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Private Acts of 1949 Chapter 400

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of 1949 Chapter 400

SECTION 1. That Davidson County, State of Tennessee, be and is hereby authorized to borrow money and issue its bonds therefor in the aggregate amount of One Million (\$1,000,000.00) Dollars, bearing interest at not more than three per centum per annum, payable semi-annually, both bonds and interest to be payable at such place or places in Nashville, Tennessee, or elsewhere, as may be designated by resolution of the Quarterly County Court of Davidson County, Tennessee, for the purpose of establishing a public market or marketing facilities, to provide grounds therefor, to build, improve and construct thereon a modern public market or marketing facilities for use by farmers, transient produce dealers and licensed produce dealers as herein defined for the sale and distribution of fresh fruits and vegetables and other agricultural products and paying the expenses in connection with the issuance and sale of said bonds.

Said bonds shall mature in such annual installments not more than twenty-five years from their date, and shall be in such form and amount, registered or coupon, and shall be sold in such manner and for such prices as the Quarterly County Court of said County may determine, but in no event shall the bonds be sold for less than par, nor shall they be sold until the issue be first advertised at least once in some newspaper of general circulation in the City of Nashville, Tennessee, and once in some financial journal in New York City, said advertisement be published at least fourteen days before the sale of said bonds. The proceeds from the sale of said bonds shall be paid to the Trustee of said County to the credit of a fund to be designated as the "Davidson County Farmers' Market and Building Fund," and shall be used exclusively for the purposes above recited.

As amended by: Private Acts of 1949, Chapter 650
Private Acts of 1959, Chapter 305

COMPILER'S NOTE: Private Acts of 1949, Chapter 650, amended the first Section of this act by striking the phrase "and produce dealers" so that the act applied to a market for farmers only. The amendatory act was declared unconstitutional in 1956 because it failed to refer to the caption of the act it sought to amend or otherwise properly refer to it. Private Acts of 1959, Chapter 305, added the phrase, "transient produce dealers and licensed produce dealers" to Section 1. See Baxter v. Jenkins, 199 Tenn. 625, 288 S.W.2d 701 (1956).

SECTION 2. That said bonds shall not issue until and unless authorized by Resolution of the County Court and the proposition of the issuance of such bonds shall have been approved by a majority of the qualified voters of Davidson County voting on that proposition at an election called for that purpose. At any election called for this purpose those voters desiring the issuance of said bonds shall vote in said election: "For Farmers' Market Building Bonds," and those opposing the issuance of said bonds shall vote: "Against Farmers' Market Building Bonds."

Such election or elections shall be held in conformity with the laws controlling elections in said Davidson County. Should a majority of the qualified voters upon said proposition in such election or elections vote "For Farmers' Market Building Bonds," then said bonds shall be issued as herein provided in this Act. Should a majority of such voters vote "Against Farmers' Market Building Bonds," then such bonds shall not be issued unless and until they shall have been presented by the Quarterly County Court and approved by a majority of the legal voters as herein provided.

SECTION 3. That the principal and interest of any such bonds falling due before the proceeds of the first tax levy becomes available shall be paid from the ordinary or general funds of the County, and in each year during the life of said bonds the said Quarterly County Court of Davidson County is required mandatorily to include in the annual tax levy over and above all other taxes authorized by law a special tax levy of sufficient size on all property in Davidson County to meet the principal and interest thereof falling due in the ensuing year, and a sum sufficient to reimburse the ordinary or general fund for the payment of any such interest or principal.

SECTION 4. That said Quarterly County Court may in its discretion provide that the owner or holder of any such bond may register the same both as to principal and interest, or as to principal alone, in his name on the books of the County in the office of the County Court Clerk, or in any bank or trust company in the City of New York that may be designated for such purpose, under such regulations as said Quarterly Court may provide.

SECTION 5. That said bond issue shall be called the "Farmers' Market Building Bonds."

SECTION 6. That no fees, commissions, or charges shall be made or paid to any officer of Davidson County for receiving, disbursing or handling said bonds, or the proceeds thereof.

SECTION 7. That the proceeds of said bonds placed to the credit of the Trustee of Davidson County shall be administered and expended by the Davidson County Farmers' Market Commission for the purposes herein provided.

