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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 454 Session of  
2021

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INTRODUCED BY RYAN, GLEIM, KEEFER, LEWIS, GREINER, KAUFFMAN,  
COOK, B. MILLER, SAYLOR AND MOUL, FEBRUARY 9, 2021

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REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, FEBRUARY 9, 2021

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AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania  
2 Consolidated Statutes, in general provisions, further  
3 providing for definitions; in miscellaneous provisions,  
4 repealing provisions relating to qualified interest rate  
5 management agreements, further providing for financial  
6 reporting, providing for application of subchapter, for  
7 definitions, for qualified interest rate management  
8 agreements and for interest rate risk and interest cost  
9 management in first class cities and counties; and making  
10 editorial changes.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. The definitions of "independent financial  
14 advisor," "interest rate management plan" and "qualified  
15 interest rate management agreement" in section 8002(c) of Title  
16 53 of the Pennsylvania Consolidated Statutes are amended to  
17 read:

18 § 8002. Definitions.

19 \* \* \*

20 (c) Other definitions.--Subject to additional definitions  
21 contained in subsequent provisions of this subpart which are  
22 applicable to specific provisions of this subpart, the following

1 words and phrases when used in this subpart shall have the  
2 meanings given to them in this section unless the context  
3 clearly indicates otherwise:

4 \* \* \*

5 "Independent financial advisor." A person or entity  
6 experienced in the financial aspects and risks of interest rate  
7 management agreements who is retained by a local government unit  
8 to advise the local government unit with respect to a qualified  
9 interest rate management agreement. The independent financial  
10 advisor may not be the other party or an affiliate or agent of  
11 the other party on a qualified interest rate management  
12 agreement with respect to which the independent financial  
13 advisor is advising a local government unit. For purposes of  
14 [sections 8281(b)(2)] section 8288(b)(2) and (e)(5) (relating to  
15 qualified interest rate management agreements), the independent  
16 financial advisor may be retained by a public authority.

17 "Interest rate management plan." A written plan prepared or  
18 reviewed by an independent financial advisor with respect to a  
19 qualified interest rate management agreement, which includes:

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

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

30 (3) A schedule [listing] illustrating the following:

1           (i) In dollars, all consulting, advisory, brokerage  
2 or similar fees, paid or payable by the local government  
3 unit in connection with the qualified interest rate  
4 management agreement, and [a schedule of] any finder's  
5 fees, consulting fees or brokerage fees, paid or payable  
6 by the other party in connection with the qualified  
7 interest rate management agreement.

8           (ii) The maximum counterparty margin or spread to be  
9 included on the qualified interest rate management  
10 agreement and a calculation of the present value of the  
11 counterparty margin or spread.

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

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

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

1 interest rate management agreements.

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

7 \* \* \*

8 "Qualified interest rate management agreement." An  
9 agreement, including a confirmation evidencing a transaction  
10 effected under a master agreement, entered into by a local  
11 government unit in accordance with and fulfilling the  
12 requirements of section [8281] 8288 (relating to qualified  
13 interest rate management agreements), which agreement in the  
14 judgment of the local government unit is designed to manage  
15 interest rate risk or interest cost of the local government unit  
16 on any debt a local government unit is authorized to incur under  
17 this subpart, including, but not limited to, swaps, interest  
18 rate caps, collars, corridors, ceiling and floor agreements,  
19 forward agreements, float agreements and other similar  
20 arrangements which in the judgment of the local government unit  
21 will assist the local government unit in managing the interest  
22 rate risk or interest cost of the local government unit.

23 \* \* \*

24 Section 2. Section 8281 of Title 53 is repealed:

25 [§ 8281. Qualified interest rate management agreements.

26 (a) General rule.--

27 (1) Except as set forth in paragraph (4),  
28 notwithstanding any other law to the contrary, a local  
29 government unit may negotiate and enter into qualified  
30 interest rate management agreements consistent with the

1 provisions of this subchapter.

2 (2) The local government unit must authorize and award  
3 by resolution each qualified interest rate management  
4 agreement or any confirmation of a transaction. The  
5 resolution is subject to section 8003(a) and (b) (relating to  
6 advertisement and effectiveness of ordinances) but may be  
7 valid and effective for all purposes immediately upon  
8 adoption or as otherwise provided in the resolution.

