) The Issuer should obtain a fixed price contract, completion bond, or other acceptable form of assurance of performance for the completion of the construction of the facilities to be undertaken with the proceeds of the offering.
- (h) The Issuer should provide Investors with financial statements for its last three fiscal years. When required, financial statements for the most recent fiscal year should be audited. If the offering commences more than 120 days after the end of such last fiscal year, the financials should be updated with unaudited financials within 120 days of the offering date. An Issuer which does not provide three years of financial statements, and when required, audited financials for the last fiscal year may, at the discretion of the Administrator, be permitted to sell the Church Bonds; however, this shall be deemed a significant factor in determining whether to permit an offering to proceed and shall be weighed heavily in granting waivers from any provisions of the Guidelines.

(Administrators, in exercising their discretion relative to the requirements of audited financials, should consider the impact of the cost of audited financials in requiring substantial compliance.)

(Drafting Comment) The use of and need for audited financials was debated at great length by the drafters. It was agreed that audited financials should be required to ensure some outside financial review of the Issuer. However, it was recognized that this requirement can be a great time and expense burden on the Issuer and so it was left open to individual Administrators to waive this guideline

if he can otherwise satisfy himself as to the financial integrity of the Issuer. This guideline should not, however, be lightly waived. The cost of audit should be weighed against the size of the offering and the class of potential offerees. The problem of attempting to account for the value of historic properties, at cost, appraised value, or fair market value is recognized. If unaudited financial statements are utilized the Administrator should assure himself in each individual case that the balance sheet fairly reflects the financial condition of the Issuer.

- (i) Church Bonds offered to refinance obligations of the Issuer which are in default or which will be in default without immediate refinancing will not be permitted unless the aggregate of all indebtedness which is to be outstanding after the current offering is within the standards set forth in the Guidelines.

(Drafting Comment) The refinancing of Church Bonds in default, with proceeds from other Church Bonds is a practice that the drafters looked upon with great disfavor. However, it was recognized that

sometimes this was preferable, with full disclosure, to bankruptcy for the Issuer. This is not a practice that should be freely permitted.

- (j) The proceeds of the offering should not be commingled with the Issuer's other funds.

(Drafting Comment) It was felt important to emphasize that these tests are only evidence of the soundness of the Issuer and should not be utilized as the sole judge of the integrity of the offering. The Administrators should, therefore, be aware of other

financial tests which would mitigate or obviate the need for the audited financials, or such other financial problems or needs as would invalidate the test.

[¶ 1005]

OFFERING CIRCULAR. The following information should be included in an Offering Circular in order to insure that Investors receive adequate information to make an informed investment decision.

(Drafting Comment) The drafters listed that information for inclusion in the Offering Circular which it felt was relevant, but with the strong provision that all other relevant information be included and that all Issuers be encouraged to add any unique or unusual features which are not

covered. In addition, any information which an Issuer can demonstrate is not material to its transaction need not be included. Again it was felt that strict adherence to the Guidelines without regard to individual circumstances was a disservice to Investors.

I. COVER PAGE

- (a) Name of the Issuer.
- (b) Principal Business Address and Telephone Number.
- (c) Title of the Church Bonds offered.
- (d) Total offering, estimated expenses and net proceeds of the offering to the Issuer.
- (e) Brief description of the Church Bonds including interest rate, payment dates, denominations available, offering price and maturity dates.
- (f) Name, address and telephone number of the Trustee, if applicable.
- (g) Name, address and telephone number of the Paying Agent, if applicable.

