

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 903 Session of 2013

INTRODUCED BY FOLMER, TEPLITZ, EICHELBERGER, BLAKE, BOSCOLA, BROWNE, YUDICHAK, WOZNIAK AND SOLOBAY, JUNE 7, 2013

SENATOR EICHELBERGER, LOCAL GOVERNMENT, AS AMENDED, OCTOBER 22, 2013

AN ACT

~~1 Amending Title 53 (Municipalities Generally) of the Pennsylvania <--~~  
~~2 Consolidated Statutes, further providing for the prohibition~~  
~~3 of interest rate management agreements for authorities;~~  
~~4 providing for the offense of knowingly participating in an~~  
~~5 ultra vires act of an authority and for the offense of~~  
~~6 knowingly filing materially false or misleading reports or~~  
~~7 certifications for an authority; further providing for~~  
~~8 definitions; providing for the prohibition of interest rate~~  
~~9 management agreements for local government units; further~~  
~~10 providing for scope of unfunded debt and for treatment of~~  
~~11 costs upon refunding; and repealing provisions relating to~~  
~~12 interest rate risk and interest rate cost management for~~  
~~13 local government units.~~

14 AMENDING TITLE 53 (MUNICIPALITIES GENERALLY) OF THE PENNSYLVANIA <--  
15 CONSOLIDATED STATUTES, IN MUNICIPAL AUTHORITIES, PROVIDING  
16 FOR INTEREST RATE RISK AND INTEREST COST MANAGEMENT, FOR THE  
17 OFFENSE OF KNOWINGLY PARTICIPATING IN AN ULTRA VIRES ACT OF  
18 AN AUTHORITY AND FOR THE OFFENSE OF KNOWINGLY FILING  
19 MATERIALLY FALSE OR MISLEADING REPORTS OR CERTIFICATIONS FOR  
20 AN AUTHORITY; AND, IN INDEBTEDNESS AND BORROWING, FURTHER  
21 PROVIDING FOR DEFINITIONS; AND EXPANDING THE SCOPE OF  
22 PROVISIONS RELATING TO INTEREST RATE RISK AND INTEREST COST  
23 MANAGEMENT TO INCLUDE FIRST CLASS COUNTIES AND CITIES AND  
24 AUTHORITIES.

25 The General Assembly of the Commonwealth of Pennsylvania  
26 hereby enacts as follows:

27 ~~Section 1. Section 5607(e) of Title 53 of the Pennsylvania <--~~  
28 ~~Consolidated Statutes is amended by adding a paragraph to read:~~

1 ~~§ 5607. Purposes and powers.~~

2 ~~\* \* \*~~

3 ~~(e) Prohibition.~~

4 ~~\* \* \*~~

5 ~~(4) No authority may enter into an interest rate~~  
6 ~~management agreement, including a swap, interest rate cap,~~  
7 ~~collar, corridor, ceiling and floor agreement, forward~~  
8 ~~agreement and float agreement.~~

9 ~~\* \* \*~~

10 Section 2. Title 53 is amended by adding sections to read:

11 SECTION 1. TITLE 53 OF THE PENNSYLVANIA CONSOLIDATED

<--

12 STATUTES IS AMENDED BY ADDING SECTIONS TO READ:

13 § 5608.1. INTEREST RATE RISK AND INTEREST RATE COST MANAGEMENT.

14 NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER,  
15 MUNICIPAL AUTHORITIES SHALL BE SUBJECT TO THE PROVISIONS OF  
16 SUBCHAPTER F OF CHAPTER 82 (RELATING TO INTEREST RATE RISK AND  
17 INTEREST COST MANAGEMENT).

18 § 5624. Knowingly participating in an ultra vires act of an  
19 authority.

20 (a) General rule.--Any officer or any member of the  
21 governing body of any authority or any member of a law firm or a  
22 financial advisor firm who assists or provides advice to an  
23 authority and who knowingly participates in an ultra vires act  
24 of an authority AN AUTHORITY IN PERFORMING AN ULTRA VIRES ACT  
25 commits a misdemeanor of the second degree and shall, upon  
26 conviction, be sentenced to pay a fine of not more than \$5,000  
27 or to imprisonment for not more than two years, or both.

<--

<--

28 (b) Prohibition.--A law firm or financial advisor firm which  
29 has had a member convicted under subsection (a) shall be  
30 prohibited for two years from assisting an authority with or

1 providing advice to an authority for any activity under this  
2 chapter.

3 ~~(c) Definition. An act is an "ultra vires act" when the~~ <--  
4 ~~municipal authority is without authority to perform the act or~~  
5 ~~when the act is not explicitly prohibited, but is in excess of~~  
6 ~~the powers granted to the municipal authority.~~

7 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING <--  
8 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
9 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

10 "FINANCIAL ADVISOR." A PERSON, FIRM OR OTHER ENTITY  
11 EXPERIENCED IN VARIOUS ASPECTS OF DEBT AND FINANCIAL  
12 TRANSACTIONS WHO IS RETAINED BY A LOCAL GOVERNMENT UNIT TO  
13 ADVISE IT WITH RESPECT TO STRUCTURING OR REPAYING DEBT. THE TERM  
14 DOES NOT INCLUDE A LENDER, UNDERWRITER OR OTHER ENTITY  
15 PURCHASING THE BONDS OR NOTES OF A LOCAL GOVERNMENT UNIT.

16 "ULTRA VIRES ACT." AN ACT THAT A REASONABLE PERSON WOULD  
17 KNOW THE MUNICIPAL AUTHORITY IS WITHOUT STATUTORY AUTHORITY OR  
18 POWER TO PERFORM. THE REASONABLE PERSON SHALL HAVE COMPARABLE  
19 EDUCATION, EXPERIENCE AND INFORMATION TO THE PERSON ASSISTING  
20 THE MUNICIPAL AUTHORITY IN PERFORMING THE ACT.

21 § 5625. Knowingly filing materially false or misleading reports  
22 or certifications for an authority.

23 (a) General rule.--Any officer or any member of the  
24 governing body of any authority OR ANY LAWYER, FINANCIAL <--  
25 ADVISOR, ENGINEER, ARCHITECT OR ANY OTHER INDIVIDUAL who  
26 knowingly files a materially false or misleading report or  
27 certification with the Secretary of the Commonwealth DEPARTMENT <--  
28 commits a misdemeanor of the second degree and shall, upon  
29 conviction, be sentenced to pay a fine of not more than \$5,000  
30 or to imprisonment for not more than two years, or both.

1 ~~(b) Aiding or abetting. Any officer or any member of the~~ <--  
2 ~~governing body of any authority or any member of a law firm or a~~  
3 ~~financial advisor firm who assists or provides advice to an~~  
4 ~~authority and who aids or abets in the commission of the offense~~  
5 ~~under subsection (a) commits a misdemeanor of the second degree~~  
6 ~~and shall, upon conviction, be sentenced to pay a fine of not~~  
7 ~~more than \$5,000 or to imprisonment for not more than two years,~~  
8 ~~or both.~~

9 ~~(c) Prohibition. A law firm or financial advisor firm which~~  
10 ~~has had a member convicted under subsection (b) (B)~~ <--  
11 PROHIBITION.--THE COMPANY OR FIRM HAVING A MEMBER OR EMPLOYEE  
12 CONVICTED UNDER SUBSECTION (A) shall be prohibited for two years  
13 from assisting an authority with or providing advice to an  
14 authority for any activity under this chapter.