9 (3) A local government unit has the power to contract  
10 for insurance covering the risks of nonpayment of amounts due  
11 under qualified interest rate management agreements.

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

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

21 (1) A copy of the qualified interest rate management  
22 agreement or confirmation of the transaction under the  
23 qualified interest rate management agreement in substantially  
24 the form to be executed pursuant to the resolution.

25 (2) The interest rate management plan meeting the  
26 requirements under this subpart:

27 (i) adopted by the local government unit; or

28 (ii) if the local government unit is incurring  
29 indebtedness under this chapter which has or will be  
30 issued to a public authority that has entered into or

1 will enter into an interest rate management agreement  
2 meeting the requirements of a qualified interest rate  
3 management agreement under this subpart, adopted by that  
4 public authority.

5 (3) A statement of the manner of the award of the  
6 qualified interest rate management agreement under subsection  
7 (e).

8 (c) Contents of qualified interest rate management  
9 agreements.--In addition to other provisions approved by the  
10 local government unit, a qualified interest rate management  
11 agreement must contain all of the following:

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

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

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

28 (4) A provision requiring the termination of the  
29 agreement if all debt to which the qualified interest rate  
30 management agreement relates is no longer outstanding.

1 (5) The maximum annual interest rate which the local  
2 government unit may pay thereunder.

3 (6) A provision that the maximum net payments by fiscal  
4 year of a local government unit shall not exceed the maximum  
5 interest rate specified in the qualified interest rate  
6 management agreement for:

7 (i) periodic scheduled payments, not including any  
8 termination payments, due under the qualified interest  
9 rate management agreement; and

10 (ii) the interest on the bonds or notes to which the  
11 qualified interest rate management agreement relates.

12 (7) The source of payment of the payment obligations of  
13 the local government unit, which must be either general  
14 revenues or revenues specifically identified in the  
15 agreement.

16 (8) A provision addressing the actions to be taken if  
17 the credit rating of the other party changes.

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

25 (d) Other provisions of the qualified interest rate  
26 management agreement.--The qualified interest rate management  
27 agreement may include:

28 (1) A covenant to include any termination payment or  
29 similar payment for a qualified interest rate management  
30 agreement in its current budget at any time during a fiscal

1 year or in a budget adopted in a future fiscal year.

2 (2) A provision that the following shall be equally and  
3 ratably payable and secured under the applicable covenants  
4 authorized in section 8282:

5 (i) Periodic scheduled payments due under the  
6 qualified interest rate management agreement; and

7 (ii) Any of the following to which the agreement  
8 relates:

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

10 (B) payment under an instrument evidencing lease  
11 rental debt; or

12 (C) payment under a guaranty of the local  
13 government unit.

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

20 (e) Award of qualified interest rate management  
21 agreements.--

22 (1) The local government unit shall establish a process  
23 for selecting other parties before entering into a qualified  
24 interest rate management agreement.

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

1 (3) A qualified interest rate management agreement must  
2 be awarded by public sale, private sale by negotiation or  
3 private sale by invitation.

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

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

18 (i) The local government unit is incurring  
19 indebtedness under this chapter which has or will be  
20 issued to a public authority.

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

25 Section 3. Section 8285 of Title 53 is amended to read:

26 § 8285. Financial reporting.

27 (a) General rule.--A local government unit which has entered  
28 into a qualified interest rate management agreement shall  
29 include in its annual financial statements information with  
30 respect to each qualified interest rate management agreement it

1 has authorized or entered into, including any information  
2 required pursuant to any statement issued by the Governmental  
3 Accounting Standards Board.

4 (b) Quarterly report.--A local government unit that  
5 authorizes a qualified interest rate management agreement shall  
6 report on the performance of the qualified interest rate  
7 management agreement quarterly at a public meeting. At a  
8 minimum, the reporting shall include a current market-to-market  
9 valuation of the agreement.

10 Section 4. Subchapter F of Chapter 82 of Title 53 is amended  
11 by adding sections to read:

12 § 8286. Application of subchapter.

