

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1131 Session of
1977

INTRODUCED BY DeMEDIO, RITTER, FRYER, MEBUS AND WEIDNER,
MAY 24, 1977

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 24, 1977

AN ACT

1 Reenacting, amending and revising the act of July 12, 1972
2 (P.L.781, No.185), entitled, as amended, "An act providing
3 debt limits for local government units, including
4 municipalities and school districts; providing the methods of
5 incurring, evidencing, securing and collecting debt; defining
6 the powers and duties of the Department of Community Affairs
7 and certain other public officers and agencies with respect
8 thereto; exercising the inherent legislative authority of the
9 General Assembly by providing additional over-all limitations
10 on the incurring of lease rental and other obligations for
11 the acquisition of capital assets to be repaid from the
12 general tax revenues of such local government units; imposing
13 penalties for filing false or untrue statements or refusing
14 to give information with respect to proceedings for the
15 incurring of debt; and conferring jurisdiction on the
16 Commonwealth Court with respect to certain proceedings
17 relating to the incurring of debt."

TABLE OF CONTENTS

18
19 Article I. Short Title, Definitions and Preliminary Matters
20 Section 101. Short Title.
21 Section 102. Definitions.
22 Section 103. Effectiveness and Required Notice of
23 Ordinances.
24 Section 104. When Lease or Other Agreement Evidences
25 Acquisition of Capital Asset.

1 Section 105. Designation of Bonds and Notes; Authority to
2 Issue
3 Section 106. Preliminary Cost Estimates.
4 Section 107. Cost of a Project.
5 Section 108. Local Government Units Hereafter Obtaining
6 Home Rule Charters.
7 Article II. Limitations on Debt of Local Government Units
8 Section 201. No Limitation on Debt Approved by Electors.
9 Section 202. Limitations on the Incurring of Other Debt.
10 Section 203. Transfer of Debt without the Approval of the
11 Electors to Electoral Debt.
12 Section 204. Procedure for Exclusion of Subsidized Debt to
13 Find Net Nonelectoral Debt or Net Lease Rental
14 Debt.
15 Section 205. Procedure for Exclusion Evidenced by Revenue
16 Bonds or Notes to Determine Net Nonelectoral
17 Debt.
18 Section 206. Procedure for Exclusion of Other Self-
19 liquidating Debt to Determine Net Nonelectoral
20 Debt or Net Lease Rental Debt.
21 Section 207. Effect of Debt Limitations on Outstanding
22 Debt.
23 Section 208. Determination of Existing Net Nonelectoral
24 Debt and Net Nonelectoral Plus Net Lease
25 Rental Debt.
26 Section 209. Determination of Debt Limits.
27 Article III. Procedure for Securing Approval of Electors
28 Section 301. Desire Resolution; Expense of Certain
29 Elections.
30 Section 302. Advertisement of Election.

1 Section 303. Conduct of Election.

2 Section 304. Finality of Result of Election.

3 Section 305. Effect of Defeat of Question.

4 Section 306. Issue of Bonds or Notes or Other

5 Instruments to Evidence Electoral Debt.

6 Section 307. Cancellation or Termination of Approval of

7 Electors.

8 Section 308. Limitation on Use of Proceeds of Electoral

9 Debt.

10 Section 309. Manner of Effecting Change of Purpose of

11 Electoral Debt.

12 Article IV. Actions of Governing Body with Respect to Incurring

13 Debt, and Issuing Bonds, Notes, and Bond

14 Anticipation Notes

15 Section 401. Combining Projects for Financing or Series

16 of Bonds for Sale.

17 Section 402. Preliminary Authorizations as to Financing.

18 Section 403. Contents of Ordinance Authorizing.

19 Section 404. Covenant to Pay Bonds or Notes or a Guaranty.

20 Section 405. Additional Provisions in Ordinance Authorizing

21 Issuance of Revenue or Guaranteed Revenue

22 Bonds or Notes.

23 Section 406. Sinking Fund Depositary; Trustee for

24 Bondholders or Noteholders.

25 Section 407. Award of Bonds or Notes.

26 Section 408. Bond Anticipation Notes.

27 Section 409. Small Borrowing for Capital Purposes.

28 Section 410. Debt Statement.

29 Section 411. Submission to Department.

30 Section 412. Agreements with Bondholders or Noteholders.

1 Section 605. Execution of Bonds or Notes.

2 Section 606. Pledge of Revenues.

3 Section 607. Deeds of Trust and Other Agreements with

4 Bondholders and Noteholders.

5 Section 608. Negotiable Qualities of Bonds and Notes.

6 Section 609. Temporary Bonds or Notes or Interim Receipts.

7 Article VII. Sale of Bonds

8 Section 701. Manner of Sale of Bonds or Notes.

9 Section 702. Contents of Public Advertisement and of

10 Official Notice of Sale.

11 Section 703. Proposals for Purchase.

12 Section 704. Opening of Bids.

13 Section 705. Determination of Highest and Best Bid; Tie

14 Bids.

15 Section 706. Required Bid Security.

16 Section 707. Reserved Right to Reject Bids; Effect of

17 Rejection.

18 Section 708. Public Sale; Failure to Receive Conforming

19 Bid.

20 Section 709. Determination of Net Interest Cost and Net

21 Interest Rate.

22 Article VIII. Filing with and Duties of the Department

23 Section 801. Certification to Department of Bond or Note

24 Transcript, or Lease, Guaranty, Subsidy

25 Contract or Other Agreement.

26 Section 802. Filing of Statement of Noncompletion of Sale

27 with Department.