15 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM <--  
16 "FINANCIAL ADVISOR" MEANS A PERSON, FIRM OR OTHER ENTITY  
17 EXPERIENCED IN VARIOUS ASPECTS OF DEBT AND FINANCIAL  
18 TRANSACTIONS WHO IS RETAINED BY A LOCAL GOVERNMENT UNIT TO  
19 ADVISE IT WITH RESPECT TO STRUCTURING OR REPAYING DEBT. THE TERM  
20 DOES NOT INCLUDE A LENDER, UNDERWRITER OR OTHER ENTITY  
21 PURCHASING THE BONDS OR NOTES OF A LOCAL GOVERNMENT UNIT.

22 ~~Section 3. The definition of "debt" in subsection (a) and~~ <--  
23 ~~the definitions of "independent financial advisor," "interest~~  
24 ~~rate management plan" and "qualified interest rate management~~  
25 ~~agreement" in subsection (c) of section 8002 of Title 53 are~~  
26 ~~amended to read:~~

27 ~~§ 8002. Definitions.~~

28 ~~(a) Classification of debt. With respect to classifications~~  
29 ~~of debt and subject to additional definitions contained in~~  
30 ~~subsequent provisions of this subpart which are applicable to~~

1 ~~specific provisions of this subpart, the following words and~~  
2 ~~phrases when used in this subpart shall have the meanings given~~  
3 ~~to them in this section unless the context clearly indicates~~  
4 ~~otherwise:~~

5 ~~"Debt." The amount of all obligations for the payment of~~  
6 ~~money incurred by the local government unit, whether due and~~  
7 ~~payable in all events, or only upon the performances of work,~~  
8 ~~possession of property as lessee, rendering of services by~~  
9 ~~others or other contingency, except the following:~~

10 ~~(1) Current obligations for the full payment of which~~  
11 ~~current revenues have been appropriated, including tax~~  
12 ~~anticipation notes, and current payments for the funding of~~  
13 ~~pension plans.~~

14 ~~(2) Obligations under contracts for supplies, services~~  
15 ~~and pensions allocable to current operating expenses of~~  
16 ~~future years in which the supplies are to be expended or~~  
17 ~~furnished, the services rendered or the pensions paid.~~

18 ~~(3) Rentals or payments payable in future years under~~  
19 ~~leases, guaranties, subsidy contracts or other forms of~~  
20 ~~agreement not evidencing the acquisition of capital assets.~~  
21 ~~This exception shall not apply to rentals or payments under~~  
22 ~~any instruments which would constitute lease rental debt but~~  
23 ~~for the fact that the lessor or obligee is not an entity~~  
24 ~~described in section 8004(a)(1) (relating to when lease or~~  
25 ~~other agreement evidences acquisition of capital asset).~~

26 ~~(4) Interest or assumed taxes payable on bonds or notes~~  
27 ~~which interest or taxes are not yet overdue.~~

28 ~~[(5) Obligations incurred and payments, including~~  
29 ~~periodic scheduled payments and termination payments, payable~~  
30 ~~pursuant to a qualified interest rate management agreement.]~~

1       ~~\*\*\*~~

2       ~~(c) Other definitions. Subject to additional definitions~~  
3 ~~contained in subsequent provisions of this subpart which are~~  
4 ~~applicable to specific provisions of this subpart, the following~~  
5 ~~words and phrases when used in this subpart shall have the~~  
6 ~~meanings given to them in this section unless the context~~  
7 ~~clearly indicates otherwise:~~

8       ~~\*\*\*~~

9       ~~["Independent financial advisor." A person or entity~~  
10 ~~experienced in the financial aspects and risks of interest rate~~  
11 ~~management agreements who is retained by a local government unit~~  
12 ~~to advise the local government unit with respect to a qualified~~  
13 ~~interest rate management agreement. The independent financial~~  
14 ~~advisor may not be the other party or an affiliate or agent of~~  
15 ~~the other party on a qualified interest rate management~~  
16 ~~agreement with respect to which the independent financial~~  
17 ~~advisor is advising a local government unit. For purposes of~~  
18 ~~sections 8281(b)(2) and (c)(5) (relating to qualified interest~~  
19 ~~rate management agreements), the independent financial advisor~~  
20 ~~may be retained by a public authority.~~

21       ~~"Interest rate management plan." A written plan prepared or~~  
22 ~~reviewed by an independent financial advisor with respect to a~~  
23 ~~qualified interest rate management agreement, which includes:~~

24           ~~(1) A schedule listing the amount of debt outstanding~~  
25           ~~for each outstanding debt issue of the local government unit~~  
26           ~~and the expected annual debt service on that debt. In the~~  
27           ~~case of variable rate debt, the schedule shall set forth the~~  
28           ~~estimated annual debt service thereon and annual debt service~~  
29           ~~on the debt calculated at the maximum rate specified for the~~  
30           ~~variable rate debt.~~

1           ~~(2) A schedule listing the notional amounts outstanding~~  
2 ~~of each previously executed qualified interest rate~~  
3 ~~management agreement which is then in effect.~~

4           ~~(3) A schedule listing all consulting, advisory,~~  
5 ~~brokerage or similar fees, paid or payable by the local~~  
6 ~~government unit in connection with the qualified interest~~  
7 ~~rate management agreement, and a schedule of any finder's~~  
8 ~~fees, consulting fees or brokerage fees, paid or payable by~~  
9 ~~the other party in connection with the qualified interest~~  
10 ~~rate management agreement.~~

11           ~~(4) A schedule listing the estimated and maximum~~  
12 ~~periodic scheduled payments to be paid by the local~~  
13 ~~government unit and to be received by the local government~~  
14 ~~unit from the other party in each year during the term of the~~  
15 ~~qualified interest rate management agreement.~~

16           ~~(5) An analysis of the interest rate risk, basis risk,~~  
17 ~~termination risk, credit risk, market access risk and other~~  
18 ~~risks of entering into the qualified interest rate management~~  
19 ~~agreement. This paragraph includes schedules of the estimated~~  
20 ~~and maximum scheduled periodic payments which would be due~~  
21 ~~under the qualified interest rate management agreement.~~

22           ~~(6) An analysis of the interest rate risk, basis risk,~~  
23 ~~termination risk, credit risk, market access risk and other~~  
24 ~~risks to the local government unit of the net payments due~~  
25 ~~for all debt outstanding and all qualified interest rate~~  
26 ~~management agreements of the local government unit. This~~  
27 ~~paragraph includes schedules of the estimated and maximum net~~  
28 ~~payments of total debt service and scheduled, periodic, net~~  
29 ~~payments, which would be due under all of the qualified~~  
30 ~~interest rate management agreements.~~