13 Only a local government unit may enter into an interest rate  
14 management agreement, unless otherwise authorized to do so in  
15 Subchapter G (relating to interest rate risk and interest cost  
16 management in first class cities and counties).

17 § 8287. Definitions.

18 As used in this subchapter, the term "local government unit"  
19 means an authority as defined in section 8002 (relating to  
20 definitions), a political subdivision or home rule municipality  
21 or optional plan municipality.

22 § 8288. 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. A local government unit may  
29 only authorize a qualified interest rate management agreement  
30 under this subchapter.

1       (2) The local government unit must authorize and award  
2 by resolution each qualified interest rate management  
3 agreement or any confirmation of a transaction. The  
4 resolution is subject to section 8003(a) and (b) (relating to  
5 advertisement and effectiveness of ordinances) but may be  
6 valid and effective for all purposes immediately upon  
7 adoption or as otherwise provided in the resolution.

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

11       (4) The authority granted in this subchapter shall not  
12 apply to a local government unit that has been declared  
13 distressed by the department.

14       (5) No payments for consulting, advisory, brokerage or  
15 similar fees incurred to enter into the interest rate  
16 management agreement may be made to or on behalf of a local  
17 government unit by the other party to a qualified interest  
18 rate management agreement and termination payments, unless  
19 the payments are disclosed in conformity with this chapter  
20 and are acknowledged by the local government unit.

21       (6) Periodic scheduled payments on a qualified interest  
22 rate management agreement must commence not later than one  
23 year after the date of execution of a confirmation associated  
24 with the qualified interest rate management agreement.

25       (7) At the time a qualified interest rate management  
26 agreement is entered into, the sum of the notional amount and  
27 all other qualified interest rate management agreements  
28 entered into or guaranteed, and then in effect of a local  
29 government unit, may not exceed 50% of the total principal  
30 amount of the aggregate nonelectoral debt plus lease rental

1 debt capacity of the local government unit then outstanding.

2 (8) Scheduled periodic payments and termination payments  
3 received by a local government unit on a qualified interest  
4 rate management agreement shall be deposited in a payment  
5 account to pay periodic swap payments or to pay principal and  
6 interest on the debt related to the qualified interest rate  
7 management agreement.

8 (9) The scheduled expiration date of a qualified  
9 interest rate management agreement may not exceed 10 years  
10 from the date of the related confirmation unless the  
11 qualified interest rate management agreement contains a  
12 provision allowing the local government unit to terminate the  
13 agreement at any time, or at periodic intervals as shown in  
14 the confirmation, after 10 years from the date of the related  
15 confirmation without making a termination payment.

16 (10) No payments may be made to or on behalf of a local  
17 government unit by the other party to a qualified interest  
18 rate management agreement except periodic scheduled payments  
19 and termination payments.

20 (11) The index or basis used for calculating the  
21 periodic scheduled payments receivable by the local  
22 government unit on a qualified interest rate management  
23 agreement shall be a fixed rate or variable rate of interest  
24 determined using either an index published by the Securities  
25 Industry and Financial Markets Association or an index that  
26 references the London InterBank Offered Rate. Periodic  
27 scheduled payments based upon a London InterBank Offered Rate  
28 index or other index are not permitted unless the interest  
29 rate on the associated debt is also based on the same index  
30 or the index is based on the same type of debt as the

1 associated debt.

2 (b) Requirements for resolution.--The resolution authorizing  
3 and awarding a qualified interest rate management agreement or  
4 authorizing a transaction under the agreement must include in  
5 the resolution, or as an appendix to the resolution, all of the  
6 following:

7 (1) A copy of the qualified interest rate management  
8 agreement or confirmation of the transaction under the  
9 qualified interest rate management agreement in substantially  
10 the form to be executed pursuant to the resolution.

11 (2) The interest rate management plan meeting the  
12 requirements under this subchapter:

13 (i) approved by the local government unit not less  
14 than 10 days prior to the date of the resolution; or

15 (ii) if the local government unit is incurring  
16 indebtedness under this subpart which has or will be  
17 issued to a public authority that has entered into or  
18 will enter into an interest rate management agreement  
19 meeting the requirements of a qualified interest rate  
20 management agreement under this subpart, approved by that  
21 public authority not less than 10 days prior to the date  
22 of the resolution.

