

Real Estate Securities Funding Public-Private Projects

Since the election of President Trump, Republican Arizona is seeing a much-anticipated market recovery across sectors, including the property financing segment. In next few cycles, securitization of real estate will be especially important to the advancement of mid- to large-scale public infrastructure projects backed by private financial partners. Arizona law [§44-2051 Advancement of economic development and capital formation](#) was enacted,

“in order to foster the economic development of [the state and] consider[s] measures consistent with investor protection, to increase the availability of and access to capital by companies in this state, to lower the cost of such capital and to foster the development in this state of a diverse financial services industry providing a full range of financial services, including efficient capital markets.”

Although corporate, partnership, and trust shares are not the standard form of asset corresponding to the funding of a specific property investment, securities may be used to capitalize a real estate company. Private investors forming alliances with real estate developers in the interest of capitalizing on public-private partnership (“PPP”) infrastructure projects stand to benefit the most from the upward trend in securitized sources of finance.

REIT & REMIC Securities

Despite the taxation and regulatory obstacles, private financial investment in securitized sources of funding toward support of Arizona public sector development is only likely to increase over the next decade. Securitized real estate investment trusts (“REITs”) and Real Estate Mortgage Investment Conduits (“REMICs”) offer investors industry-related capitalization; a core strategy of PPP backed investment strategies. In terms of underlying value, REIT and REMIC securities are perhaps the most fungible funding sources contributed to PPP projects aside from cash. PPP project investment, then, is directly tied to developer returns on investors’ capital; a vital solution to the future capitalization of those projects.

Mortgage-Backed Bonds

Collateralized debt instruments, promissory notes, and mortgage-backed bonds will continue to be central to the real estate holdings of financial institutions supplying lending to the industry. The existence of large funds prepared for formation of PPP interests at the international level has promoted a trickle-down effect across U.S. cities and counties, as regional public-sector infrastructure projects include those assets as part of a blended financial strategy. The advantage of marketable, securitized bonds is that they are regulated. Bond rating is mandatory, and generally backed by credit enhancements (i.e., a letter of credit, guarantees, or over-collateralization).

Arizona Law & SEC Regulation

Securities registered with the U.S. federal Securities and Exchange Commission (“SEC”) are subject to regulatory rules depending on the number of investors and total worth of a corporation’s shares. There is a qualified

exemption from SEC regulation for entities comprised of fewer than 35 investors, not counting accredited investors. In such case, fundraising from those entities' securities is unlimited. The recently adopted Arizona Corporate Commission [R.14-4-140 Accredited Investor Public Offering Exemption](#) follows federal rules and allows an unlimited number of investors to purchase up to \$1,000,000 in corporate shares from a registered entity. Some have suggested s-corporation status offers an apt instrument to reduce the hassles that c-corporation companies face with strict SEC and state securities law registration rules, allowing a targeted firm to avoid the double-taxation burden associated with capital gains.

Contact a Securities Law Attorney

An important fundraising tool for adding scalability to PPP infrastructure projects in Arizona, securitization of real estate companies is the wave of the fundraising future as private investors and public-sector partners seek industry-related sources of finance. Thrasher PLLC Law Offices is an Arizona licensed attorney practice specializing in commercial real estate transactions. Contact [Thrasher Law Offices PLLC](#) for a consultation.

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