28 Section 803. Fees for Filing.

29 Section 804. Examination of Bond or Note Transcript and

30 Other Filings by Department; Certificate of

1 Section 1004. Deposit of and Investment of Moneys in
2 Sinking Funds and Other Funds.
3 Section 1005. Management of Sinking and Other Funds.
4 Section 1006. Inspection of Sinking Funds; Orders to Comply.
5 Section 1007. Sinking Fund not Required for Small
6 Borrowings.
7 Article XI. Refunding of Debt
8 Section 1101. Power to Refund.
9 Section 1102. Treatment of Costs Upon a Refunding.
10 Section 1103. Limitation on Extending Term of Debt by
11 Refunding.
12 Section 1104. Effect of Debt Limits on Refunding
13 Nonelectoral Bonds or Notes or Lease
14 Rental Debt.
15 Section 1105. Refunding of Electoral Debt.
16 Section 1106. Procedure for Authorization, Sale, Issue,
17 and Approval of Refunding Bonds or Notes.
18 Section 1107. Special Limitation on Refunding of Funding
19 Debt.
20 Section 1108. Approval of a Refunding by the Electors.
21 Section 1109. Refunding with Bonds of Another Type.
22 Section 1110. Use of Proceeds of Refunding Bonds; When
23 Refunded Bonds Are No Longer Deemed
24 Outstanding.
25 Section 1111. Cessation of Interest on Called Bonds or Notes.
26 Article XII. Remedies
27 Section 1201. Failure to Budget Debt Service.
28 Section 1202. Failure to Pay Principal or Interest.
29 Section 1203. Trustee for Bondholders.
30 Section 1204. Receiver for Revenue Projects.

1 Section 1205. Costs of Suits or Proceedings.

2 Section 1206. Distribution of Moneys Realized for
3 Bondholders.

4 Article XIII. Miscellaneous; Repeals; Effective Date

5 Section 1301. False Statement in Documents Constitute
6 Perjury; Fines and Penalties Therefor.

7 Section 1302. Failure to Obey Sinking Fund Directive of
8 Department Constitutes a Misdemeanor; Fines
9 and Penalties Therefor.

10 Section 1303. Exemption of Bonds and Notes from Taxation in
11 Pennsylvania.

12 Section 1304. Exclusive Method of Borrowing on Bonds or
13 Notes, Including Tax Anticipation Notes.

14 Section 1305. Duties of Prothonotaries; Filing Fees.

15 Section 1306. Severability.

16 Section 1307. Repeals.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The article heading of Article I and section 101,
20 act of July 12, 1972 (P.L.781, No.185), known as the "Local
21 Government Unit Debt Act," are reenacted to read:

22 ARTICLE I

23 Short Title, Definitions and Preliminary Matters

24 Section 101. Short Title.--This act shall be known and may
25 be cited as the "Local Government Unit Debt Act."

26 Section 2. Sections 102 and 103 of the act, amended October
27 11, 1972 (P.L.901, No.214), are reenacted and amended to read:

28 Section 102. Definitions.--(a) As used in this act with
29 respect to classifications of debt unless the context clearly
30 otherwise requires:

(1) "Debt" means the amount of all obligations for the payment of money incurred by the local government unit, whether due and payable in all events, or only upon the performance of work, possession of property as lessee [or], rendering of services by others, or other contingency, except:

(i) current obligations for the full payment of which current revenues have been appropriated, including tax anticipation notes, and current payments for the funding of pension plans;

(ii) obligations under contracts for supplies, services and pensions, allocable to current operating expenses of future years in which the supplies are to be expended or furnished, the services rendered or the pensions paid;

(iii) rentals or payments payable in future years under leases, guaranties, subsidy contracts or other forms of agreement not evidencing the acquisition of capital assets, but this exception shall not apply to rentals or payments under such instruments which would constitute lease rental debt but for the fact that the lessor or obligee is not an entity described in section 104(a)(1); and

(iv) interest or assumed taxes payable on bonds or notes which interest or taxes is not yet overdue.

(2) "Electoral debt" means all net debt incurred with the assent of the electors, given as herein provided whether issued by a local government unit or through an authority.

(3) "Nonelectoral debt" means all debt determined as herein provided, incurred or authorized to be incurred, except electoral debt and lease rental debt, in each case whether authorized before or after the effective date of this act, and whether before or after the debt is incurred.

1 (3.1) "Net nonelectoral debt" means a portion of
2 nonelectoral debt as determined in accordance with Article II.

3 (4) "Lease rental debt" means the principal amount of
4 authority bonds or notes or bonds or notes of another local
5 government unit to be repaid from payments of the local
6 government unit made pursuant to leases, guaranties, subsidy
7 contracts or other forms of [guarantee] agreement where such
8 payments are or may be made out of the tax and other general
9 revenues of a local government unit under leases, guaranties,
10 subsidy contracts, or other [agreements] forms of agreement
11 which evidence the acquisition of capital assets, excluding any
12 such amount which has been approved by the electors.

13 (4.1) "Net lease rental debt" means a portion of lease
14 rental debt as determined in accordance with Article II.

15 (b) As used in this act with respect to exclusions from any
16 particular category of debt, unless the context clearly
17 otherwise requires:

18 (1) "Self-liquidating debt" means debt payable solely from
19 rents, rates or other charges to the ultimate users of the
20 project, to be financed in whole or in part by such debt, or
21 payable solely from special levies or assessments of benefits
22 lawfully earmarked exclusively for the purpose[, and includes
23 lease rental debt, whether or not the leases evidence the
24 acquisition of capital assets, where the rentals are payable
25 solely from one or more of such sources]. The term also includes
26 debt or any portion thereof at the time qualified as self-
27 liquidating pursuant to this act, whether or not solely payable
28 from such sources. The term "ultimate users" includes the local
29 government unit itself only where its use of the project is
30 incidental to the use of the project by other users.

1 (2) "Subsidized debt" means that amount of debt which is
2 self-liquidating to the local government unit because the annual
3 debt service on such amount for the fiscal year next following
4 the time of determination (i) will be covered by payments of
5 subsidies on account of cost of the project or on account of
6 operations, but measured by the cost of the project, or which
7 will be covered by capital account reimbursements, which
8 subsidies or reimbursements will be paid by either the
9 Commonwealth of Pennsylvania or the United States of America, or
10 both, where such payments under the legislation in force at the
11 time of determination are stated to be of a recurring nature, if
12 the Commonwealth or the United States shall have qualified the
13 project being financed for such subsidy or reimbursement,
14 preliminarily or finally, all as determined pursuant to section
15 204 of this act or (ii) will be covered by payments under a
16 subsidy contract with another local government unit or under a
17 subsidy contract with an authority and such amount is lawful
18 lease rental debt as to such other local government unit all as
19 determined under section 204 of this act.