1           ~~(7) The local government unit's plan to monitor interest~~  
2           ~~rate risk, basis risk, termination risk, credit risk, market~~  
3           ~~access risk and other risks. This paragraph includes the~~  
4           ~~valuation of the market or termination value of all~~  
5           ~~outstanding qualified interest rate management agreements.]~~

6           ~~\* \* \*~~

7           ~~["Qualified interest rate management agreement." An~~  
8           ~~agreement, including a confirmation evidencing a transaction~~  
9           ~~effected under a master agreement, entered into by a local~~  
10           ~~government unit in accordance with and fulfilling the~~  
11           ~~requirements of section 8281 (relating to qualified interest~~  
12           ~~rate management agreements), which agreement in the judgment of~~  
13           ~~the local government unit is designed to manage interest rate~~  
14           ~~risk or interest cost of the local government unit on any debt a~~  
15           ~~local government unit is authorized to incur under this subpart,~~  
16           ~~including, but not limited to, swaps, interest rate caps,~~  
17           ~~collars, corridors, ceiling and floor agreements, forward~~  
18           ~~agreements, float agreements and other similar arrangements~~  
19           ~~which in the judgment of the local government unit will assist~~  
20           ~~the local government unit in managing the interest rate risk or~~  
21           ~~interest cost of the local government unit.]~~

22           ~~\* \* \*~~

23           ~~Section 4. Title 53 is amended by adding a section to read:~~  
24           ~~§ 8010. Interest rate management agreements prohibited.~~

25           ~~All local government units are prohibited from entering into~~  
26           ~~interest rate management agreements, including swaps, interest~~  
27           ~~rate caps, collars, corridors, ceiling and floor agreements,~~  
28           ~~forward agreements and float agreements.~~

29           ~~Section 5. Sections 8129 and 8242(a) of Title 53 are amended~~  
30           ~~to read:~~

1 ~~§ 8129. Scope of unfunded debt.~~

2 ~~For the purpose of this subchapter, "unfunded debt" means~~  
3 ~~obligations of the same or one or more prior years incurred for~~  
4 ~~current expenses, including tax anticipation notes [and~~  
5 ~~payments, including termination payments, required to be made~~  
6 ~~under qualified interest rate management agreements,] due and~~  
7 ~~owing or judgments against the local government unit entered by~~  
8 ~~a court after adversary proceedings[, including a judgment under~~  
9 ~~section 8283(b) (2) (i) (relating to remedies),] for the payment~~  
10 ~~of either of which category the taxes and other revenues~~  
11 ~~remaining to be collected in the fiscal year and funds on hand~~  
12 ~~will not be sufficient without a curtailment of municipal~~  
13 ~~services to an extent endangering the health or safety of the~~  
14 ~~public or proper public education, and the local government unit~~  
15 ~~either may not legally levy a sufficient tax for the balance of~~  
16 ~~the fiscal year, or a sufficient tax, if legally leviable, would~~  
17 ~~not be in the public interest. Unfunded debt does not, however,~~  
18 ~~include debt incurred under this subpart or obligations in~~  
19 ~~respect of a project or part of a project as incurred in respect~~  
20 ~~of the cost of a project.~~

21 ~~§ 8242. Treatment of costs upon refunding.~~

22 ~~(a) General rule. In any refunding, a principal amount of~~  
23 ~~refunding bonds or notes or obligations evidencing lease rental~~  
24 ~~debt equal to the sum of the following:~~

25 ~~(1) the call premium payable on the bonds, notes or~~  
26 ~~obligations being refunded;~~

27 ~~(2) the discount allowed on the sale of the refunding~~  
28 ~~bonds, notes or obligations;~~

29 ~~{(2.1) any funds borrowed in order to pay any~~  
30 ~~termination payment required to be paid under a qualified~~

1 ~~interest rate management agreement in which the notional~~  
2 ~~amount is identified as corresponding to all or any portion~~  
3 ~~of the bond or note being refunded;]~~

4 ~~(3) any funds borrowed to pay interest on bonds, notes~~  
5 ~~or obligations being refunded; and~~

6 ~~(4) the costs of issue and sale of the refunding bonds,~~  
7 ~~notes or obligations;~~

8 ~~may be considered as interest on the refunding bonds, notes or~~  
9 ~~obligations and may be separately stated in all reporting of~~  
10 ~~debt and in all computation of debt limits and, if so considered~~  
11 ~~and reported by the local government unit, shall not be~~  
12 ~~considered as electoral, nonelectoral or lease rental debt. In~~  
13 ~~subsequent debt statements, any such separately stated principal~~  
14 ~~amount of bonds, notes or obligations shall be reported as being~~  
15 ~~amortized in the same proportion as the series of which they are~~  
16 ~~a part.~~

17 ~~\* \* \*~~

18 ~~Section 6. Subchapter F of Chapter 82 of Title 53 is~~  
19 ~~repealed:~~

20 ~~{SUBCHAPTER F~~

21 ~~INTEREST RATE RISK AND INTEREST COST MANAGEMENT~~

22 ~~§ 8281. Qualified interest rate management agreements.~~

23 ~~(a) General rule.~~

24 ~~(1) Except as set forth in paragraph (4),~~  
25 ~~notwithstanding any other law to the contrary, a local~~  
26 ~~government unit may negotiate and enter into qualified~~  
27 ~~interest rate management agreements consistent with the~~  
28 ~~provisions of this subchapter.~~

29 ~~(2) The local government unit must authorize and award~~  
30 ~~by resolution each qualified interest rate management~~

1 ~~agreement or any confirmation of a transaction. The~~  
2 ~~resolution is subject to section 8003(a) and (b) (relating to~~  
3 ~~advertisement and effectiveness of ordinances) but may be~~  
4 ~~valid and effective for all purposes immediately upon~~  
5 ~~adoption or as otherwise provided in the resolution.~~

6 ~~(3) A local government unit has the power to contract~~  
7 ~~for insurance covering the risks of nonpayment of amounts due~~  
8 ~~under qualified interest rate management agreements.~~

9 ~~(4) The authority granted in this subchapter shall not~~  
10 ~~apply to any local government unit which has been declared~~  
11 ~~distressed by the Department of Community and Economic~~  
12 ~~Development.~~

13 ~~(b) Requirements for resolution. The resolution authorizing~~  
14 ~~and awarding a qualified interest rate management agreement or~~  
15 ~~authorizing a transaction under the agreement must include in~~  
16 ~~the resolution or as an appendix to the resolution all of the~~  
17 ~~following:~~

18 ~~(1) A copy of the qualified interest rate management~~  
19 ~~agreement or confirmation of the transaction under the~~  
20 ~~qualified interest rate management agreement in substantially~~  
21 ~~the form to be executed pursuant to the resolution.~~

22 ~~(2) The interest rate management plan meeting the~~  
23 ~~requirements under this subpart:~~

24 ~~(i) adopted by the local government unit; or~~

25 ~~(ii) if the local government unit is incurring~~  
26 ~~indebtedness under this chapter which has or will be~~  
27 ~~issued to a public authority that has entered into or~~  
28 ~~will enter into an interest rate management agreement~~  
29 ~~meeting the requirements of a qualified interest rate~~  
30 ~~management agreement under this subpart, adopted by that~~

