

65.114 Investment in securitized bonds -- Limitations -- Determination of connection by commission -- Limitation on adverse governmental actions affecting rights in securitized property.

- (1) All of the following entities may legally invest any sinking funds, moneys, or other funds, in securitized bonds:
 - (a) Subject to applicable statutory restrictions on state or local investment authority, the Commonwealth, units of local government, political subdivisions, public bodies, and public officers, except for:
 1. Members of the commission;
 2. The commission's technical advisory and other staff; and
 3. Employees of the Attorney General's Office of Rate Intervention;
 - (b) Banks and bankers, savings and loan associations, credit unions, trust companies, savings banks and institutions, investment companies, insurance associations, and other persons carrying on a banking or insurance business;
 - (c) Personal representatives, guardians, trustees, and other fiduciaries; and
 - (d) All other persons authorized to invest in bonds or other obligations of a similar nature.
- (2) Any determination of the commission made in connection with any financing order and any financing order of the commission issued pursuant to this subsection shall be a binding, irrevocable, and final order of the commission, and binding on the commission and the Commonwealth. The Commonwealth and its agencies, including the commission, pledge and agree with bondholders, the owners of the securitized property, and other financing parties that the Commonwealth and its agencies shall not undertake any of the prohibited actions listed in this subsection. This subsection shall not preclude limitation or alteration, if full compensation is made by law for the full protection of the securitized surcharges collected pursuant to a financing order and of the bondholders, any assignee, or financing party entering into a contract with the electric utility. The Commonwealth and its agencies, including the commission, shall not:
 - (a) Alter the provisions of KRS 278.670 to 278.696 and 65.114 which authorize the commission to create an irrevocable contract right or right to sue by the issuance of a financing order creating securitized property, making the securitized surcharges imposed by a financing order irrevocable, binding, or affecting the nonbypassable charges for all existing and future retail customers of the electric utility;
 - (b) Take or permit any action that impairs or would impair the value of securitized property or the security for the securitized bonds or revises the securitized costs for which recovery is authorized;
 - (c) In any way impair the rights and remedies of the bondholders, assignees, and other financing parties; and
 - (d) Except for changes made pursuant to the formula-based true-up mechanism authorized under KRS 278.678, reduce, alter, or impair securitized surcharges that are to be imposed, billed, charge, collected, and remitted for the benefit of

the bondholders, any assignee, and any other financing parties until any and all principal, interest, premium, financing costs, and other fees, expenses, or charges incurred, and any contracts to be performed, in connection with the related securitized bonds have been paid and performed in full.

- (3) Any person or entity that issues securitized bonds may include the language specified in this subsection in the securitized bonds and related documentation.

Effective: June 29, 2023

History: Created 2023 Ky. Acts ch. 72, sec. 14, effective June 29, 2023.

Legislative Research Commission Note (6/29/2023). Pursuant to 2023 Ky. Acts ch. 72, sec. 1, the applicable definitions for this section are in KRS 278.670.