- (h) Name, address and telephone number of the principal underwriter or Broker-Dealer assisting with the offering of the Church Bonds and statements as to any market-making intentions of the underwriter.
- (i) Date of termination of the offering and the Issuer's right to extend the offering, if any.
- (j) Minimum amount of sales necessary to complete the offering, if any.
- (k) Date of Offering Circular.
- (l) Legends—

THESE SECURITIES ARE ISSUED PURSUANT TO A CLAIM OF EXEMPTION FROM REGISTRATION UNDER APPLICABLE STATE LAW AND SECTION 3(a)(4) OF THE FEDERAL SECURITIES ACT OF 1933. A REGISTRATION STATEMENT RELATING TO THESE SECURITIES HAS (HAS NOT) BEEN FILED WITH THE STATE SECURITIES COMMISSION OR WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION. NEITHER THE STATE SECURITIES COMMISSION NOR THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION HAS PASSED UPON THE VALUE OF THESE SECURITIES. MADE ANY RECOMMENDATIONS AS TO THEIR PURCHASE. APPROVED OR DISAPPROVED THE OFFERING. OR PASSED UPON THE ADEQUACY OR ACCURACY OF THE OFFERING CIRCULAR. ANY REPRESENTATION TO THE CONTRARY IS UNLAWFUL.

NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS IN CONNECTION WITH THIS OFFERING OTHER THAN THOSE CONTAINED IN THIS OFFERING CIRCULAR, AND IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATIONS MUST NOT BE RELIED UPON AS HAVING BEEN MADE BY THE ISSUER.

The Offering Circular should include the following sections, and there should be set out under each section in narrative or descriptive form all of the relevant information pertaining to the Issuer and the Church Bonds. The Issuer should also include any other information not specifically requested which is important to an understanding of the entire transaction and should omit any sections which are not applicable.

II. HISTORY AND OPERATIONS

- (a) Provide a brief description of the Issuer, including the name, address of principal business office, state of organization, date of organization, type of legal entity (corporation, unincorporated association, etc.) and religious purposes of the Issuer.
- (b) A brief history of the Issuer and its denominational affiliation, if any.
- (c) A brief description of the accreditation of the Issuer, if any, and the entities regulating the Issuer, if any.
- (d) A brief description of the current operations and functions of the Issuer, including its principal activities and fiscal policies.
- (e) A brief description of the number of members of the Issuer and a comparison of the growth or contraction of such membership over the past three years. Set forth in tabular form the average Church attendance, number of families that regularly contribute and the average Sunday school attendance.

III. *PRIOR BORROWING EXPERIENCE*

This Section should include a description of any defaults in payments of principal or interest on previously issued debt, and whether any proceeds from refinancing or additional offerings were necessary to repay any prior indebtedness. A brief description of the Issuer's borrowing experiences and the results thereof should also be included.

IV. *RISK FACTORS*

The Issuer must describe to the Investors the risks of investing in the Church Bonds. Particular care must be taken with respect to risks associated with the financial condition of the Issuer. Statements to the effect that little or no risk is involved in buying Church Bonds are prohibited, and such statements by most Issuers will be regarded as material misrepresentations. Likewise, comparisons with other investments made solely on the basis of the interest rate paid will be considered misleading, unless other comparative aspects of the investment are also described. Each risk factor should include a page reference to an appropriate disclosure section. It is important that the Issuer fully describe all of the relevant risks which should include, if applicable, the following:

- (a) A description of the Issuer's principal sources of revenues for repayment of the Church Bonds and the potential fluctuations, if applicable, in these sources. For instance, if contributions are the primary source of revenues, a risk factor should be included that there are no assurances that membership will increase or remain stable or that per capita contributions will increase or remain stable.
If increased revenues are expected from increased membership upon completion of the facility which is to be constructed from the proceeds of the offering, a statement should be included that there can be no assurance that this will be the case.
If additional financing may be required to repay Investors, a statement should be included that there can be no assurance that such additional financing will be available or will be permitted by the Administrator.
- (b) If any restrictions are to be placed on the transfer of the Church Bonds, a statement describing such restrictions should be included, and if no public market will develop for the repurchase and resale of the Church Bonds, that fact should be stated clearly. If the issuer does not permit early redemption, a statement should be included that Investors should only purchase the Church Bonds if they intend to hold them for the full term thereof.
- (c) If construction of a proposed building is not pursuant to a fixed price contract, or the contractor does not post a completion bond, a statement should be included as to the risks of non-compliance. A description of the affiliation, if any, between the Issuer and the contractor or any subcontractor should be included. In addition, a statement should be included as to possible delays in completion due to shortages of materials, possible strikes, act of nature, delays in obtaining necessary building permits or architectural certificates, environmental regulations or fuel or energy shortages.
- (d) If any portion of the proceeds from the offering are to be used to refinance existing indebtedness, it should be disclosed if this constitutes a risk factor. A statement of the reasons for the need to refinance the previous indebtedness should also be included.