SECTION 8. That there is hereby created the "Davidson County Farmers' Market Commission." The County Judge of Davidson County shall be an ex officio member of said Commission. The first Commission shall be composed of five qualified and competent persons, to-wit: J. D. Peay, Henry Neuhoﬀ, W. A. Strasser, Jack Hitt, and C. R. Bramwell, who shall serve until the next meeting of the Quarterly County Court, at which time there shall be elected one Commissioner for a term of one year, one Commissioner for a term of two years, one Commissioner for a term of three years, one Commissioner for a term of four years, and one Commissioner for a term of five years. As the respective terms of office of said Commissioners expire there shall be elected annually one Commissioner for a term of five years.

The membership of said commission is hereby increased from five (5) members to seven (7) members. Not less than two (2) members of said commission shall be licensed wholesale fresh fruit and vegetable distributors, or shall be officers of a corporation which is so licensed. The two (2) additional members of said commission shall be elected by the Quarterly County Court of Davidson County at its July term, 1959, and shall serve for the same term as the other members of said commission.

The members of said Commission shall possess the following qualifications: they shall be citizens of the United States of America, citizens of Davidson County, Tennessee, and shall be at least thirty years of age, and shall have been freeholders and taxpayers of Davidson County for at least three years.

Three Commissioners shall constitute a quorum for the transaction of business, provided, however, no action shall be taken by the Commission except by the concurrence of a majority of the entire Commission.

The Commissioners shall receive as compensation a per diem of Five (\$5.00) Dollars per day for each meeting of the Commission, but shall be paid for not more than twelve meetings in any one year.

The Commission, upon its election, shall organize by the election of a Chairman, Vice Chairman, and a Secretary from among the members of the Commission by a majority vote of all the members thereof, and a new Chairman and new Vice Chairman, and a new Secretary, shall thereafter be elected in like manner by the Commission each year.

All minutes of the Commission shall be recorded in a well-bound book, and shall be open for inspection.

All vacancies in the Commission shall be filled by the County Court for the unexpired term.

The Commission shall have authority to adopt rules and regulations for its government and for the management and operation of the Davidson County Public Market or Marketing Facilities not inconsistent with the provisions of this Act. Said rules and regulations, upon adoption by the Commission, shall be submitted to the County Attorney of Davidson County for approval, as to form and legality and, upon this approval, a copy of said rules and regulations shall be filed with the County Court Clerk of Davidson County and a copy shall be kept in a well-bound book at the office of the Commission and copies shall be posted on the market premises in at least three prominent places. The Commission shall have authority to revise such rules and regulations at any time and these revisions shall be approved, filed and posted in the prescribed manner.

The Commissioners shall be ineligible for appointment as Manager, or to hold any other position created by the Commission.

No person, firm or corporation shall be permitted to use or occupy any space of facility under the jurisdiction of said Commission except: (1) farmers as herein defined, (2) transient produce dealers as herein defined and (3) licensed produce dealers as herein defined.

The word "farmer" as used in this Act is defined to be an individual or individuals who are primarily engaged in producing products of the soil, dairy farming, the production of poultry or live stock and the principal part of whose income is derived from any one or more of the foregoing operations. The burden of establishing that he is a bona fide farmer within the foregoing definition shall be upon the person seeking to use such marketing facilities as a farmer. The General Manager shall have authority to determine whether or not any applicant is a bona fide farmer, subject to review by the Commission.

The term "transient produce dealer" as used in this Act shall mean every person or persons who engages in the sale or distribution of or who exposes or offers for sale, distributes or otherwise deals in any fresh fruit, vegetable or produce as a temporary business and who holds a license issued by the County Court Clerk of Davidson County under Item 65(b) of Section 67-4203 of Tennessee Code Annotated and a license as a transient and temporary merchant issued by the City of Nashville.

The term "licensed produce dealer" as used in this Act is defined to be an individual, firm or corporation duly licensed to buy, sell, store, handle or transport agricultural products in this state and who holds a license issued by the County Court Clerk of Davidson County, Tennessee, under Item 84 of Item 112 of Section 67-4203 of Tennessee Code Annotated, or under both of said Items, if applicable, and who holds a

license as a produce dealer issued by the City of Nashville, Tennessee; and who regularly pays state, county and city merchants ad valorem taxes.

The said General Manager shall have full authority to exercise control over the type, weight and measure, designation, labeling and quality grade of commodities brought on the market consistent with the standards of the United States Department of Agriculture, the State Department of Public Health, the Davidson County Department of Public Health, and the rules of the Commission. This authority of the General Manager shall include the right to condemn and dispose of substandard commodities, without personal liability to him or the Commission and without liability to Davidson County, Tennessee.