23 (3) A statement of the manner of the award of the  
24 qualified interest rate management agreement under subsection  
25 (e).

26 (c) Contents of qualified interest rate management  
27 agreements.--In addition to other provisions approved by the  
28 local government unit, a qualified interest rate management  
29 agreement must contain all of the following:

30 (1) The covenant of the local government unit to make

1 payments required by the qualified interest rate management  
2 agreement and the covenants authorized by section 8282  
3 (relating to covenant to pay amounts due under qualified  
4 interest rate management agreements).

5 (2) The notional amount of the qualified interest rate  
6 management agreement and the principal amount of bonds or  
7 notes or lease rental debt, or portions of the notional  
8 amounts or principal amounts, issued or to be issued by the  
9 local government unit under this subpart or guaranteed by the  
10 local government unit under this subpart, to which the  
11 agreement relates.

12 (3) The term of a qualified interest rate management  
13 agreement that must not exceed the latest maturity date of  
14 the bonds or notes referenced in the qualified interest rate  
15 management agreement.

16 (4) A provision requiring the termination of the  
17 agreement when all debt to which the qualified interest rate  
18 management agreement relates is no longer outstanding.

19 (5) The maximum annual interest rate that the local  
20 government unit may pay.

21 (6) A provision that the maximum net payments by fiscal  
22 year of a local government unit may not exceed the maximum  
23 interest rate specified in the qualified interest rate  
24 management agreement for:

25 (i) periodic scheduled payments, not including  
26 termination payments, due under the qualified interest  
27 rate management agreement; and

28 (ii) the interest on the bonds or notes to which the  
29 qualified interest rate management agreement relates.

30 (7) The source of payment of the payment obligations of

1 the local government unit, which must be either general  
2 revenues or revenues specifically identified in the  
3 agreement.

4 (8) A provision addressing the actions to be taken if  
5 the credit rating of the other party changes.

6 (9) A provision that periodic scheduled payments due  
7 under the qualified interest rate management agreement and  
8 debt service due on the related bonds or notes or payments  
9 due under the related instrument evidencing lease rental debt  
10 or guaranty of the local government unit shall be senior in  
11 right and priority of payment to termination payments due  
12 under the qualified interest rate management agreement.

13 (10) A certification by the other party to the qualified  
14 interest rate management agreement in which the other party  
15 does all of the following:

16 (i) Acknowledges and agrees that the local  
17 government unit that is entering into the qualified  
18 interest rate management agreement under this subchapter  
19 is a political subdivision of the Commonwealth.

20 (ii) Acknowledges that the other party has read this  
21 subchapter.

22 (iii) Acknowledges and agrees that a local  
23 government unit may only enter into a qualified interest  
24 rate management agreement to manage interest rate risk or  
25 interest cost of the local government unit on debt of the  
26 local government unit.

27 (iv) Certifies that, in executing the transactions  
28 under the qualified interest rate management agreement,  
29 the other party has complied in all material aspects with  
30 the applicable rules and regulations of the Commodity

1 Futures Trading Commission, the Securities and Exchange  
2 Commission and the Municipal Securities Rulemaking Board  
3 to which the other party is subject.

4 (v) Certifies that the other party acted in good  
5 faith and made full and fair disclosure of all required  
6 material facts and any conflicts of interest regarding  
7 the qualified interest management agreement as required  
8 by the Dodd-Frank Wall Street Reform and Consumer  
9 Protection Act (Public Law 111-203, 12 U.S.C. § 5301 et  
10 seq.).

11 (vi) Represents and warrants that the rate or rates  
12 used to calculate amounts payable by the local government  
13 unit pursuant to the qualified interest rate management  
14 agreement are comparable to the rate or rates that the  
15 other party would quote to receive from or pay to, as  
16 applicable, a similarly situated counterparty to enter  
17 into a reasonably comparable qualified interest rate  
18 management agreement taking into full account the terms  
19 and conditions of the qualified interest rate management  
20 agreement.