- (e) A statement should be included as to any material pending litigation or contingent liabilities affecting the Issuer, including contingent liabilities for the offer or sale of unregistered securities or potential liabilities before any administrative bodies.
- (f) If the Trust Indenture permits the Issuer to further encumber the properties securing the Church Bonds through the issuance and sale of additional obligations at some future date, the maximum debt-to-property ratio and the debt-to-receipts ratio, in such event, should be described.
- (g) A statement should be included that in the event of default, the church's property may not sell for its appraised value, since the appraised value of the church property is based on its value as a special purposed property, having a limited market due to its being for the most part single purpose (religious and educational).

(Drafting Comment) The appraised value of the property should relate to the resale value as a single purpose facility, since this is the Investor's only security if the Church is unable to make payments, Appraisals based upon cost or factors other than fair

market value for resale purposes, should be closely scrutinized. It was intended that the property should be appraised by an independent qualified appraiser.

- (h) If the Offering Circular does not contain financial statements for the Issuer's past three fiscal years and Audited Financials for the preceding fiscal year, this fact should be prominently disclosed.
- (i) Any special risks relating to insurance, encumbrances, title to the properties or other aspects affecting the Investor's security or the Issuer's financial condition should be disclosed.

The above risk factors are only indicative of the types of risk factors which may generally be associated with offerings of this type. However, the Issuer should also include any special risk associated with the specific offering and must take care to be sure that all problems of which it is aware are described.

(Drafting Comment) The disclosure of potential risks is a very material portion of the disclosure, Therefore, specific care should be taken to assure that statements as to the ability to increase membership or revenues, ability to maintain a stable market for the Church Bonds, or ability to

complete construction without bonding or other assurances, should all be closely scrutinized and adequate assurances should be sought from the Issuer to cover such risks. The risk of holding non-marketable bonds should be prominently disclosed, if applicable.

V. ESCROW OF PROCEEDS

Describe the manner in which funds will be held during the offering period. If funds are to be held in an escrow account with a bank or a state or federally regulated financial institution, they should not be disbursed for the project until the minimum proceeds necessary to complete the project have been obtained. If the minimum proceeds are not obtained, the Issuer must describe the manner in which Investor's funds will be repaid and whether or not interest will be paid on such funds.

VI. USE OF PROCEEDS

Include a tabular schedule of the anticipated use of the proceeds based upon the minimum and maximum anticipated proceeds from the offering. If additional funds may be needed to accomplish the purpose of the offering, this should be stated, along with a description of how such funds will be obtained. Every effort should be made to assure that the project will be completed in accordance with the manner set forth in the Offering Circular.

VII. *CURRENT FINANCIAL CONDITION*

- (a) Include a description of the Issuer's current accounting policies and financial structure, including the date of the Issuer's fiscal year.
- (b) Include financial statements, for the Issuer's past three fiscal years when required (financial statements for the most recent fiscal year should be audited) consisting of:
 - (i) Statement of assets and liabilities (Balance Sheet);
 - (ii) Statement of revenues and expenses (Income Statement or aggregation of fund balances);
 - (iii) Statement of changes in financial position; and
 - (iv) Statement of changes in fund balance.

The most recent financial statements should be as of a date not more than 120 days prior to the date of the proposed offering. If the Issuer's last fiscal year ended more than 120 days prior to the date of the proposed offering, unaudited stub period financials, including comparative income statements from the end of the Issuer's last fiscal year to a date not more than 120 days prior to the date of the proposed offering, should be included. If audited financials are not included and the offering is permitted to proceed, this should be prominently disclosed.