The Commission shall be authorized and empowered to construct, expand, remodel and extend marketing facilities.

The term, "marketing facilities" as used in this Act shall include marketing space for farmers; wholesale stores for fruit, vegetable, poultry, egg, dry grocery, and meat dealers; service stations, barber shops, restaurants, banks and space for telephone and telegraph service; and other like business enterprises deemed essential to the operation of the market by the Davidson County Farmers' Market Commission.

The Quarterly County court shall be authorized to borrow money in anticipation of the revenues from the market for the purpose of constructing (sic), expanding, remodeling and extending such market facilities.

The Commission shall be authorized to execute leases of unimproved real estate under its jurisdiction to licensed produce dealers for the purpose of constructing facilities. No such lease shall be executed for a period of time less than five (5) years. Such leases may be pledged as security for loans for the construction, renovation, improvement and extension of buildings or for improvements or equipment, with the approval of the Finance Committee of the Quarterly County Court of Davidson County, Tennessee.

As amended by: Private Acts of 1959, Chapter 305

SECTION 9. That the "Davidson County Farmers' Market Commission" shall not have authority to incur any obligations, nor shall they receive any compensation for services rendered unless and until the bonds authorized to be issued under authority of this Act have, by resolution of the County Court, been issued and submitted to a vote of the people on a referendum election called for that purpose and have been approved by the people.

SECTION 10. That the Commission created by this Act shall have the sole and exclusive control of the operation and management of the Farmers' Market authorized herein and other marketing facilities in Davidson County and over the acquisition, construction and establishment of such Farmers' Market or other marketing facilities.

As amended by: Private Acts of 1959, Chapter 305

SECTION 11. That the Commission may employ a Building Manager who shall supervise the construction of the Farmers' Market and other marketing facilities. Upon the completion of the construction of such Farmers' Market and other marketing facilities, the Commission is authorized to employ a General Manager who shall be in charge of the management and operation of such Farmers' Market and Marketing Facilities when constructed and established under the direction and supervision of the Commission as may be provided from time to time by rules and regulations.

Said General Manager shall be chargeable with the enforcement and execution of all rules and regulations, programs, plans and decisions made or adopted by the Commission. He shall make and keep full and complete books and records which shall at all times adequately reflect the affairs of the Commission, which books shall at all times be subject to the supervision, direction and control of the Commission.

SECTION 12. That the Commission shall have full power to regulate charges to be made for rental space on the market and shall prescribe the rules and regulations in connection therewith, and it shall be the duty of the General Manager to carry out the policies of the Commission with respect to such rentals and rental charges, including the power to negotiate contracts and licenses for the construction of marketing facilities and the occupation of space, from time to time with all tenants of the Commission.

As amended by: Private Acts of 1959, Chapter 305.

SECTION 13. That the confines of said market are hereby specifically declared to be within the police jurisdiction of the City of Nashville as well as within the jurisdiction of the Sheriff of Davidson County. It shall be the duty of the Police Department of the City of Nashville and the Sheriff of Davidson County and his deputies to enforce the provisions of this Act and to enforce the law and preserve the peace on said premises. Any violation of this Act, including the occupation or use of space on said market without the payment of the prescribed rental or license fee, is hereby declared to be a misdemeanor, punishable by a fine of not less than Fifty (\$50.00) Dollars nor more than Five Hundred (\$500.00) Dollars or by imprisonment not to exceed ninety (90) days, or both, such fine and imprisonment within the discretion of the Court.

As amended by: Private Acts of 1959, Chapter 305.

SECTION 14. That said Commission is expressly authorized to exercise the power of eminent domain on behalf and in the name of Davidson County within the boundaries of said County, in order to acquire any property, real or personal, necessary or useful in exercising the power and authority conferred by this Act. The title to all property taken for the purpose of exercising the powers conferred by this Act, whether acquired by contract or by the exercise of the power of eminent domain, shall be taken in the name of Davidson County, Tennessee, and such condemnation proceedings as may be deemed necessary or proper shall be pursuant to and in accordance with the provisions of Section 3109 to Section 3134, inclusive, of the Code of Tennessee. Provided, however, that in no event shall said Farmers' Market Commission have authority beyond the amount of the funds made available to it by the issuance and sale of the bonds authorized by the provisions of this Act, with the exception that, for the purpose of constructing, expanding, remodeling and extending such marketing facilities, the Davidson County Quarterly Court is specifically authorized to borrow money at a rate not to exceed six (6%) per cent per annum in anticipation of the revenues from the market, and leases may be used as collateral for such loans as hereinabove provided.

