

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 595 Session of 2009

INTRODUCED BY HICKERNELL, BOYD, CALTAGIRONE, CREIGHTON, CUTLER, DENLINGER, GEIST, GINGRICH, GROVE, HENNESSEY, HORNAMAN, KILLION, KORTZ, MILLARD, MILLER, MURT, ROCK, ROSS, SAYLOR, SCAVELLO, SIPTROTH, STERN, TRUE AND CLYMER, FEBRUARY 26, 2009

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, FEBRUARY 26, 2009

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),  
2 entitled "An act concerning boroughs, and revising, amending  
3 and consolidating the law relating to boroughs," further  
4 providing for investment of borough funds.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 1316 of the act of February 1, 1966 (1965  
8 P.L.1656, No.581), known as The Borough Code, amended or added  
9 November 2, 1979 (P.L.458, No.94) and December 13, 1982 (P.L.  
10 1145, No.261), is amended to read:

11 Section 1316. Investment of Funds.--(a) Council shall  
12 invest borough funds consistent with sound business practice.

13 (b) Council shall provide for an investment program subject  
14 to restrictions contained in this act and in any other  
15 applicable statute and any rules and regulations adopted by  
16 council.

17 (c) Authorized types of investments for borough funds shall  
18 be:

1 (i) United States Treasury bills.

2 (ii) Short-term obligations of the United States Government  
3 or its agencies or instrumentalities.

4 (iii) Deposits in savings accounts or time deposits, other  
5 than certificates of deposit, or share accounts of institutions  
6 insured by the Federal Deposit Insurance Corporation or the  
7 Federal Savings and Loan Insurance Corporation or the National  
8 Credit Union Share Insurance Fund or the Pennsylvania Deposit  
9 Insurance Corporation or the Pennsylvania Savings Association  
10 Insurance Corporation to the extent that such accounts are so  
11 insured, and, for any amounts above the insured maximum,  
12 provided that approved collateral as provided by law therefore  
13 shall be pledged by the depository.

14 (iv) Obligations of the United States of America or any of  
15 its agencies or instrumentalities backed by the full faith and  
16 credit of the United States of America, the Commonwealth of  
17 Pennsylvania or any of its agencies or instrumentalities backed  
18 by the full faith and credit of the Commonwealth, or of any  
19 political subdivision of the Commonwealth of Pennsylvania or any  
20 of its agencies or instrumentalities backed by the full faith  
21 and credit of the political subdivision.

22 (v) Shares of an investment company registered under the  
23 Investment Company Act of 1940, whose shares are registered  
24 under the Securities Act of 1933, provided that the only  
25 investments of that company are in the authorized investments  
26 for borough funds listed in (i) through (iv).

27 (vi) Certificates of deposit purchased from institutions  
28 insured by the Federal Deposit Insurance Corporation or the  
29 Federal Savings and Loan Insurance Corporation or the National  
30 Credit Union Share Insurance Fund or the Pennsylvania Deposit

1 Insurance Corporation or the Pennsylvania Savings Association  
2 Insurance Corporation to the extent that such accounts are so  
3 insured. However, for any amounts above the insured maximum,  
4 such certificates of deposit shall be collateralized by a pledge  
5 or assignment of assets of the institution, and such collateral  
6 may include loans (including interest in pools of loans) secured  
7 by first mortgage liens on real property. Certificates of  
8 deposit purchased from commercial banks shall be limited to an  
9 amount equal to twenty percent of a bank's total capital and  
10 surplus. Certificates of deposit purchased from savings and loan  
11 associations or savings banks shall be limited to an amount  
12 equal to twenty percent of an institution's assets minus  
13 liabilities.

14 (vii) Any investment authorized by 20 Pa.C.S. Ch.73  
15 (relating to fiduciaries investments) shall be an authorized  
16 investment for any pension or retirement fund.

17 (viii) Bankers' acceptances issued by domestic banks to  
18 secure international trade transactions, provided that the  
19 bankers' acceptances are guaranteed by the full faith and credit  
20 of the domestic bank and the United States of America importer.

21 (ix) Commercial paper and prime commercial paper as defined  
22 in subsection (e), provided that the treasurer shall not, at any  
23 time, have invested in prime commercial paper more than an  
24 aggregate of such total sum as the council shall have  
25 prescribed.

26 (d) In making investments of borough funds, council shall  
27 have authority:

28 (i) To permit assets pledged as collateral under subsection  
29 (c)(iii), to be pooled in accordance with the act of August 6,  
30 1971 (P.L.281, No.72), entitled "An act standardizing the

procedures for pledges of assets to secure deposits of public funds with banking institutions pursuant to other laws; establishing a standard rule for the types, amounts and valuations of assets eligible to be used as collateral for deposits of public funds; permitting assets to be pledged against deposits on a pooled basis; and authorizing the appointment of custodians to act as pledgees of assets," relating to pledges of assets to secure deposits of public funds.

(ii) To combine moneys from more than one fund under borough control for the purchase of a single investment, provided that each of the funds combined for the purpose shall be accounted for separately in all respects and that the earnings from the investment are separately and individually computed and recorded, and credited to the accounts from which the investment was purchased.

(iii) To join with one or more other political subdivisions and municipal authorities in accordance with [the act of July 12, 1972 (P.L.762, No.180), entitled "An act relating to intergovernmental cooperation,"] 53 Pa.C.S. Ch. 23 Subch. A (relating to intergovernmental cooperation) in the purchase of a single investment, provided that the requirements of subclause (ii) on separate accounting of individual funds and separate computation, recording and crediting of the earnings therefrom are adhered to.

(e) As used in this section, "commercial paper" shall mean unsecured promissory notes issued at a discount from par by any industrial, common carrier, public utility or finance company and "prime commercial paper" shall mean notes issued by corporations whose credit has been approved by a nationally

1 recognized credit rating service. The treasurer shall have  
2 obtained the following prior to any commitment to purchase  
3 commercial paper:

4 (i) A certification or other evidence that the commercial  
5 paper is rated prime by a nationally recognized credit rating  
6 service.

7 (ii) A certification or other evidence that the commercial  
8 paper proposed to be delivered is not subordinate to any other  
9 debt of the issuer.

10 (iii) A certificate or other evidence that there is no  
11 litigation pending or threatened affecting the commercial paper.

12 (iv) A certificate or other evidence that the issuer is not  
13 in default as to the payment of principal and interest upon any  
14 of its outstanding obligations.

15 (v) A certificate or other evidence that the issuer was  
16 incorporated within the United States of America, is transacting  
17 business within the United States of America, and has assets of  
18 one billion dollars (\$1,000,000,000) or more, or is a wholly  
19 owned subsidiary of a Pennsylvania corporation having assets of  
20 one billion dollars (\$1,000,000,000) or more.

21 Section 2. This act shall take effect in 60 days.