In such instance, a statement verifying the accuracy of the financial statements, signed by the chief financial officer or chief executive officer of the Issuer must be included. If the Audited Financials are provided, a copy of the auditor's report should precede the financial statements. The Issuer should state that any adverse material change in the financial condition of the Issuer during the offering period will be prominently disclosed in a sticker supplement to the Offering Circular.

- (c) Each Offering Circular should contain in tabular form a schedule of outstanding and proposed debt.

CERTAIN STATES ADOPTING THESE GUIDELINES MAY NOT PERMIT AN OFFERING WITHOUT AT LEAST THE MOST RECENT YEAR'S FINANCIALS BEING AUDITED. AN ISSUER PREPARING AN OFFERING OF CHURCH BONDS IN ACCORDANCE WITH THESE GUIDELINES SHOULD THEREFORE FIRST CHECK WITH THE ADMINISTRATOR IN EACH STATE IN WHICH THE CHURCH BONDS ARE PROPOSED TO BE OFFERED IF SUCH AUDITED FINANCIALS WILL NOT BE AVAILABLE.

(Drafting Comment) The lack of audited financials should be closely reviewed and permitted only in limited instances where the Administrator

can otherwise assure himself of the Issuer's financial integrity.

VIII. *DESCRIPTION OF THE ISSUER'S PRINCIPAL PROPERTIES*

- (a) Include a statement describing principal properties of the Issuer and any liens or encumbrances thereon.
- (b) Describe the proposed facilities to be constructed from the proceeds of the offering and their proposed use.
- (c) List all liens and encumbrances of record on the facilities, or to be created on the facilities.
- (d) Describe the purchase agreement if the real property is to be purchased with the proceeds of this offering.

IX. *DESCRIPTION OF THE TERMS OF THE CHURCH BONDS*

- (a) Include a statement describing type and amount of the Church Bonds and set forth the interest rate, payment date, and Paying Agent. Describe also the date upon which interest will begin to accrue.
- (b) Include a statement describing the underlying collateral, if applicable.
 - (i) A statement should be made concerning whether the sale of additional Church Bonds may be secured by the same underlying security.
 - (ii) If guarantees of payment are made by affiliates of the Issuer or otherwise, information describing the ability of the guarantor to satisfy the liability must be furnished, including Audited Financials, if available. A description of the guarantee agreement between the Issuer and the guarantor should also be included. If the guarantee is supported by unaudited financials, appropriate disclaimers should be included. The word "guarantee" should not be used to describe the obligation of the Issuer to repay the indebtedness, and it is appropriate only if there is a secondary obligation by another entity. The guarantee, in and of itself, may involve the offering of a second security which may require registration if not exempt.
- (c) Describe the terms of the Church Bonds, including the Issuer's right to early redemption of principal, and the basis upon which such redemption may be made. The Issuer or Investor's right to extend the maturity date, if available, should also be described.
- (d) Describe whether any consideration for the purchase of Church Bonds other than cash will be acceptable. Describe whether the Church Bonds will be negotiable or transferable.
- (e) Include a description of the Trust Indenture describing the Trustee, Paying Agent, events of default, covenants, restrictions upon subsequent issues and rights of the Issuer and Trustee to modify the Trust Indenture.

X. *PLAN OF DISTRIBUTION*

- (a) List the name and addresses of responsible officials of the Church that will offer or sell or underwriters who will offer or sell the Church Bonds. (It should be noted that certain states require the names, addresses and other information about church members who offer or sell church bonds to be submitted separately to the Administrator).
- (b) Describe the compensation to be paid to such individuals for performing the services in connection with the offering.
- (c) Describe any fees paid to "finders" or "advisers" in connection with the distribution, and the services rendered by such persons.
- (d) Describe the plan of distribution including a description of the class of offerees, the methods of solicitation to be utilized, and the method of subscribing. All advertising materials must be filed with the Administrator prior to use. If less than the full amount subscribed for may be tendered by the Investor during the offering period, it should be stated whether or not the Investor will be personally liable for subsequent payments.
- (e) Describe any underwriting or selling agreement between a broker and the Issuer, including whether such agreements are on a "best efforts" or "firm commitments" basis, whether such arrangements are "exclusive" or "non-exclusive" and whether there are provisions for indemnification of the Issuer

or broker-dealer for losses sustained as a result of claims based upon violations of applicable securities laws.