21 (vii) Acknowledges and agrees that the other party  
22 will notify the department in writing promptly upon the  
23 other party's receipt of a termination payment by the  
24 local government unit, including the date and amount of  
25 the payment and the identity of the qualified interest  
26 rate management agreement under which the payment was  
27 made.

28 (d) Other provisions of the qualified interest rate  
29 management agreement.--The qualified interest rate management  
30 agreement may include:

1           (1) A covenant that includes a termination payment or  
2 similar payment for a qualified interest rate management  
3 agreement in the other party's current budget at any time  
4 during a fiscal year or in a budget adopted in a future  
5 fiscal year.

6           (2) A provision that the following shall be equally and  
7 ratably payable and secured under the applicable covenants  
8 authorized in section 8282:

9           (i) Periodic scheduled payments due under the  
10 qualified interest rate management agreement.

11           (ii) Any of the following to which the agreement  
12 relates:

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

14           (B) payment under an instrument evidencing lease  
15 rental debt; or

16           (C) payment under a guaranty of the local  
17 government unit.

18           (3) A provision that the qualified interest rate  
19 management agreement may be terminated at the option of the  
20 local government unit without cause but that the qualified  
21 interest rate management agreement may not be terminated at  
22 the option of the other party to the qualified interest rate  
23 management agreement without cause.

24           (e) Award of qualified interest rate management  
25 agreements.--

26           (1) The local government unit shall establish a process  
27 for selecting other parties before entering into a qualified  
28 interest rate management agreement.

29           (2) The local government unit shall establish  
30 qualifications for other parties before entering into a

1 qualified interest rate management agreement. The  
2 qualifications shall include a rating for the other party of  
3 at least the third highest rating category from a nationally  
4 recognized rating agency.

5 (3) A qualified interest rate management agreement must  
6 be awarded by public sale, private sale by negotiation or  
7 private sale by invitation.

8 (4) The local government unit shall select the qualified  
9 interest rate management agreement that the local government  
10 unit determines is in the best financial interest. The  
11 qualified interest rate management agreement selected must  
12 contain financial terms and conditions that, in the opinion  
13 of the independent financial advisor to the local government  
14 unit, are fair and reasonable to the local government unit as  
15 of the date of award.

16 (5) The local government unit may satisfy the  
17 requirements of paragraph (4) by obtaining a finding from an  
18 independent financial advisor to the public authority that  
19 the financial terms and conditions of the agreement are fair  
20 and reasonable to the public authority as of the date of the  
21 award if all of the following apply:

22 (i) The local government unit is incurring  
23 indebtedness under this chapter that has been or will be  
24 issued to a public authority.

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

29 Section 5. Chapter 82 of Title 53 is amended by adding a  
30 subchapter to read:



1 a master agreement, that:

2 (1) is entered into by a contracting authority in  
3 accordance with and fulfilling the requirements of section  
4 8293 (relating to interest rate management agreement  
5 requirements);

6 (2) in the judgment of the contracting authority, is  
7 designed to manage interest rate risk or interest cost of the  
8 contracting authority on a debt or other debt-related  
9 obligations a contracting authority is authorized to incur,  
10 including, but not limited to, swaps, interest rate caps,  
11 collars, corridors, ceiling and floor agreements, forward  
12 agreements, float agreements and other similar arrangements;  
13 and

14 (3) in the judgment of the contracting authority, will  
15 assist the contracting authority in managing the interest  
16 rate risk or interest cost of the contracting authority.  
17 § 8293. Interest rate management agreement requirements.

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

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

23 (1) A contracting authority shall authorize and award by  
24 resolution each interest rate management agreement or  
25 confirmation of a transaction. The resolution is subject to  
26 section 8003(a) and (b) (relating to advertisement and  
27 effectiveness of ordinances) but may be valid and effective  
28 for all purposes immediately upon adoption or as otherwise  
29 provided in the resolution. The resolution authorizing and  
30 awarding a qualified interest rate management agreement or

1 authorizing a transaction under the agreement must include in  
2 the resolution or as an appendix to the resolution all of the  
3 following:

4 (i) A copy of the qualified interest rate management  
5 agreement or confirmation of the transaction under the  
6 qualified interest rate management agreement in  
7 substantially the form to be executed pursuant to the  
8 resolution.

