

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 884 Session of 2019

INTRODUCED BY MIHALEK, RYAN, GAYDOS, GLEIM, LEWIS, BERNSTINE, GROVE, ROTHMAN, ZIMMERMAN, MOUL, KEEFER AND WHEELAND, MARCH 19, 2019

AS REPORTED FROM COMMITTEE ON LOCAL GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 17, 2019

AN ACT

1 Providing for requirements for interest rate management
2 agreements entered into by a city or county of the first
3 class.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the First Class
8 City and County Interest Rate Management Agreement Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Contracting authority." Any of the following that enter
14 into an interest rate management agreement under this act:

- 15 (1) A city of the first class.
16 (2) A county of the first class.
17 (3) A municipal authority created under 53 Pa.C.S. Ch.

1 56 (relating to municipal authorities) by an entity listed  
2 under paragraph (1) or (2).

3 "Department." The Department of Community and Economic  
4 Development of the Commonwealth.

5 "Interest rate management agreement." An agreement,  
6 including a confirmation evidencing a transaction effected under  
7 a master agreement, entered into by a contracting authority in  
8 accordance with and fulfilling the requirements of section 3,  
9 which agreement in the judgment of the contracting authority is  
10 designed to manage interest rate risk or interest cost of the  
11 contracting authority on any debt or other debt-related  
12 obligations a contracting authority is authorized to incur,  
13 including, but not limited to, swaps, interest rate caps,  
14 collars, corridors, ceiling and floor agreements, forward  
15 agreements, float agreements and other similar arrangements  
16 which in the judgment of the contracting authority will assist  
17 the contracting authority in managing the interest rate risk or  
18 interest cost of the contracting authority.

19 Section 3. Interest rate management agreement requirements.

20 (a) General rule.--Notwithstanding any other law to the  
21 contrary, any interest rate management agreement entered into by  
22 a contracting authority shall comply with the provisions of this  
23 section.

24 (b) Requirements.--The following requirements shall apply:

25 (1) A contracting authority shall authorize and award by  
26 resolution each interest rate management agreement or any  
27 confirmation of a transaction. THE RESOLUTION IS SUBJECT TO <--  
28 53 PA.C.S. § 8003(A) AND (B) (RELATING TO ADVERTISEMENT AND  
29 EFFECTIVENESS OF ORDINANCES) BUT MAY BE VALID AND EFFECTIVE  
30 FOR ALL PURPOSES IMMEDIATELY UPON ADOPTION OR AS OTHERWISE

1 PROVIDED IN THE RESOLUTION. THE RESOLUTION AUTHORIZING AND  
2 AWARDED 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 (I) A COPY OF THE QUALIFIED INTEREST RATE MANAGEMENT  
7 AGREEMENT OR CONFIRMATION OF THE TRANSACTION UNDER THE  
8 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT IN  
9 SUBSTANTIALLY THE FORM TO BE EXECUTED PURSUANT TO THE  
10 RESOLUTION.

11 (II) AN INTEREST RATE MANAGEMENT PLAN MEETING THE  
12 REQUIREMENTS UNDER 53 PA.C.S. PT. VII SUBPT. B (RELATING  
13 TO INDEBTEDNESS AND BORROWING):

14 (A) ADOPTED BY THE CONTRACTING AUTHORITY; OR

15 (B) IF THE CONTRACTING AUTHORITY IS INCURRING  
16 INDEBTEDNESS WHICH HAS OR WILL BE ISSUED TO A PUBLIC  
17 AUTHORITY THAT HAS ENTERED INTO OR WILL ENTER INTO AN  
18 INTEREST RATE MANAGEMENT AGREEMENT MEETING THE  
19 REQUIREMENTS OF THIS ACT, ADOPTED BY THAT PUBLIC  
20 AUTHORITY.

21 (III) A STATEMENT OF THE MANNER BY WHICH THE AWARD  
22 OF THE INTEREST RATE MANAGEMENT AGREEMENT IS COMPLETED.

23 (2) No payments shall be made to or on behalf of a  
24 contracting authority by the other party to an interest rate  
25 management agreement except periodic scheduled payments,  
26 termination payments and attorney fees and other consultant  
27 fees incurred in connection with entering into an interest  
28 rate management agreement.

29 (3) Periodic scheduled payments on an interest rate  
30 management agreement must commence not later than three years

1 after the date of the confirmation associated with the  
2 interest rate management agreement.

3 (4) The index or basis used for calculating the periodic  
4 scheduled payments receivable by the contracting authority on  
5 an interest rate management agreement shall be substantially  
6 similar to the index or basis used for calculating the  
7 interest due on the associated debt or other debt-related  
8 obligations of the contracting authority.