20 (c) As used in this act unless the context clearly otherwise
21 requires:

22 (1) "Accountant" means a certified public accountant or
23 public accountant or a firm of either thereof.

24 [(1)] (1.1) "Authority" means an authority or nonprofit
25 corporation organized under any law of the Commonwealth by the
26 Commonwealth, any local government unit or jointly by any one or
27 more of the foregoing.

28 (2) "Bond or note" means any instrument issued by a local
29 government unit imposing an obligation for the repayment of
30 money borrowed, but does not include a guaranty endorsed on an

1 instrument issued by an authority. ["Bond" shall mean an
2 instrument in form qualifying as an investment security under
3 Article 8 of the Uniform Commercial Code. "Note" shall mean a
4 negotiable promissory note in form conforming to the
5 requirements of Article 3 of the Uniform Commercial Code
6 applicable to municipal obligations, except in each case as
7 otherwise provided herein.] Unless otherwise indicated, the
8 phrase "bonds or notes" does not include tax anticipation notes.
9 A bond or a note which falls within the definition of "security"
10 set forth in Article 8 of the act of April 6, 1953 (P.L.3,
11 No.1), known as the "Uniform Commercial Code," shall be governed
12 by said Article 8 and every other bond or note shall be governed
13 by Article 3, except in each case as otherwise provided herein.

14 (3) "Borrowing base" means the annual arithmetic average of
15 the total revenues for the three full fiscal years ended next
16 preceding the date of the incurring of nonelectoral debt or
17 lease rental debt as set forth in a certificate stating the
18 total revenues in each of such years and stating such average,
19 executed by the authorized officials of the local government
20 unit [auditing its financial affairs] or by [the] an independent
21 [public accountants regularly auditing the books of account of
22 such local government unit] accountant. If, within such three-
23 year period, there shall have been an expansion or contraction
24 of the territorial or functional jurisdiction of a local
25 government unit through transfer, merger, annexation, or
26 assumption, in whole or in part, in relation to another local
27 government unit or an authority, the borrowing base shall be
28 calculated as if such expansion or contraction had occurred
29 within or prior to the commencement of such three-year period in
30 such manner as the statutes, charter provisions, or court decree

1 shall provide or direct, or in the absence of such provisions,
2 as the department shall approve.

3 (4) "Department" means the Department of Community Affairs
4 or any successor department, board or commission to which all or
5 certain of the functions to be performed under this act may
6 hereafter be transferred, either as provided herein or by
7 subsequent legislation.

8 (5) "General obligation" in the title of a bond or note,
9 means a bond or note for the payment of which the full faith,
10 [and] credit and taxing power of the local government unit is
11 pledged, for the payment of which the local government unit has
12 entered into the required covenant under section 404, and for
13 the payment of which no specific revenues are pledged.

14 (6) "Governing body" means the authorities in each local
15 government unit authorized by law to levy taxes or fix the tax
16 rate of the local government unit and the term also includes the
17 school board of a school district and the board or officers
18 authorized to make binding commitments for joint local
19 government units, even though such body has no power to levy
20 taxes.

21 (7) "Guaranteed revenue" in the title of a bond or note,
22 means a bond or note of a local government unit payable in whole
23 or in part from pledged revenues, but which becomes wholly or
24 partly a general obligation of the local government unit, as
25 guarantor in the event of deficiency in the pledged revenues.

26 (7.1) "Guaranty" means a guaranty, whether conditional or
27 unconditional and whether full or partial, to or for the benefit
28 of holders of bonds or notes of the local government unit or
29 holders of bonds or notes or other obligations of an authority
30 or another local government unit, of the payment of the

principal of and interest on such bonds or notes, premium, if any, and assumed taxes, if any, on such obligations.

(8) "Incur" or "incurred," when used with respect to debt, means the point in time when (i) in the case of debt assented to by the electors, the assent shall have been given, and (ii) in the case of nonelectoral or other debt the first ordinance or, in the case of small borrowings under section 409, the resolution authorizing the debt shall have been finally enacted or adopted, unless the authority for such debt shall have been cancelled or terminated as provided in this act. Final enactment or adoption means the final act necessary to make an ordinance or resolution, as the case may be, effective pursuant to all requirements of law, including any necessary approval by a mayor or other executive officer or failure of action by such mayor or officer within a specified statutory time limit, or passage over the veto of a mayor or of such officer but does not include any required advertising subsequent to the date of adoption by the governing body of the local governing unit.

(9) "Issue" means all bonds authorized to be sold in respect of a particular project, whether authorized to be sold at one time or from time to time in one or more series.

(10) "Local government unit" means a county, county institution district, city, borough, incorporated town, township, school district or any similar, general or limited purpose unit of local government or any unit created by joint action of two or more local government units which is now or shall hereafter be authorized to be created by the General Assembly; but the term does not include a city or county of the first class, an authority as herein defined, [or any political subdivision now, or former local government unit hereafter,

1 operating under a home rule charter.] or any unit created by
2 joint action of two or more local government units which have
3 not been granted by statute the power to issue bonds. The term
4 "local government unit" includes school districts of the first
5 class presently operating under a home rule charter or home rule
6 charter supplement and the provisions of this act shall govern
7 over inconsistent charter provisions on the same subject.

8 (11) "Ordinance" means [an ordinance in the case of a local
9 government unit having the power to adopt ordinances and a
10 resolution in the case of all other local government units] the
11 formal action of a local government unit, whether, under the law
12 applicable to such local government unit, such action is taken
13 by ordinance or by resolution, to which the requirements of
14 section 103 of this act shall apply. "Resolution" means all
15 other formal action of a governmental unit, whether, under the
16 law applicable to such local government unit, such action is
17 taken by ordinance or by resolution, to which the requirements
18 of section 103 of this act shall not apply.