9 (ii) An interest rate management plan meeting the  
10 requirements under this subpart:

11 (A) adopted by the contracting authority; or

12 (B) if the contracting authority is incurring  
13 indebtedness which has or will be issued to a public  
14 authority that has entered into or will enter into an  
15 interest rate management agreement meeting the  
16 requirements of this subchapter, adopted by that  
17 public authority.

18 (iii) A statement of the manner by which the award  
19 of the interest rate management agreement is completed.

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

26 (3) Periodic scheduled payments on an interest rate  
27 management agreement must commence not later than three years  
28 after the date of the confirmation associated with the  
29 interest rate management agreement.

30 (4) The index or basis used for calculating the periodic

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

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

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

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

28 (ii) If the interest rate management agreement  
29 described under subparagraph (i) has been terminated and  
30 none of the related debt or debt-related obligations are

1 outstanding, pay periodic swap payments on interest rate  
2 management agreements or principal and interest on debt  
3 or debt-related obligations payable from or supported by  
4 the same fund or revenues as the interest rate management  
5 agreement described under subparagraph (i).

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

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

18 (8) An interest rate management agreement shall contain  
19 a certification by the other party to the interest rate  
20 management agreement in which the other party does all of the  
21 following:

22 (i) Acknowledges that the contracting authority that  
23 is entering into the interest rate management agreement  
24 under this subchapter is a political subdivision of this  
25 Commonwealth or a municipal authority created under  
26 Chapter 56 (relating to municipal authorities) by a city  
27 of the first class or a county of the first class.

28 (ii) Acknowledges that the other party has read this  
29 subchapter.

30 (iii) Acknowledges that a contracting authority may

1 only enter into an interest rate management agreement to  
2 manage interest rate risk or interest cost of the  
3 contracting authority on debt or other debt-related  
4 obligations of the contracting authority.

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

12 § 8294. 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 an appendix to the  
17 resolution, together with an itemized statement of all attorney  
18 fees, consultant fees and other costs expected to be paid on  
19 behalf of a contracting authority by the other party to  
20 the 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 § 8295. Financial reporting.

25 A contracting authority that has entered into an interest  
26 rate management agreement shall include in the contracting  
27 authority's annual financial statements information with respect  
28 to each interest rate management agreement the contracting  
29 authority has authorized or entered into, including information  
30 required pursuant to a statement issued by the Governmental

1 Accounting Standards Board.

2 Section 6. The following shall apply:

3 (1) The amendment or addition of 53 Pa.C.S. §§ 8002(c),  
4 8286, 8287 and 8288:

5 (i) Shall apply to all qualified interest rate  
6 management agreements entered into on or after the  
7 effective date of this section.

8 (ii) Shall not apply to an amendment, termination or  
9 novation of a qualified interest rate management  
10 agreement where the qualified interest rate management  
11 agreement was entered into prior to the effective date of  
12 this section, unless the term of the qualified interest  
13 rate management agreement is extended and the qualified  
14 interest rate management agreement continues to be in  
15 effect on or after the effective date of this section.

16 (2) The addition of 53 Pa.C.S. Ch. 82 Subch. G:

17 (i) Shall apply to all interest rate management  
18 agreements entered into by a contracting authority on or  
19 after the effective date of this section.

20 (ii) Shall not apply to any amendment, termination  
21 or novation of an interest rate management agreement if  
22 the interest rate management agreement was entered into  
23 prior to the effective date of this section or if the  
24 term of the interest rate management agreement is not  
25 extended.

26 (iii) Notwithstanding any other provision of law,  
27 shall apply to an interest rate management agreement  
28 entered into by any of the following:

29 (A) A city of the first class.

30 (B) A county of the first class.

1                   (C) A municipal authority created under 53  
2                   Pa.C.S. Ch. 56 by an entity listed under clause (A)  
3                   or (B).  
4                   Section 7. This act shall take effect in 60 days.