1           ~~public authority.~~

2           ~~(3) A statement of the manner of the award of the~~  
3           ~~qualified interest rate management agreement under subsection~~  
4           ~~(e).~~

5           ~~(c) Contents of qualified interest rate management~~  
6           ~~agreements. In addition to other provisions approved by the~~  
7           ~~local government unit, a qualified interest rate management~~  
8           ~~agreement must contain all of the following:~~

9           ~~(1) The covenant of the local government unit to make~~  
10           ~~payments required by the qualified interest rate management~~  
11           ~~agreement and the covenants authorized by section 8282~~  
12           ~~(relating to covenant to pay amounts due under qualified~~  
13           ~~interest rate management agreements).~~

14           ~~(2) The notional amount of the qualified interest rate~~  
15           ~~management agreement and the principal amount of bonds or~~  
16           ~~notes or lease rental debt, or portions of the notional or~~  
17           ~~principal amounts, issued or to be issued by the local~~  
18           ~~government unit under this subpart or guaranteed by the local~~  
19           ~~government unit under this subpart, to which the agreement~~  
20           ~~relates.~~

21           ~~(3) The term of any qualified interest rate management~~  
22           ~~agreement, which must not exceed the latest maturity date of~~  
23           ~~the bonds or notes referenced in the qualified interest rate~~  
24           ~~management agreement.~~

25           ~~(4) A provision requiring the termination of the~~  
26           ~~agreement if all debt to which the qualified interest rate~~  
27           ~~management agreement relates is no longer outstanding.~~

28           ~~(5) The maximum annual interest rate which the local~~  
29           ~~government unit may pay thereunder.~~

30           ~~(6) A provision that the maximum net payments by fiscal~~

1 ~~year of a local government unit shall not exceed the maximum~~  
2 ~~interest rate specified in the qualified interest rate~~  
3 ~~management agreement for:~~

4 ~~(i) periodic scheduled payments, not including any~~  
5 ~~termination payments, due under the qualified interest~~  
6 ~~rate management agreement; and~~

7 ~~(ii) the interest on the bonds or notes to which the~~  
8 ~~qualified interest rate management agreement relates.~~

9 ~~(7) The source of payment of the payment obligations of~~  
10 ~~the local government unit, which must be either general~~  
11 ~~revenues or revenues specifically identified in the~~  
12 ~~agreement.~~

13 ~~(8) A provision addressing the actions to be taken if~~  
14 ~~the credit rating of the other party changes.~~

15 ~~(9) A provision that periodic scheduled payments due~~  
16 ~~under the qualified interest rate management agreement and~~  
17 ~~debt service due on the related bonds or notes or payments~~  
18 ~~due under the related instrument evidencing lease rental debt~~  
19 ~~or guaranty of the local government unit shall be senior in~~  
20 ~~right and priority of payment to termination payments due~~  
21 ~~under the qualified interest rate management agreement.~~

22 ~~(d) Other provisions of the qualified interest rate~~  
23 ~~management agreement. The qualified interest rate management~~  
24 ~~agreement may include:~~

25 ~~(1) A covenant to include any termination payment or~~  
26 ~~similar payment for a qualified interest rate management~~  
27 ~~agreement in its current budget at any time during a fiscal~~  
28 ~~year or in a budget adopted in a future fiscal year.~~

29 ~~(2) A provision that the following shall be equally and~~  
30 ~~ratably payable and secured under the applicable covenants~~

1 ~~authorized in section 8282:~~

2 ~~(i) Periodic scheduled payments due under the~~  
3 ~~qualified interest rate management agreement; and~~

4 ~~(ii) Any of the following to which the agreement~~  
5 ~~relates:~~

6 ~~(A) the debt service due on the bonds or notes;~~

7 ~~(B) payment under an instrument evidencing lease~~  
8 ~~rental debt; or~~

9 ~~(C) payment under a guaranty of the local~~  
10 ~~government unit.~~

11 ~~(3) A provision that the qualified interest rate~~  
12 ~~management agreement may be terminated at the option of the~~  
13 ~~local government unit without cause but that the qualified~~  
14 ~~interest rate management agreement may not be terminated at~~  
15 ~~the option of the other party to the qualified interest rate~~  
16 ~~management agreement without cause.~~

17 ~~(e) Award of qualified interest rate management~~  
18 ~~agreements.—~~

19 ~~(1) The local government unit shall establish a process~~  
20 ~~for selecting other parties before entering into a qualified~~  
21 ~~interest rate management agreement.~~

22 ~~(2) The local government unit shall establish~~  
23 ~~qualifications for other parties before entering into a~~  
24 ~~qualified interest rate management agreement. The~~  
25 ~~qualifications shall include a rating for the other party of~~  
26 ~~at least the third highest rating category from a nationally~~  
27 ~~recognized rating agency.~~

28 ~~(3) A qualified interest rate management agreement must~~  
29 ~~be awarded by public sale, private sale by negotiation or~~  
30 ~~private sale by invitation.~~

1           ~~(4) The local government unit shall select the qualified~~  
2 ~~interest rate management agreement which the local government~~  
3 ~~unit determines is in its best financial interest. The~~  
4 ~~qualified interest rate management agreement selected must~~  
5 ~~contain financial terms and conditions which in the opinion~~  
6 ~~of the independent financial advisor to the local government~~  
7 ~~unit are fair and reasonable to the local government unit as~~  
8 ~~of the date of award.~~

9           ~~(5) The local government unit may satisfy the~~  
10 ~~requirements of paragraph (4) by obtaining a finding from an~~  
11 ~~independent financial advisor to the public authority that~~  
12 ~~the financial terms and conditions of the agreement are fair~~  
13 ~~and reasonable to the public authority as of the date of the~~  
14 ~~award if all of the following apply:~~

15                 ~~(i) The local government unit is incurring~~  
16 ~~indebtedness under this chapter which has or will be~~  
17 ~~issued to a public authority.~~

18                 ~~(ii) In connection with the incurring of debt under~~  
19 ~~subparagraph (i), the local government unit will become~~  
20 ~~obligated for all or a portion of the public authority's~~  
21 ~~costs under an interest rate management agreement.~~

22 ~~§ 8282. Covenant to pay amounts due under qualified interest~~  
23 ~~rate management agreements.~~

24           ~~(a) Contents. The local government unit shall include in a~~  
25 ~~qualified interest rate management agreement a covenant that the~~  
26 ~~local government unit shall do the following:~~

27                 ~~(1) Include the periodic scheduled amounts payable in~~  
28 ~~respect of the qualified interest rate management agreement~~  
29 ~~for each fiscal year in its budget for that fiscal year.~~

30                 ~~(2) Appropriate those amounts from its general or~~

1  ~~specially pledged revenues for the payment of amounts due~~  
2  ~~under the qualified interest rate management agreement.~~

3  ~~(b) Pledge.~~

4  ~~(1) Except as set forth in paragraph (2), the local~~  
5  ~~government unit may pledge its full faith, credit and taxing~~  
6  ~~power for the budgeting, appropriation and payment of~~  
7  ~~periodic scheduled payments due under a qualified interest~~  
8  ~~rate management agreement.~~