19 (12) "Project" means (i) any item of construction,
20 acquisition, extraordinary maintenance or repair which has been
21 undertaken by a local government unit, (ii) any preliminary
22 studies, surveying, planning, testing or design work for any
23 such, (iii) any lands or rights in land to be acquired, (iv) any
24 furnishings, machinery, apparatus or equipment normally
25 classified as capital items, but such items must have a useful
26 life of five years or more if financed separately and not as a
27 part of a construction or acquisition project, (v) the local
28 government unit's share of the cost of a project undertaken
29 jointly with one or more other local government units or the
30 Commonwealth or one of its agencies[; or], (vi) funding or

1 refunding of debt incurred for any or all of the foregoing
2 purposes, or (vii) any combination of any or all of the
3 foregoing, as any or all of the above may be designated as a
4 project by the governing body for the financing of which it
5 desires to incur debt. The term shall also include any deficit
6 to be funded by bonds or notes as provided herein, or the
7 creation of a revolving fund for specific improvements. Where a
8 local government unit has adopted a capital budget, the term
9 project shall mean any unfunded portion of the capital budget
10 selected by ordinance for current funding.

11 (13) "Revenue" in the title of a bond or note not preceded
12 by the word "guaranteed," means a bond or note payable solely
13 from user charges, rates, revenues, rentals, fees, special
14 assessments and receipts pledged for the purpose.

15 (14) "Series" means all the bonds or notes to be sold and
16 delivered at one time in respect of one project or of any two or
17 more projects which have been combined for purposes of financing
18 or where such bonds or notes have been combined for sale as
19 provided in this act.

20 (15) "Sinking fund" means [a special fund created for the
21 accumulation and holding of moneys for the payment of bonds or
22 notes at a subsequent date and may also include funds or
23 accounts created for the accumulation and holding of moneys
24 required to be held in respect of specific issues of revenue or
25 guaranteed revenue bonds or notes for use in times of falling
26 revenues or for the costs of maintenance or repair.] the special
27 fund created pursuant to section 1001 for the payment of the
28 principal of and interest on bonds or notes, premium, if any,
29 and assumed taxes, if any, or for the payment of a guaranty.

30 (15.1) "Tax anticipation notes" means notes issued in

1 anticipation of taxes, in anticipation of revenues, or in
2 anticipation of both as shall be designated in such notes.

3 (16) "Total revenues" means all moneys received by the local
4 government unit in a fiscal year from whatever source derived,
5 except:

6 (i) subsidies or reimbursements from the United States of
7 America or from the Commonwealth of Pennsylvania measured by the
8 cost of, or given or paid on account of, a particular project
9 financed by debt;

10 (ii) project revenues, rates, receipts, user charges,
11 special assessments and special levies which are or will be
12 pledged or budgeted for specific self-liquidating debt, or for
13 payments under leases, guaranties, subsidy contracts or other
14 forms of agreement which could constitute lease rental debt
15 except that such payments are payable solely from such sources,
16 but such portion thereof as may [be] have been returned to or
17 retained by the local government unit [by the pledgee for any
18 general operating purpose] shall not be excluded;

19 (iii) interest on moneys in sinking funds, reserves, and
20 other funds, which interest is pledged or budgeted for the
21 payment or security of outstanding debt, and interest on bond or
22 note proceeds, if similarly pledged;

23 (iv) grants and gifts in aid of or measured by the
24 construction or acquisition of specified projects; and

25 (v) proceeds from the disposition of capital assets, and
26 other nonrecurring items including bond or note proceeds not
27 considered income under generally accepted municipal accounting
28 principles.

29 Section 103. Effectiveness and Required Notice of
30 Ordinances.--Notwithstanding any other law to the contrary, an

1 ordinance required to be adopted by this act shall be advertised
2 not less than three nor more than thirty days prior to its
3 enactment. The advertisement shall appear once in a newspaper of
4 general circulation, published or circulating in the area of the
5 local government unit, shall set forth a summary of the contents
6 of the ordinance and shall state that a copy of the full
7 proposed text thereof may be examined by any citizen in the
8 office of the secretary of the local government unit at the
9 address and during the reasonable hours stated in such
10 advertisement. Not later than the [seventh] fifteenth day after
11 the final enactment of such ordinance, a notice of such
12 enactment shall be advertised once in a newspaper of general
13 circulation published or circulating in the local government
14 unit. This notice shall state:

15 (1) Briefly, the substance of any amendments made during
16 final passage, and, where applicable, (i) in respect of lease
17 rental debt the range of lease rental payments and (ii) in other
18 cases, the price bid for bonds or notes, and the range of
19 interest rates named in the successful bid[, and the average
20 annual debt service]; and

21 (2) That [a copy of such notice has been conspicuously
22 posted and will remain so posted for the next seven days in a
23 designated position, readily viewable by the public, at the
24 public meeting place of the governing body of such local
25 government unit] the final text of the ordinance as enacted may
26 be examined by any citizen in the office of the secretary of the
27 local government unit at the address and during the reasonable
28 hours stated in such notice.

29 The ordinance shall be valid and effective for all purposes
30 on the [later of such seventh] fifth day [or the tenth day after

1 the final enactment of such ordinance] after the second
2 advertisement. The second advertisement shall be conclusive, so
3 far as concerns the effectiveness of the ordinance or the
4 validity of any debt incurred, as to the existence of all
5 matters recited or referred to therein unless action questioning
6 such validity or effectiveness shall have been filed in timely
7 manner as provided in this act, but such conclusiveness shall
8 not affect the liability of any person for failure to [post and
9 keep posted the notice or for failure to] permit inspection. No
10 other or different publication shall be required notwithstanding
11 the provisions of any other law.