9 (5) At the time an interest rate management agreement is  
10 entered into, the sum of the notional amount thereof, without  
11 duplication for the notional amount of any offsetting  
12 transactions, and all other interest rate management  
13 agreements entered into or guaranteed, and then in effect of  
14 a contracting authority, shall not exceed 30% of the total  
15 principal amount of the aggregate general obligation debt and  
16 other debt-related obligations payable from or supported by  
17 its general fund then outstanding. If an interest rate  
18 management agreement is payable from or supported by another  
19 specified fund or revenues, the limitation shall apply based  
20 solely on interest rate management agreements and debt and  
21 other debt-related obligations payable from or supported by  
22 the specified fund or revenues.

23 (6) Scheduled periodic payments and termination payments  
24 received by a contracting authority on an interest rate  
25 management agreement shall be deposited in a payment account  
26 to:

27 (i) Pay periodic swap payments or to pay principal  
28 and interest on the debt or debt-related obligations  
29 related to the interest rate management agreement.

30 (ii) If the interest rate management agreement

1 described under subparagraph (i) has been terminated and  
2 none of the related debt or debt-related obligations are  
3 outstanding, pay periodic swap payments on interest rate  
4 management agreements or principal and interest on debt  
5 or debt-related obligations payable from or supported by  
6 the same fund or revenues as the interest rate management  
7 agreement described under subparagraph (i).

8 (iii) If all of the interest rate management  
9 agreements described under subparagraph (ii) have been  
10 terminated and no debt or debt-related obligations  
11 described under subparagraph (ii) are outstanding, pay  
12 any other obligations of the contracting authority.

13 (7) The scheduled expiration date of an interest rate  
14 management agreement shall not exceed 10 years from the date  
15 of the related confirmation unless the interest rate  
16 management agreement contains a provision allowing the  
17 contracting authority to terminate the same at any time after  
18 10 years from the date of the related confirmation without  
19 making a termination payment.

20 (8) An interest rate management agreement shall contain  
21 a certification by the other party to the interest rate  
22 management agreement in which the other party:

23 (i) acknowledges that the contracting authority  
24 which is entering into the interest rate management  
25 agreement under this subpart is a political subdivision  
26 of this Commonwealth or a municipal authority created  
27 under 53 Pa.C.S. Ch. 56 (relating to municipal  
28 authorities) by a city of the first class or a county of  
29 the first class;

30 (ii) acknowledges that it has read this act;

1 (iii) acknowledges that a contracting authority may  
2 only enter into an interest rate management agreement to  
3 manage interest rate risk or interest cost of the  
4 contracting authority on debt or other debt-related  
5 obligations of the contracting authority; and

6 (iv) acknowledges and agrees that it will notify the  
7 department, in writing, promptly upon the payment to the  
8 other party of a termination payment by the contracting  
9 authority, including the date and amount of the payment  
10 and the identity of the interest rate management  
11 agreement under which the payment was made.

12 Section 4. Notice and retention of records.

13 (a) Notice.--Within 15 days following the adoption of a  
14 resolution authorizing an interest rate management agreement, a  
15 contracting authority shall file with the department certified  
16 copies of the resolution, including any appendix to the  
17 resolution, together with an itemized statement of all attorney  
18 fees, consultant fees and any other costs expected to be paid on  
19 behalf of a contracting authority by the other party to  
20 such interest rate management agreement.

21 (b) Records.--The department shall keep copies of all  
22 documents filed with the department under this section as long  
23 as an interest rate management agreement is in effect.

24 Section 5. Financial reporting.

25 A contracting authority which has entered into an interest  
26 rate management agreement shall include in its annual financial  
27 statements information with respect to each interest rate  
28 management agreement it has authorized or entered into,  
29 including any information required under any statement issued by  
30 the Governmental Accounting Standards Board.

1 Section 6. Applicability.

2 The following shall apply:

3 (1) This act shall apply to all interest rate management  
4 agreements entered into by a contracting authority on or  
5 after the effective date of this section.

6 (2) This act shall not apply to any amendment,  
7 termination or novation of an interest rate management  
8 agreement if the interest rate management agreement was  
9 entered into prior to the effective date of this section if  
10 the term of the interest rate management agreement is not  
11 extended.

12 (3) Notwithstanding any other provision of law, this act  
13 shall apply to an interest rate management agreement entered  
14 into by any of the following:

15 (i) A city of the first class.

16 (ii) A county of the first class.

17 (iii) A municipal authority created under 53 Pa.C.S.  
18 Ch. 56 (relating to municipal authorities) by an entity  
19 listed under subparagraph (i) or (ii).

20 Section 7. Effective date.

21 This act shall take effect in 60 days.