9  ~~(2) A local government unit may not make a pledge under~~  
10  ~~paragraph (1) if the payment obligations of the local~~  
11  ~~government unit under the qualified interest rate management~~  
12  ~~agreement are limited as to payment to specified revenues of~~  
13  ~~the local government unit.~~

14  ~~(c) Security interest. If the periodic scheduled payment~~  
15  ~~obligations of the local government unit are specified in the~~  
16  ~~qualified interest rate management agreement to be made from~~  
17  ~~specified revenues of the local government unit, the local~~  
18  ~~government unit may include in the qualified interest rate~~  
19  ~~management agreement a covenant granting a security interest in~~  
20  ~~those revenues to secure its periodic scheduled payment~~  
21  ~~obligations under the agreement. The security interest shall be~~  
22  ~~perfected under section 8147 (relating to pledge of revenues).~~

23  ~~§ 8283. Remedies.~~

24  ~~(a) Failure to budget amounts due under a qualified interest~~  
25  ~~rate management agreement.~~

26  ~~(1) This subsection applies if a local government unit~~  
27  ~~fails or refuses to budget for any fiscal year a periodic~~  
28  ~~scheduled payment:~~

29  ~~(i) due in that year pursuant to the provisions of a~~  
30  ~~qualified interest rate management agreement; and~~

1           ~~(ii) payable from the general revenues of the local~~  
2           ~~government unit.~~

3           ~~(2) If a local government unit commits a failure or~~  
4           ~~refusal under paragraph (1), the following apply:~~

5           ~~(i) The other party to the interest rate management~~  
6           ~~agreement may bring an enforcement action in a court of~~  
7           ~~common pleas.~~

8           ~~(ii) After a hearing held upon notice to the local~~  
9           ~~government unit as the court may direct, if the court~~  
10           ~~finds a failure or refusal under paragraph (1), the court~~  
11           ~~may, by order of mandamus, require the treasurer of the~~  
12           ~~local government unit to pay to the other party out of~~  
13           ~~the first tax money or other available revenue or money~~  
14           ~~thereafter received in the fiscal year by the treasurer~~  
15           ~~the periodic scheduled payments due pursuant to the~~  
16           ~~provisions of the qualified interest rate management~~  
17           ~~agreement. The order shall be subject to section 8281(c)~~  
18           ~~(8) (relating qualified interest rate management~~  
19           ~~agreements).~~

20           ~~(iii) Any priority on incoming tax money accorded to~~  
21           ~~a separate sinking fund for tax anticipation notes under~~  
22           ~~the authority of section 8125 (relating to security for~~  
23           ~~tax anticipation notes and sinking fund) shall not be~~  
24           ~~affected by an order under subparagraph (ii) until the~~  
25           ~~sum on deposit in each sinking fund equals the money~~  
26           ~~which should have been budgeted or appropriated for each~~  
27           ~~series.~~

28           ~~(b) Failure to pay amounts due under a qualified interest~~  
29           ~~rate management agreement.~~

30           ~~(1) This subsection applies if:~~

1           ~~(i) a local government unit fails to pay any amount~~  
2           ~~due under a qualified interest rate management agreement~~  
3           ~~when it becomes due and payable; and~~

4           ~~(ii) the failure continues for 30 days.~~

5           ~~(2) If there is a failure under paragraph (1), the other~~  
6           ~~party to the qualified interest rate management agreement may~~  
7           ~~bring an action in a court of common pleas to recover the~~  
8           ~~amount due. This paragraph is subject to:~~

9           ~~(i) the priorities under sections 8125 and 8281(c)~~  
10           ~~(8); and~~

11           ~~(ii) any limitations upon rights of action properly~~  
12           ~~provided in the qualified interest rate management~~  
13           ~~agreement.~~

14           ~~(3) The judgment recovered under paragraph (2) shall:~~

15           ~~(i) have an appropriate priority upon the money next~~  
16           ~~coming into the treasury of the local government unit;~~  
17           ~~and~~

18           ~~(ii) be a judgment upon which funding bonds may be~~  
19           ~~issued pursuant to Ch. 81 Subch. B (relating to tax~~  
20           ~~anticipation notes and funding debt).~~

21           ~~(c) Failure to pay by school districts.~~

22           ~~(1) This subsection applies if a board of directors of a~~  
23           ~~school district fails to pay or to provide for the payment of~~  
24           ~~periodic scheduled payments, not including any termination~~  
25           ~~payments, due pursuant to the provisions of a qualified~~  
26           ~~interest rate management agreement.~~

27           ~~(2) A party to a qualified interest rate management~~  
28           ~~agreement must notify the Secretary of Education of a failure~~  
29           ~~under paragraph (1).~~

30           ~~(3) Upon notice under paragraph (2), the following~~

1 apply:

2 ~~(i) The secretary shall notify the Department of~~  
3 ~~Community and Economic Development and the offending~~  
4 ~~board of school directors.~~

5 ~~(ii) If the secretary finds that the amount due and~~  
6 ~~payable by the school district has not been paid, the~~  
7 ~~secretary shall withhold out of any State appropriation~~  
8 ~~due the school district an amount equal to the amount due~~  
9 ~~pursuant to the qualified interest rate management~~  
10 ~~agreement and shall pay over the amount so withheld to~~  
11 ~~the party to the qualified interest rate management~~  
12 ~~agreement to whom the amount is due.~~

13 ~~§ 8284. Notice and retention of records.~~

14 ~~(a) Notice.—~~

15 ~~(1) The local government unit shall file with the~~  
16 ~~Department of Community and Economic Development certified~~  
17 ~~copies of a resolution authorizing a qualified interest rate~~  
18 ~~management agreement, including any appendix to the~~  
19 ~~resolution, 15 days following adoption.~~

20 ~~(2) If the maximum net payments by fiscal year for~~  
21 ~~periodic scheduled payments of the local government unit, not~~  
22 ~~including any termination payments, and interest on the bonds~~  
23 ~~or notes to which the qualified interest rate management~~  
24 ~~agreement relates exceed the amount of interest approved in~~  
25 ~~proceedings of the local government unit with respect to such~~  
26 ~~bonds or notes filed with and approved by the department, the~~  
27 ~~local government unit shall adopt an amendment to the~~  
28 ~~ordinance or resolution authorizing such bonds or notes~~  
29 ~~reflecting such increase. The amendment shall be advertised~~  
30 ~~and effective as provided in section 8003 (relating to~~

1 ~~advertisement and effectiveness of ordinances) and filed with~~  
2 ~~the department. No approval by the department or filing fee~~  
3 ~~by the local government unit shall be required for any filing~~  
4 ~~under this subsection.~~

5 ~~(b) Records. The department shall keep copies of all~~  
6 ~~documents filed with the department under this section as long~~  
7 ~~as a qualified interest rate management agreement is in effect.~~  
8 ~~Documents filed with the department under this section are~~  
9 ~~public records available for examination by any citizen of this~~  
10 ~~Commonwealth; any party to the qualified interest rate~~  
11 ~~management agreement; or any bondholder or noteholder, including~~  
12 ~~holders of tax anticipation notes, of the local government unit~~  
13 ~~filing any document pursuant to this section.~~