12 Section 3. Sections 104, 105, 106, 107 and 108 of the act
13 are reenacted and amended to read:

14 Section 104. When Lease or Other Agreement Evidences
15 Acquisition of Capital Asset.--(a) A lease, guaranty, subsidy
16 contract or other agreement entered into by a local government
17 unit shall evidence the acquisition of a capital asset where:

18 (1) The lessee or obligor is a local government unit and the
19 lessor or obligee is an authority organized under any law of
20 this Commonwealth, another local government unit, a nonprofit
21 corporation, the State Public School Building Authority or other
22 agency or authority of the Commonwealth of Pennsylvania; and

23 (2) The payments, or any portion thereof, which are payable
24 in a subsequent fiscal year or subsequent fiscal years and which
25 are applicable to debt service requirements or capital costs are
26 payable [or may be payable], whether in all events or only upon
27 the happening of certain events, under the terms of such
28 instrument from the tax or general revenues of the local
29 government unit; and

30 (3) Upon termination of such lease guaranty, subsidy

1 contract or other agreement or upon dissolution of such lessor
2 or obligee, whether before or after the termination of the
3 lease, title to the subject project or premises or a given part
4 thereof or undivided interest therein, shall, or at the option
5 of the local government unit may, vest by agreement or operation
6 of law in such local government unit, or in the Commonwealth of
7 Pennsylvania.[; or

8 (4) In any case where clause (2) of this section 104 applies
9 and the term of the lease guaranty, subsidy contract or other
10 agreement is equal to or exceeds the useful life of the asset,
11 regardless of the nature of the lessor or obligee.]

12 (b) A lease, guaranty, subsidy contract or other form of
13 agreement entered into by a local government unit shall also
14 evidence the acquisition of a capital asset if the payments to
15 be made in a subsequent fiscal year or subsequent fiscal years
16 applicable to debt service requirements or capital costs are
17 payable, whether in all events or only upon the happening of
18 certain events, under the provisions of such instrument from the
19 tax or general revenues of the local government unit and the
20 term of such instrument is equal to or exceeds the useful life
21 of the asset, regardless of the nature of the lessor or obligee.

22 Section 105. Designation of Bonds and Notes; Authority to
23 Issue.--(a) Bonds or notes prior to the authorization thereof
24 shall be classified by the issuing local government unit as one
25 of the following [four] three types of obligation: general
26 obligation bonds or notes; guaranteed revenue bonds or notes; or
27 revenue bonds or notes[; or tax anticipation notes].

28 (b) Guaranteed revenue bonds or notes may have either a
29 general or a limited guaranty as the governing body of the local
30 government unit may determine, but if the guaranty shall be less

1 than a full unconditional guaranty, the title of the bond or
2 note shall contain the word "limited" before the word
3 "guaranteed." The guaranty of the local government may be of its
4 own revenue bonds or notes or of the revenue bonds or notes of
5 an authority or [nonprofit corporation] another local government
6 unit subject, however, to the provisions of subsection (c) of
7 this section.

8 (c) [Every] Notwithstanding any other law to the contrary,
9 every local government unit shall have full power and authority
10 to issue bonds or notes, and make guaranties [as provided in
11 this act], leases, subsidy contracts or other agreements
12 evidencing the acquisition of capital assets payable out of
13 taxes and other general revenues, to provide funds for and
14 towards the cost of or the cost of completing any project or
15 combination of projects which such local government unit is
16 authorized to own, acquire, subsidize, operate or lease, or to
17 participate in owning, acquiring, subsidizing, operating or
18 leasing with others, [and shall also have full power and
19 authority] to issue tax anticipation notes and funding bonds or
20 notes as herein provided, and to contract for insurance covering
21 the risks of nonpayment of principal, interest and premium of
22 bonds, notes, tax anticipation notes and guaranties. For the
23 purpose of this act, unless debt evidenced by a guaranty shall
24 have been approved as electoral debt in accordance with Article
25 III of this act, such guaranty shall be deemed to be
26 nonelectoral debt if the local government unit guaranties its
27 own bonds or notes and shall be deemed to be lease rental debt
28 if it guaranties the bonds or notes of an authority or another
29 local government unit. For the purpose of all other acts such
30 guaranty shall be deemed to create debt or indebtedness of the

1 local government unit making the guaranty.

2 Section 106. Preliminary Cost Estimates.--Prior to the
3 initial authorization of bonds or notes or the issuance of any
4 guaranty to finance any project involving construction or
5 acquisition, the governing body shall obtain realistic cost
6 estimates through actual bids, option agreements, or
7 professional estimates from registered architects, [or]
8 professional engineers, or other persons qualified by
9 experience. Any local government unit may retain the services of
10 a financial advisor. Costs of preliminary estimates and the fees
11 of financial advisors may, if initially paid by the local
12 government unit, be reimbursed out of the net proceeds of the
13 issue of bonds or notes as a cost of the project.

14 Section 107. Cost of a Project.--The cost of a project shall
15 include the amount of all payments to contractors or for the
16 acquisition of a project or for lands, easements, rights and
17 other appurtenances deemed necessary for the project, fees of
18 architects, engineers, appraisers, consultants, financial
19 advisors, and attorneys incurred in connection with the project
20 [or its] financing costs, [of preparing bonds or notes,] costs
21 of necessary printing and advertising, the costs of preliminary
22 feasibility studies and tests, cost estimates, and interest on
23 money borrowed to finance the project, if capitalized, to the
24 date of completion of construction and, if deemed necessary, for
25 one year thereafter, amounts to be placed in reserve funds, if
26 any, a reasonable initial working capital for operating
27 [projects,] the project and a proper allowance for
28 contingencies.

29 Section 108. Local Government Units Hereafter Obtaining Home
30 Rule Charters.--Every local government unit [hereafter]

1 obtaining a home rule charter after July 12, 1972 shall be
2 subject to the substantive provisions of this act applicable to
3 it as if it were a local government unit, and may adopt the
4 procedural provisions of this act, by incorporation thereof by
5 reference, in its home rule charter.

6 Section 4. The article heading of Article II of the act is
7 reenacted to read:

8 ARTICLE II

9 Limitations on Debt of Local Government Units

10 Section 5. Section 201 of the act is reenacted and amended
11 to read:

12 Section 201. No Limitation on Debt Approved by Electors.--
13 All debt of any classification, whenever incurred, which has
14 been or shall hereafter be approved, either before or after such
15 debt is incurred, by majority of the votes cast upon the
16 question of incurring such debt at a general or special election
17 held as provided [in this act] by applicable law in effect at
18 the time of the election, is excluded from the nonelectoral debt
19 or the lease rental debt, as the case may be, of a local
20 government unit and the limitations imposed by this act upon
21 debt of such classification shall not apply thereto.