As amended by:

Private Acts of 1959, Chapter 305

SECTION 15. That the County of Davidson is hereby authorized to acquire by purchase, gift, condemnation, or otherwise, and to construct, maintain, operate and use such buildings, works, lands, property and conveyance as in the judgment of the Commission will provide an efficient and satisfactory Farmers' Market and/or marketing facilities for the inhabitants of Davidson County.

The Commission is authorized to accept Federal and State aid.

SECTION 16. That the Commission is hereby authorized to charge and collect rents, rates, fees or other charges for its services and facilities.

Such rents, rates, fees and charges being in the nature of use or service charges, shall, as nearly as the Commission shall deem practicable and equitable, be uniform for the same type, class and amount of use or service of the facilities of the Commission.

The Commission shall prescribe and from time to time, when necessary, revise a schedule of such service charges or rentals, a copy of which shall at all times be kept on file and open to public inspection at the office of the Secretary of the Commission and at the office of the County Court Clerk of Davidson County.

SECTION 17. That the Commission, in addition to its authority for the employment of a General Manager for the management and operation of such marketing service, shall have the authority to employ such other necessary personnel in the operation of said marketing facilities, with the right to establish the pay scale for such employees; provided, however, that they shall confine themselves within the annual operating revenue of said marketing facilities, and provided, further, that the employees of the Davidson County Farmers' Marketing Commission shall not be subject to the provisions of the Davidson County Civil Service Act, nor of the Davidson County Pension Plan.

SECTION 18. That it shall be the duty of the General Manager of said marketing facilities to collect, report and pay into the County Trustee's office of Davidson County all monies received as rents, rates, fees and charges, monthly, and within ten days from the end of each month, said payments to be placed to the credit of a special fund to be designated "Farmers' Market Operating Fund." All expenditures of said Commission authorized by this Act shall be on vouchers signed by the Chairman or Vice Chairman of the Commission and countersigned by the Secretary.

SECTION 19. That any funds received from rents, rates, fees and charges remaining unexpended in the hands of the Trustee in the Special Account designated "Farmers' Market Operating Fund," and unexpended on April 1st of each year may, by resolution of the County Court be transferred from said fund and applied towards the retirement of any outstanding Farmers' Market Building Bonds, provided that said fund may not in this manner be reduced to less than Five Thousand (\$5,000.00) Dollars, or the Court may, by resolution, authorize its expenditure by the Farmers' Market Commission for betterments, extensions and repairs.

SECTION 20. That the Commission shall fix the amount of bonds to be required by the General Manager, and all others who are to handle or be responsible for the funds and/or property of the Commission, or the County hereunder, and all such bonds shall have as surety thereon some approved bonding or surety company.

SECTION 21. That all of the Commission's facilities and property are hereby declared to be public property of a political subdivision of the State devoted to an essential public and governmental function and purpose and shall be exempt from all taxation by the State or any subdivision thereof. All bonds issued pursuant to this Act are hereby declared to be issued by a political subdivision of this State and for an essential public and governmental purpose, and such bonds, and the interest thereon and the income therefrom and all service charges, funds, revenues, and other monies pledged or available to pay or

secure the payment of such bonds, or interest thereon, shall at all times be exempt from taxation by the State or any subdivision thereof, except for transfer, inheritance and estate taxes.

Nothing in this Act shall be construed as relieving the users of said marketing facilities from the payment of all licenses, fees and taxes imposed upon such business by state and local laws, including rules and regulations prescribed by the Commission, and the failure of any user to pay said licenses, fees and taxes when due will operate to suspend his right to use said marketing facilities until said licenses, fees and taxes are paid.

As amended by: Private Acts of 1959, Chapter 305

SECTION 22. That when and if the bonds herein provided shall be authorized by the County Court, approved by referendum election of the people, and sold, then in that event, the said Farmers' Market Commission shall have the right to place to the credit of the "Farmers' Market Operating Fund" Ten Thousand (\$10,000.00) Dollars of said proceeds of the bond sale to be used in making necessary surveys and investigations required preliminary to the building of said Market Facility; and provided, that not less than Five Thousand (\$5,000.00) Dollars shall be reserved for the operation of said marketing facilities until such time as the rents, rates and fees charged for said services may make such facility selfsupporting.

SECTION 23. That this Act take effect from and after its passage, the public welfare requiring it.

Passed: March 30, 1949.

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