

(2) The commission may grant or deny the application to authorize the issue or assumption, or grant the same in part and deny in part, and may modify the provisions of any previous order and prescribe such terms and conditions as the commission considers necessary or appropriate in the premises. Every such application shall be made in such form and contain such data as the commission by rule may prescribe.

(3) No licensee or any director, officer, attorney or agent thereof shall knowingly assent to or concur in any issue or assumption contrary to the provisions of this section, or the orders of the commission made pursuant to this section or ORS 543.540.

[Amended by 1953 c.271 §1; 1985 c.673 §159]

543.540 Consideration for bonds, stocks and other securities; restrictions; corporate shares; sale price of securities; discount from face value. No bonds, notes or other obligations or securities or corporate stock shall be issued in connection with the financing, construction or acquisition of any project or part of a project, under a license issued pursuant to ORS 543.010 to 543.610, except for cash or property. If issued for property, the price or value at which the property is to be acquired by the licensee and made a part of any such project must be submitted to and approved by the Water Resources Commission before it is purchased or acquired. All corporate shares issued in connection with any such project shall have a nominal or par value. All bonds, notes or other obligations or securities, and all shares of corporate stock issued or sold by any licensee in connection with the acquisition, construction or financing of any project, or part of a project, shall be issued or sold or used in the purchase or acquisition of property at the full face or nominal value thereof, unless the commission consents to and approves the sale for cash, or the use of cash in the purchase or acquisition of property at a discount from the face or nominal value of the property. Any discount so approved and consented to shall be considered a part of the cost of financing. [Amended by 1985 c.673 §160]

543.550 Liens prohibited; exceptions; what may be included by mortgage, trust deed, or sale; determination of investment in case of sale of part. No lien for labor, services, materials, machinery or equipment shall exist or be acquired or enforced upon any property acquired, constructed or made a part of any project under license issued pursuant to ORS 543.010 to 543.610. No property shall be put into or made part of any such project unless owned

by the licensee free and clear of all liens and claims whatsoever, except a lien created by the licensee upon the whole property embraced in the project by mortgage or deed of trust, to the end that the entire property embraced in the project be kept and maintained as an indivisible whole. The mortgage or deed of trust may include other property. Any voluntary sale or any sale upon a judgment of foreclosure, execution or otherwise, shall be of the whole property embraced in the project unless the Water Resources Commission, by an order in writing, consents to and approves of a sale of a part of the property. If less than the whole of any property embraced in a project is sold with the consent and approval of the commission, the commission shall determine at the time of the sale the actual net investment in the part sold, as well as the actual net investment in the part remaining unsold. [Amended by 1985 c.673 §161; 2003 c.576 §496]

543.560 Bond of licensee or letter of credit securing claims of suppliers; enforcement of obligation; action for sums due State Accident Insurance Fund Corporation. Before entering upon the work of construction or acquisition of any project, the licensee shall execute to the state a bond, with good and sufficient sureties or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008, in either case, to be approved by the Water Resources Commission, to the effect that the licensee shall promptly make payment to all persons supplying labor, services, material, machinery or equipment for the prosecution of the work, and all amounts due the State Industrial Accident Fund from the licensee. Any person supplying the licensee with any labor, services, material, machinery or equipment for prosecution of the work who has not been paid therefor within 60 days after the same has been supplied, or when payment is due according to any special agreement, may, within one year after any payment has become due, bring an action against the licensee, and the sureties upon the bond, or the letter of credit issuer for payment of the amount due to the person, and prosecute the same to final judgment and execution. The action shall be brought in the name of the state upon the relation of the person to whom payment is due. The state, at the request of the State Accident Insurance Fund Corporation may prosecute an action to judgment and execution against the licensee and the sureties upon the bond or letter of credit for all sums due the State Industrial Accident Fund. [Amended by 1985 c.673 §162; 1991 c.331 §80; 1997 c.631 §487]