22 Section 6. Section 202 of the act, amended October 3, 1972
23 (P.L.887, No.206), is reenacted and amended to read:

24 Section 202. Limitations on the Incurring of Other Debt.--

25 (a) Except as provided in subsections (c), (d) and (e) of this
26 section and as otherwise specifically provided in this act, no
27 local government unit shall incur any new nonelectoral debt, if
28 the aggregate net principal amount of such new nonelectoral debt
29 together with all other net nonelectoral debt outstanding would
30 cause the total net nonelectoral debt of such local government

1 unit to exceed:

2 (i) one hundred per cent of its borrowing base in the case
3 of a school district of the first class;

4 (ii) three hundred per cent of its borrowing base in the
5 case of a county; or

6 (iii) two hundred fifty per cent of its borrowing base in
7 the case of any other local government unit.

8 (b) Except as provided in subsections (c), (d) and (e) of
9 this section or as otherwise specifically provided in this act,
10 in the exercise of legislative control over the budgets and
11 expenditures of local government units and of the purposes for
12 which tax moneys and general revenues of local government units
13 may be expended, the General Assembly determines that no local
14 government unit shall incur any new lease rental debt or
15 nonelectoral debt, if the aggregate net principal amount of such
16 new debt together with any other net nonelectoral debt and net
17 lease rental debt then outstanding would cause the outstanding
18 total of net nonelectoral debt plus net lease rental debt of
19 such local government unit to exceed:

20 (i) [one hundred fifty per cent] two hundred per cent of the
21 borrowing base in the case of a school district of the first
22 class;

23 (ii) [three hundred fifty per cent] four hundred per cent of
24 its borrowing base in the case of a county; or

25 (iii) [three hundred per cent] three hundred fifty per cent
26 of its borrowing base in the case of all other local government
27 units.

28 (c) The limitations and prohibitions of the preceding
29 subsections (hereinafter called the "regular debt limits") shall
30 not apply to electoral debt, nor to debt excluded in computing

1 net amounts of nonelectoral debt or of lease rental debt, as
2 self-liquidating or because subsidized, when such exclusion is
3 made pursuant to sections 204, 205 and 206.

4 (d) [An additional debt limit of one hundred per cent of the
5 borrowing base may be utilized for additional nonelectoral or
6 additional lease rental debt or both:] Additional nonelectoral
7 or additional lease rental debt or both in the aggregate amount
8 of one hundred per cent of the borrowing base may be incurred:

9 (i) by a county which has assumed, either before or after
10 the effective date of this act, county-wide responsibility for;
11 or

12 (ii) where the county has not assumed county-wide
13 responsibility, by a local government unit which has [not],
14 either before or after the effective date of this act, assumed
15 [heretofore] responsibility for its and its adjacent areas for
16 hospitals and other public health services, air and water
17 pollution control, flood control, environmental protection,
18 water distribution and supply systems, sewage and refuse
19 collection and disposal systems, education at any level,
20 highways, public transportation or port operations, but such
21 additional debt limit may be so utilized only to provide funds
22 for and towards the cost of capital facilities for any [or all]
23 or any combination of the foregoing purposes [combined]. Debt,
24 other than electoral debt, at any time incurred for such
25 purposes or any of them, may be assigned by ordinance to this
26 additional debt limit, if the remaining borrowing capacity
27 within the regular limits is insufficient to finance other
28 projects deemed necessary by the governing body of the local
29 government unit.

30 (e) If replacement of assets is required as a result of

1 fire, flood, storm, war, riot, civil commotion or other
2 catastrophe, or such replacement or any improvements are
3 required for the prevention of dangers to health or safety, or
4 if funds are required for the payment of tort liability not
5 covered by insurance, or if funds are required to be used for
6 and towards the costs of mandated installations of health,
7 safety, anti-pollution, environmental protection and control
8 facilities or of complying with other mandated Federal or
9 Commonwealth programs, a local government unit not having
10 sufficient remaining borrowing capacity as nonelectoral or lease
11 rental debt or being otherwise prohibited by section 305 from
12 incurring debt for the purpose, upon petition to the
13 [Commonwealth Court] court of common pleas of the county where
14 the local government unit is located or, if the local government
15 unit is located in two counties, of either county, alleging the
16 catastrophe, or the danger to health and safety, or the mandated
17 nature of the program and the estimated costs of the proposed
18 facilities, and upon proof thereof to the satisfaction of the
19 court, shall be authorized, notwithstanding section 305 or the
20 insufficiency of nonelectoral or lease rental borrowing
21 capacity, to incur debt, as either lease rental or nonelectoral
22 debt, up to an additional fifty per cent of its borrowing base,
23 if such increase is found by the court to have been made
24 necessary under this subsection by reason of the causes set
25 forth in the petition. The increase together with all
26 outstanding other additional emergency [net] debt [and all
27 outstanding net nonelectoral and net lease rental debt] which
28 may have been previously authorized under this subsection
29 (excluding any allocated to the additional debt limit under
30 subsection (d) of this section) shall not exceed [the sum of the

1 applicable regular and additional emergency debt limits] fifty
2 per cent of the borrowing base. Public notice of the intention
3 to file such a petition and of the purpose for which the
4 additional emergency debt is to be incurred shall be given by
5 advertisement in at least one and not more than two papers of
6 general circulation and in the legal journal not less than five
7 nor more than twenty days before the filing thereof. Such
8 additional emergency debt may be incurred only for the purposes
9 and upon the terms approved by the court. The amount of such
10 debt initially in excess of the regular debt limits shall not
11 thereafter be included in computing net amounts of nonelectoral
12 or lease rental debt. Appeals from the order of the court may be
13 taken by any interested party in accordance with the [Appellate
14 Court Jurisdiction Act of 1970.] act of July 31, 1970 (P.L.673,
15 No.223), known as the "Appellate Court Jurisdiction Act of
16 1970."