- (f) State the responsibilities of the broker-dealer, the Issuer, and the membership of the Issuer under the terms of any underwriting agreement.
- (g) Disclose all past, present and anticipated future dealings with broker-dealers, investment advisers, or financing organizations participating in this offering, including the aggregate remuneration received by such entities. It should also be disclosed whether any executive officer or director of the Issuer is in any way affiliated with the broker or financing organization participating in this offering or with any executive personnel of such organization.

(Drafting Comment) The method of sales and the class of Investors should be closely scrutinized by the Administrators to be sure that only the proper inducements were being made and that only appropriate offerees were solicited. This would entail obtaining such assurances from the Issuer and

the sales people as each Administrator felt was necessary to insure the foregoing. Disclosure of officer compensation, at least in the aggregate, is a material factor in any securities offering, especially one of this type.

XI. LITIGATION AND OTHER MATERIAL TRANSACTIONS

- (a) Describe any pending or threatened material legal proceeding or proceedings known to be contemplated by governmental authorities, administrative bodies or other persons, to which the Issuer is or may be a party or to which any of its property is or may be subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought.
- (b) Fully disclose any transactions which may materially affect this offering or an Investor's investment decision, and which are not otherwise mentioned herein.

XII. TAX ASPECTS

Describe the general federal tax aspects of ownership of the Church Bonds and include where appropriate:

- (a) Whether the Investor will recognize gain or loss or receive a charitable deduction upon the purchase of the Church Bonds,
- (b) Whether interest paid or accrued on the Church Bonds will be taxable as ordinary income to the Investor, and
- (c) The capital gains treatment upon sale or exchange of the Church Bonds.

XIII. CHURCH LEADERSHIP

- (a) Describe the organizational structure of the Issuer, including how the members of the legal governing body are chosen and replaced.
- (b) List responsible church officers (i.e., chairpersons of the legal governing body, board of trustees, or other similar authority, and their occupations) and describe the functions they perform for the Issuer and the date their term of office expires.
- (c) Disclose if any member of the Board or governing office has, during the past 10 years, been convicted in any criminal proceeding (other than for traffic violations and other minor offenses), or is the subject of any pending criminal proceeding, or was the subject of any order, judgment or decree of any court enjoining such person from any activity associated with the offer

or sale of securities. If there are a substantial number of members, only those exercising supervisory authority need be described.

- (d) State all direct and indirect remuneration paid by the Issuer to its executive officers or members of the Board for preceding fiscal year in the aggregate, and individually if in excess of \$30,000. Indirect remuneration includes pension or retirement plans, or the use of the Issuer's assets for personal purposes.
- (e) Describe any employment contracts, perquisites of employment or conflicts of interest with any person described in this section.
- (f) Describe any direct or indirect remuneration to be received by members of the Issuer in connection with the offering.
- (g) List pastors and associate pastors, their biographical histories and length of employment with the Issuer.

XIV. *INVESTOR REPORTS*

The bond certificate shall contain a statement that current financial statements of the Issuer will be made available to bondholders upon written request.

XV. *EXPERTS*

- (a) Describe the authority of the Issuer to sell the Church Bonds, the validity of the Church Bonds when issued and the claim for exemption from registration, if applicable. This statement should be in the form of an opinion from legal counsel.
- (b) The person or persons preparing any appraisals must be identified and describe their qualifications for serving as such along with the method of appraisal.
- (c) Where required, all experts should file with the Administrator consents to utilize their names in the Offering Circular.
- (d) All experts must be independent of the Issuer and the broker-dealer.