14 ~~§ 8285. Financial reporting.~~

15 ~~A local government unit which has entered into a qualified~~  
16 ~~interest rate management agreement shall include in its annual~~  
17 ~~financial statements information with respect to each qualified~~  
18 ~~interest rate management agreement it has authorized or entered~~  
19 ~~into, including any information required pursuant to any~~  
20 ~~statement issued by the Governmental Accounting Standards~~  
21 ~~Board.]~~

22 ~~Section 7. The amendment, addition or repeal of 53 Pa.C.S.~~  
23 ~~§§ 5607(e), 8002(a) and (c), 8010, 8129, 8242(a), 8281, 8282,~~  
24 ~~8283, 8284 and 8285 shall not apply to qualified interest rate~~  
25 ~~management agreements in effect prior to the effective date of~~  
26 ~~this section.~~

27 ~~Section 8. This act shall take effect in 60 days.~~

28 SECTION 2. THE DEFINITIONS OF "INTEREST RATE MANAGEMENT <--  
29 PLAN" AND "LOCAL GOVERNMENT UNIT" IN SECTION 8002(C) OF TITLE 53  
30 ARE AMENDED TO READ:

1 § 8002. DEFINITIONS.

2 \* \* \*

3 (C) OTHER DEFINITIONS.--SUBJECT TO ADDITIONAL DEFINITIONS  
4 CONTAINED IN SUBSEQUENT PROVISIONS OF THIS SUBPART WHICH ARE  
5 APPLICABLE TO SPECIFIC PROVISIONS OF THIS SUBPART, THE FOLLOWING  
6 WORDS AND PHRASES WHEN USED IN THIS SUBPART SHALL HAVE THE  
7 MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE CONTEXT  
8 CLEARLY INDICATES OTHERWISE:

9 \* \* \*

10 "INTEREST RATE MANAGEMENT PLAN." A WRITTEN PLAN PREPARED OR  
11 REVIEWED BY AN INDEPENDENT FINANCIAL ADVISOR WITH RESPECT TO A  
12 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT, WHICH INCLUDES:

13 (1) A SCHEDULE LISTING THE AMOUNT OF DEBT OUTSTANDING  
14 FOR EACH OUTSTANDING DEBT ISSUE OF THE LOCAL GOVERNMENT UNIT  
15 AND THE EXPECTED ANNUAL DEBT SERVICE ON THAT DEBT. IN THE  
16 CASE OF VARIABLE RATE DEBT, THE SCHEDULE SHALL SET FORTH THE  
17 ESTIMATED ANNUAL DEBT SERVICE THEREON AND ANNUAL DEBT SERVICE  
18 ON THE DEBT CALCULATED AT THE MAXIMUM RATE SPECIFIED FOR THE  
19 VARIABLE RATE DEBT.

20 (2) A SCHEDULE LISTING THE NOTIONAL AMOUNTS OUTSTANDING  
21 OF EACH PREVIOUSLY EXECUTED QUALIFIED INTEREST RATE  
22 MANAGEMENT AGREEMENT WHICH IS THEN IN EFFECT.

23 (3) A SCHEDULE [LISTING] ILLUSTRATING THE FOLLOWING:

24 (I) IN DOLLARS, ALL CONSULTING, ADVISORY, BROKERAGE  
25 OR SIMILAR FEES, PAID OR PAYABLE BY THE LOCAL GOVERNMENT  
26 UNIT IN CONNECTION WITH THE QUALIFIED INTEREST RATE  
27 MANAGEMENT AGREEMENT, AND [A SCHEDULE OF] ANY FINDER'S  
28 FEES, CONSULTING FEES OR BROKERAGE FEES, PAID OR PAYABLE  
29 BY THE OTHER PARTY IN CONNECTION WITH THE QUALIFIED  
30 INTEREST RATE MANAGEMENT AGREEMENT.

1                   (II) THE MAXIMUM COUNTERPARTY MARGIN OR SPREAD TO BE  
2                   INCLUDED ON THE QUALIFIED INTEREST RATE MANAGEMENT  
3                   AGREEMENT AND A CALCULATION OF THE PRESENT VALUE THEREOF.

4           (4) A SCHEDULE LISTING THE ESTIMATED AND MAXIMUM  
5 PERIODIC SCHEDULED PAYMENTS TO BE PAID BY THE LOCAL  
6 GOVERNMENT UNIT AND TO BE RECEIVED BY THE LOCAL GOVERNMENT  
7 UNIT FROM THE OTHER PARTY IN EACH YEAR DURING THE TERM OF THE  
8 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT.

9           (5) AN ANALYSIS OF THE INTEREST RATE RISK, BASIS RISK,  
10 TERMINATION RISK, CREDIT RISK, MARKET-ACCESS RISK AND OTHER  
11 RISKS OF ENTERING INTO THE QUALIFIED INTEREST RATE MANAGEMENT  
12 AGREEMENT. THIS PARAGRAPH INCLUDES SCHEDULES OF THE ESTIMATED  
13 AND MAXIMUM SCHEDULED PERIODIC PAYMENTS WHICH WOULD BE DUE  
14 UNDER THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT.

15           (6) AN ANALYSIS OF THE INTEREST RATE RISK, BASIS RISK,  
16 TERMINATION RISK, CREDIT RISK, MARKET-ACCESS RISK AND OTHER  
17 RISKS TO THE LOCAL GOVERNMENT UNIT OF THE NET PAYMENTS DUE  
18 FOR ALL DEBT OUTSTANDING AND ALL QUALIFIED INTEREST RATE  
19 MANAGEMENT AGREEMENTS OF THE LOCAL GOVERNMENT UNIT. THIS  
20 PARAGRAPH INCLUDES SCHEDULES OF THE ESTIMATED AND MAXIMUM NET  
21 PAYMENTS OF TOTAL DEBT SERVICE AND SCHEDULED, PERIODIC, NET  
22 PAYMENTS, WHICH WOULD BE DUE UNDER ALL OF THE QUALIFIED  
23 INTEREST RATE MANAGEMENT AGREEMENTS.

24           (7) THE LOCAL GOVERNMENT UNIT'S PLAN TO MONITOR INTEREST  
25 RATE RISK, BASIS RISK, TERMINATION RISK, CREDIT RISK, MARKET-  
26 ACCESS RISK AND OTHER RISKS. THIS PARAGRAPH INCLUDES THE  
27 VALUATION OF THE MARKET OR TERMINATION VALUE OF ALL  
28 OUTSTANDING QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS.