17 Section 7. Sections 203, 204, 205, 206, 207, 208 and 209 of
18 the act are reenacted and amended to read:

19 Section 203. Transfer of [Nonelectoral] Debt Incurred
20 without the Approval of the Electors to Electoral Debt.--The
21 governing body of any local government unit may, by [ordinance]
22 resolution, signify a desire to have any [nonelectoral] debt
23 theretofore incurred without the approval of the electors
24 established as electoral debt. The [ordinance] resolution shall
25 direct the holding of an election to be held at the proper
26 places within such local government unit for the purpose of
27 obtaining the approval of the electors to such debt in the same
28 manner as provided for securing the approval of the incurring of
29 electoral debt. The question shall be whether the remaining
30 unpaid [nonelectoral] debt incurred without the approval of the

1 electors for the project named in the question shall be removed
2 from the category of nonelectoral or lease rental debt. If [such
3 question shall receive] a majority of the votes cast upon such
4 question at such election shall favor transfer to electoral
5 debt, a certified copy of the [ordinance] resolution, proof of
6 due advertisement of the election [and of the ordinance] and a
7 certified return of the election shall be filed with the
8 department. If the department finds the proceedings to have been
9 taken in conformity with the law it shall endorse its approval
10 on a duplicate original thereof and return the same to the local
11 government unit. [A copy of the proceedings duly certified by
12 the proper officials of the local government unit together with
13 the approval of the department shall be filed in the office for
14 the recording of deeds in and for the county in which such local
15 government unit is located.] Such debt shall thereupon be no
16 longer classified as nonelectoral or lease rental debt.

17 Section 204. Procedure for Exclusion of Subsidized Debt to
18 Find Net Nonelectoral Debt or Net Lease Rental Debt.--(a)
19 Subsidized debt shall not be excluded from nonelectoral debt or
20 lease rental debt, as the case may be, for the purposes of
21 establishing net outstanding debt of either category until there
22 has been filed with and approved by the department:

23 (1) A copy, certified by the secretary of the board of the
24 local government unit or of the authority, of the permanent or
25 preliminary approval from the Commonwealth of Pennsylvania or
26 from the United States of America of the project, of the related
27 bonds or notes, or of the interest thereon, for subsidization or
28 for reimbursement of all or part of debt service or on account
29 of operations, but measured by the cost of the project or a
30 certified copy of the subsidy contract with another local

1 government unit or an authority;

2 (2) Evidence satisfactory to the department from the
3 subsidizing agency as to the indicated annual amount of the
4 subsidy;

5 (3) Appropriate reference to the legislation authorizing
6 such reimbursement or subsidy indicating the legislated
7 recurring nature of the subsidy or in the case of a subsidy
8 contract with another local government unit, evidence
9 satisfactory to the department that the amount to be excluded is
10 within the debt limitations of the other local government unit
11 or has been approved as [the] electoral debt; and

12 (4) A computation, in reasonable detail, certified by the
13 proper officers of the local government unit [and approved as
14 mathematically correct by an independent certified public
15 accountant,] or of the authority, or by the financial advisor
16 if one be retained, showing the principal amount of the bonds to
17 be serviced by the reimbursement or subsidy, determined in the
18 proportion that the total indicated subsidy or reimbursement to
19 be received over the remaining life of the issue bears to the
20 total debt service to be paid over the remaining life of the
21 issue, computed to stated maturity or earlier mandatory call
22 dates.

23 The principal amount of the bonds or notes or bonds or notes
24 of an authority which will constitute subsidized debt shall, in
25 those instances where the subsidy is related to a percentage of
26 lease rentals or to a percentage of sinking fund payments, in
27 either case applicable solely to debt service, be that stated
28 percentage of the bonds or notes.

29 Such proportion of the bonds or of lease rental debt shall be
30 excluded as subsidized debt. Such filing may be made

1 simultaneously with the filing for the approval of the balance
2 of the bonds then being issued, or may be made or corrected at a
3 later date.

4 (b) Each time any new debt is to be incurred, if subsidized
5 debt is to be excluded, a new certification shall be made to the
6 department stating (i) that there has been no decrease in the
7 subsidy or, (ii) that there has been [no increase or] a decrease
8 and recomputing the principal amount to be excluded or, (iii)
9 that there has been an increase and the local government unit
10 desires an increased exclusion certifying all matters so changed
11 and recomputing the principal amount to be excluded.

12 (c) If the department shall approve the exclusion of such
13 principal amount of bonds or notes or lease rental debt as being
14 subsidized debt in accordance with this act, originally or upon
15 any recertification it shall return a duplicate original of the
16 filing to the local government unit with its approval endorsed
17 thereon. Upon [the filing] receipt of such approval [and
18 duplicate original in the office for the recording of deeds in
19 the county in which] by such local government unit [is located],
20 such principal amount of bonds shall be excluded from
21 nonelectoral debt or lease rental debt for the purpose of
22 determining net debt in each category.

23 Section 205. Procedure for Exclusion [to Find Net
24 Nonelectoral Debt of Self-liquidating Debt] Evidenced by Revenue
25 Bonds or Notes to Determine Net Nonelectoral Debt.--[(a)] Self-
26 liquidating debt evidenced by revenue bonds or notes shall not
27 be excluded from nonelectoral debt for the purpose of
28 establishing net nonelectoral debt until there has been filed
29 with[, the recorder of deeds of the county in which such local
30 government unit is located.] the department:

1 (1) A statement by the proper officials of the local
2 government unit certifying the amount of such debt, the project
3 for which it was incurred, and the nature of the revenues from
4 which such debt is to be repaid;

5 (2) A certificate from a qualified professional engineer or
6 architect, or other person qualified by experience as may be
7 appropriate to the project estimating the revenues and operating
8 expenses of the project, and showing that the net revenues so
9 estimated will be sufficient to pay the annual debt service as
10 it falls due.

11 (3) An opinion of the bond counsel approving the issue, to
12 the effect that the holders of the bonds or notes have no claim
13 upon the taxing power or tax revenues of the local government
14 unit issuing the bonds, but only claims upon the specific
15 revenues pledged and rights to the enforcement of any covenants
16 as to the levying or collection of rates and charges for the use
17 of the project being financed or any covenants as to the
18 assessment of benefits upon properties serviceable by the
19 project as provided in such covenants with the holders of the
20 revenue bonds.

21 [(b) A duplicate original of the documents shall be filed in
22 the office for the recording of deeds in the county in which
23 such local government unit is located, and upon such filing, the
24 principal amount of such revenue bonds shall be excluded from
25 nonelectoral debt. A certificate as to such filing shall
26 accompany the next debt statement filed pursuant to section 410
27 of this act.]