29           \* \* \*

30           "LOCAL GOVERNMENT UNIT." A COUNTY, COUNTY INSTITUTION

1 DISTRICT, CITY, BOROUGH, INCORPORATED TOWN, TOWNSHIP, SCHOOL  
2 DISTRICT OR ANY SIMILAR, GENERAL OR LIMITED PURPOSE UNIT OF  
3 LOCAL GOVERNMENT OR ANY UNIT CREATED BY JOINT ACTION OF TWO OR  
4 MORE LOCAL GOVERNMENT UNITS WHICH IS AUTHORIZED TO BE CREATED BY  
5 LAW. [THE] EXCEPT AS OTHERWISE PROVIDED UNDER SUBCHAPTER F OF  
6 CHAPTER 82 (RELATING TO INTEREST RATE RISK AND INTEREST COST  
7 MANAGEMENT) THE TERM DOES NOT INCLUDE A CITY OR COUNTY OF THE  
8 FIRST CLASS, AN AUTHORITY AS DEFINED IN THIS SECTION OR ANY UNIT  
9 CREATED BY JOINT ACTION OF TWO OR MORE LOCAL GOVERNMENT UNITS  
10 WHICH HAVE NOT BEEN GRANTED BY STATUTE THE POWER TO ISSUE BONDS.  
11 THE TERM INCLUDES SCHOOL DISTRICTS OF THE FIRST CLASS PRESENTLY  
12 OPERATING UNDER A HOME RULE CHARTER OR HOME RULE CHARTER  
13 SUPPLEMENT, AND THE PROVISIONS OF THIS SUBPART SHALL GOVERN OVER  
14 INCONSISTENT CHARTER PROVISIONS.

15 \* \* \*

16 SECTION 3. SECTION 8281(B)(2) AND (C)(4) OF TITLE 53 ARE  
17 AMENDED, SUBSECTIONS (A) AND (C) ARE AMENDED BY ADDING  
18 PARAGRAPHS AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO  
19 READ:

20 § 8281. QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS.

21 (A) GENERAL RULE.--

22 \* \* \*

23 (5) NO PAYMENTS SHALL BE MADE TO OR ON BEHALF OF A LOCAL  
24 GOVERNMENT UNIT BY THE OTHER PARTY TO A QUALIFIED INTEREST  
25 RATE MANAGEMENT AGREEMENT EXCEPT PERIODIC SCHEDULED PAYMENTS  
26 AND TERMINATION PAYMENTS.

27 (6) PERIODIC SCHEDULED PAYMENTS ON A QUALIFIED INTEREST  
28 RATE MANAGEMENT AGREEMENT MUST COMMENCE NOT LATER THAN THREE  
29 YEARS AFTER THE DATE OF THE CONFIRMATION ASSOCIATED WITH THE  
30 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT.

1           (7) THE INDEX OR BASIS USED FOR CALCULATING THE PERIODIC  
2 SCHEDULED PAYMENTS RECEIVABLE BY THE LOCAL GOVERNMENT UNIT ON  
3 A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT SHALL BE  
4 SUBSTANTIALLY SIMILAR TO THE INDEX OR BASIS USED FOR  
5 CALCULATING THE INTEREST DUE ON THE ASSOCIATED DEBT OF THE  
6 LOCAL GOVERNMENT UNIT.

7           (8) AT THE TIME A QUALIFIED INTEREST RATE MANAGEMENT  
8 AGREEMENT IS ENTERED INTO, THE SUM OF THE NOTIONAL AMOUNT  
9 THEREOF, TAKING INTO ACCOUNT ANY NETTING OF OFFSETTING  
10 TRANSACTIONS, AND ALL OTHER QUALIFIED INTEREST RATE  
11 MANAGEMENT AGREEMENTS ENTERED INTO OR GUARANTEED, AND THEN IN  
12 EFFECT OF A LOCAL GOVERNMENT UNIT, SHALL NOT EXCEED 50% OF  
13 THE TOTAL PRINCIPAL AMOUNT OF THE AGGREGATE NONELECTORAL DEBT  
14 PLUS LEASE RENTAL DEBT CAPACITY OF THE LOCAL GOVERNMENT UNIT  
15 THEN OUTSTANDING. THIS PARAGRAPH SHALL NOT APPLY TO A  
16 REGIONAL FINANCIAL AUTHORITY THAT IS PRIMARILY ENGAGED IN  
17 LENDING TO LOCAL GOVERNMENT UNITS.

18           (9) SCHEDULED PERIODIC PAYMENTS AND TERMINATION PAYMENTS  
19 RECEIVED BY A LOCAL GOVERNMENT UNIT ON A QUALIFIED INTEREST  
20 RATE MANAGEMENT AGREEMENT SHALL BE DEPOSITED IN A PAYMENT  
21 ACCOUNT TO PAY PERIODIC SWAP PAYMENTS OR TO PAY PRINCIPAL AND  
22 INTEREST ON THE DEBT RELATED TO THE QUALIFIED INTEREST RATE  
23 MANAGEMENT AGREEMENT.

24           (10) THE SCHEDULED EXPIRATION DATE OF A QUALIFIED  
25 INTEREST RATE MANAGEMENT AGREEMENT SHALL NOT EXCEED TEN YEARS  
26 FROM THE DATE OF THE RELATED CONFIRMATION UNLESS THE  
27 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT CONTAINS A  
28 PROVISION ALLOWING THE LOCAL GOVERNMENT UNIT TO TERMINATE THE  
29 SAME AT ANY TIME AFTER TEN YEARS FROM THE DATE OF THE RELATED  
30 CONFIRMATION WITHOUT MAKING A TERMINATION PAYMENT.

1 (B) REQUIREMENTS FOR RESOLUTION.--THE RESOLUTION AUTHORIZING  
2 AND AWARDING A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT OR  
3 AUTHORIZING A TRANSACTION UNDER THE AGREEMENT MUST INCLUDE IN  
4 THE RESOLUTION OR AS AN APPENDIX TO THE RESOLUTION ALL OF THE  
5 FOLLOWING:

6 \* \* \*

7 (2) THE INTEREST RATE MANAGEMENT PLAN MEETING THE  
8 REQUIREMENTS UNDER THIS SUBPART:

9 (I) [ADOPTED] APPROVED BY THE LOCAL GOVERNMENT UNIT  
10 NOT LESS THAN TEN DAYS PRIOR TO THE DATE OF THE  
11 RESOLUTION; OR

12 (II) IF THE LOCAL GOVERNMENT UNIT IS INCURRING  
13 INDEBTEDNESS UNDER THIS CHAPTER WHICH HAS OR WILL BE  
14 ISSUED TO A PUBLIC AUTHORITY THAT HAS ENTERED INTO OR  
15 WILL ENTER INTO AN INTEREST RATE MANAGEMENT AGREEMENT  
16 MEETING THE REQUIREMENTS OF A QUALIFIED INTEREST RATE  
17 MANAGEMENT AGREEMENT UNDER THIS SUBPART, [ADOPTED]  
18 APPROVED BY THAT PUBLIC AUTHORITY NOT LESS THAN TEN DAYS  
19 PRIOR TO THE DATE OF THE ADOPTION OF THE RESOLUTION.

20 \* \* \*

21 (C) CONTENTS OF QUALIFIED INTEREST RATE MANAGEMENT  
22 AGREEMENTS.--IN ADDITION TO OTHER PROVISIONS APPROVED BY THE  
23 LOCAL GOVERNMENT UNIT, A QUALIFIED INTEREST RATE MANAGEMENT  
24 AGREEMENT MUST CONTAIN ALL OF THE FOLLOWING:

25 \* \* \*

26 (4) A PROVISION REQUIRING THE TERMINATION OF THE  
27 AGREEMENT [IF] WHEN ALL DEBT TO WHICH THE QUALIFIED INTEREST  
28 RATE MANAGEMENT AGREEMENT RELATES IS NO LONGER OUTSTANDING.

29 \* \* \*

30 (10) A CERTIFICATION BY THE OTHER PARTY TO THE QUALIFIED

1 INTEREST RATE MANAGEMENT AGREEMENT IN WHICH THE OTHER PARTY  
2 DOES ALL OF THE FOLLOWING:

3 (I) ACKNOWLEDGES AND AGREES THAT THE LOCAL  
4 GOVERNMENT UNIT WHICH IS ENTERING INTO THE QUALIFIED  
5 INTEREST RATE MANAGEMENT AGREEMENT UNDER THIS SUBPART IS  
6 A POLITICAL SUBDIVISION OF THE COMMONWEALTH.

7 (II) ACKNOWLEDGES THAT IT HAS READ THIS SUBPART.

8 (III) ACKNOWLEDGES AND AGREES THAT A LOCAL  
9 GOVERNMENT UNIT MAY ONLY ENTER INTO A QUALIFIED INTEREST  
10 RATE MANAGEMENT AGREEMENT TO MANAGE INTEREST RATE RISK OR  
11 INTEREST COST OF THE LOCAL GOVERNMENT UNIT ON DEBT OF THE  
12 LOCAL GOVERNMENT UNIT.

13 (IV) BELIEVES THAT THE QUALIFIED INTEREST RATE  
14 MANAGEMENT AGREEMENT WILL ENABLE THE LOCAL GOVERNMENT  
15 UNIT TO MANAGE INTEREST RATE RISK OR INTEREST COST OF THE  
16 LOCAL GOVERNMENT UNIT ON DEBT OF THE LOCAL GOVERNMENT  
17 UNIT.

18 (V) ACKNOWLEDGES THAT IT IS THE POLICY OF THE  
19 COMMONWEALTH THAT LOCAL GOVERNMENT UNITS NOT ENTER INTO  
20 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS THAT  
21 INVOLVE UNREASONABLE SPECULATION.

22 (VI) BELIEVES THAT THE QUALIFIED INTEREST RATE  
23 MANAGEMENT AGREEMENT DOES NOT INVOLVE UNREASONABLE  
24 SPECULATION.

25 (VII) REPRESENTS AND WARRANTS THAT ITS PRICING OF  
26 THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT IS FAIR  
27 AND HONEST AND IN LINE WITH MARKET STANDARDS.

28 (VIII) ACKNOWLEDGES THAT WHEN A LOCAL GOVERNMENT  
29 UNIT LOSES MONEY ON A QUALIFIED INTEREST RATE MANAGEMENT  
30 AGREEMENT, IT IS THE TAXPAYERS OF THE LOCAL GOVERNMENT

1           UNIT THAT END UP DIRECTLY OR INDIRECTLY PAYING FOR THE  
2           LOSSES.

3           (IX) ACKNOWLEDGES AND AGREES THAT IT WILL NOTIFY THE  
4           DEPARTMENT, IN WRITING, PROMPTLY UPON THE PAYMENT TO THE  
5           OTHER PARTY OF A TERMINATION PAYMENT BY THE LOCAL  
6           GOVERNMENT UNIT, INCLUDING THE DATE AND AMOUNT OF THE  
7           PAYMENT AND THE IDENTITY OF THE QUALIFIED INTEREST RATE  
8           MANAGEMENT AGREEMENT UNDER WHICH THE PAYMENT WAS MADE.

9           \* \* \*

10          (F) DEFINITION.--AS USED IN THIS SECTION, THE TERM "LOCAL  
11          GOVERNMENT UNIT" HAS THE SAME MEANING AS UNDER SECTION 8002  
12          (RELATING TO DEFINITIONS), EXCEPT THAT THE TERM INCLUDES A CITY  
13          OR COUNTY OF THE FIRST CLASS AND AN AUTHORITY.

14          SECTION 4. SECTIONS 8282, 8283 AND 8284 OF TITLE 53 ARE  
15          AMENDED BY ADDING SUBSECTIONS TO READ:

16          § 8282. COVENANT TO PAY AMOUNTS DUE UNDER QUALIFIED INTEREST  
17          RATE MANAGEMENT AGREEMENTS.

18          \* \* \*

19          (D) DEFINITION.--AS USED IN THIS SECTION, THE TERM "LOCAL  
20          GOVERNMENT UNIT" HAS THE SAME MEANING AS UNDER SECTION 8002  
21          (RELATING TO DEFINITIONS), EXCEPT THAT THE TERM INCLUDES A CITY  
22          OR COUNTY OF THE FIRST CLASS AND AN AUTHORITY.

23          § 8283. REMEDIES.

24          \* \* \*

25          (D) DEFINITION.--AS USED IN THIS SECTION, THE TERM "LOCAL  
26          GOVERNMENT UNIT" HAS THE SAME MEANING AS UNDER SECTION 8002  
27          (RELATING TO DEFINITIONS), EXCEPT THAT THE TERM INCLUDES A CITY  
28          OR COUNTY OF THE FIRST CLASS AND AN AUTHORITY.

29          § 8284. NOTICE AND RETENTION OF RECORDS.

30          \* \* \*

1 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM "LOCAL  
2 GOVERNMENT UNIT" HAS THE SAME MEANING AS UNDER SECTION 8002  
3 (RELATING TO DEFINITIONS), EXCEPT THAT THE TERM INCLUDES A CITY  
4 OR COUNTY OF THE FIRST CLASS AND AN AUTHORITY.

5 SECTION 5. SECTION 8285 OF TITLE 53 IS AMENDED TO READ:

6 § 8285. FINANCIAL REPORTING.

7 (A) GENERAL RULE.--A LOCAL GOVERNMENT UNIT WHICH HAS ENTERED  
8 INTO A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT SHALL  
9 INCLUDE IN ITS ANNUAL FINANCIAL STATEMENTS INFORMATION WITH  
10 RESPECT TO EACH QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT IT  
11 HAS AUTHORIZED OR ENTERED INTO, INCLUDING ANY INFORMATION  
12 REQUIRED PURSUANT TO ANY STATEMENT ISSUED BY THE GOVERNMENTAL  
13 ACCOUNTING STANDARDS BOARD.

14 (B) DEFINITION.--AS USED IN THIS SECTION, THE TERM "LOCAL  
15 GOVERNMENT UNIT" HAS THE SAME MEANING AS UNDER SECTION 8002  
16 (RELATING TO DEFINITIONS), EXCEPT THAT THE TERM INCLUDES A CITY  
17 OR COUNTY OF THE FIRST CLASS AND AN AUTHORITY.

18 SECTION 6. THE AMENDMENT OR ADDITION OF SECTIONS 5608.1,  
19 8002(C), 8281, 8282, 8283, 8284 AND 8285 OF TITLE 53 SHALL APPLY  
20 TO INTEREST RATE MANAGEMENT AGREEMENTS ENTERED INTO ON OR AFTER  
21 THE EFFECTIVE DATE OF THIS ACT.

22 SECTION 7. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.