28 Section 206. Procedure for [the] Exclusion [to Find Net
29 Nonelectoral Debt or Net Lease Rental Debt] of Other Self-
30 liquidating Debt [Evidenced by Other Bonds or Notes or a

1 Guaranty] to Determine Net Nonelectoral Debt or Net Lease Rental
2 Debt.--(a) Self-liquidating debt shall not be excluded in
3 [finding] determining net nonelectoral debt or net lease rental
4 debt for the [purposes] purpose of establishing net debt of
5 either category where such debt is evidenced by general
6 obligation bonds or notes, [guaranteed revenue bonds or notes or
7 a guaranty of obligations of an authority] by bonds, notes or
8 other obligations of an authority or of another local government
9 unit, or by a guaranty until there has been filed with, and
10 approved by the department[:]

11 (1) A] a report to the local government unit from qualified
12 registered engineers or architects or other persons qualified by
13 experience as may be appropriate to the project involved,
14 setting forth:

15 (i) the estimated or, if available, the actual cost of
16 construction, acquisition, or improvement of the project
17 financed or to be financed;

18 (ii) the principal amount of [the bonds or notes, guaranteed
19 revenue bonds or notes or of bonds or notes obligations of an
20 authority guaranteed by the local government unit evidencing
21 lease rental debt,] said general obligation bonds or notes, the
22 bonds, notes or obligations guaranteed, or the bonds or notes of
23 an authority or another local government unit secured by an
24 instrument evidencing lease rental debt which are to be issued,
25 the dates, interest rate and amounts of each stated maturity
26 thereof and, set forth separately, the same information with
27 respect to so much of [such] all said bonds, notes or
28 obligations as may be outstanding;

29 (iii) the amount [and] or the estimated amount of the annual
30 debt service for each year during the life of all said bonds,

1 notes or obligations or the bonds or notes of an authority or
2 another local government unit secured by an instrument
3 evidencing lease rental debt issued and intended to be issued to
4 finance the project;

5 (iv) the date or estimated date of the completion of the
6 project;

7 (v) the estimated net revenues of the project for each year
8 of the remaining life of the bonds, notes or obligations with a
9 computation showing, in reasonable detail, that such net
10 revenues together with other available funds to be received in
11 respect of the project will be sufficient in each such year to
12 pay the annual debt service, other than capitalized debt
13 service, on such bonds, notes or obligations or a specified
14 aggregate principal amount thereof;

15 (vi) such qualified person's certificate that the estimates
16 of net revenues have been computed from such person's best
17 estimate of the gross revenues to be obtained from the rentals,
18 rates, tolls, and charges, interest to be received on reserve
19 accounts, established or to be established by ordinance or from
20 payments under bulk service or other contracts with other local
21 government units or authorities, for the use of the project, or
22 the gross revenues to be received from special assessments
23 levied to finance the project, by deducting from such gross
24 revenues, in each year, the total estimated costs of operation
25 and maintenance of the project chargeable against such revenues
26 or assessments and any State taxes assumed on such bonds or
27 notes all based on assumptions deemed reasonable for the purpose
28 by such person; and

29 (vii) such person's further certificate that such person is
30 qualified to act with regard to the type of project then being

1 financed stating the experience.

2 [(2) A certified copy of an ordinance of the governing body
3 of such local government unit approving the report.]

4 (b) If the department shall approve the exclusion of the
5 principal amount of bonds, notes or obligations or bonds or
6 notes of an authority or another local government unit secured
7 by an instrument evidencing lease rental debt stated in such
8 report [and ordinance] as being self-liquidating debt, as being
9 in accordance with law, [and the revenue estimates as not
10 unreasonable,] it shall endorse its approval upon a duplicate
11 original of the proceedings and return the same to the local
12 government unit. Upon [the filing] receipt of such approval [and
13 duplicate original in the office for the recording of deeds in
14 the county in which] by such local government unit [is located],
15 such principal amount of bonds, notes or obligations shall be
16 excluded from nonelectoral debt or net lease rental debt, as the
17 case may be, during the period of construction and thereafter
18 until new electoral, nonelectoral or lease rental debt is to be
19 incurred, at which time, if such principal is to be excluded, a
20 certification of no decrease, other than decreases resulting
21 from the payment of bonds or notes, in the amount to be excluded
22 shall be included in the debt statement to be filed pursuant to
23 section 410 of this act. If there is a decrease, or if more of
24 such debt is desired to be excluded as [self sustaining] self-
25 liquidating, a new certification shall be filed[, and a new
26 recording made].

27 Section 207. Effect of Debt Limitations on Outstanding
28 Debt.--Notwithstanding anything in any other law or elsewhere in
29 this act, nothing herein contained shall be construed to
30 invalidate any debt which was lawful when incurred, or which

1 could have been lawfully incurred if [the] this act had been in
2 effect, whether incurred before or after the passage of this
3 act, and the percentage limitations set forth in section 202
4 shall be deemed increased to the extent necessary to cover such
5 incurred debt. Nothing herein contained shall be construed to
6 subject any debt incurred and voted upon prior to the effective
7 date of this act as electoral debt to any of the limitations
8 herein imposed on nonelectoral debt.

9 Section 208. Determination of Existing Net Nonelectoral Debt
10 and Net Nonelectoral Plus Net Lease Rental Debt.--(a) [Gross
11 nonelectoral debt shall first be established by subtracting from
12 the gross principal amount of all incurred debt the sum of gross
13 incurred electoral debt plus gross incurred lease rental debt of
14 the local governmental unit.] From the gross principal amount of
15 all incurred debt shall be subtracted gross incurred electoral
16 debt. The amount remaining shall then be separated into gross
17 incurred nonelectoral debt and gross incurred lease rental debt.

18 (b) Net nonelectoral and net lease rental debt shall then be
19 determined by subtracting separately from [each,] gross
20 nonelectoral debt and gross lease rental debt respectively, as
21 may be applicable, and as the local government unit may desire
22 to claim:

23 (1) All funds in the applicable sinking funds, [including]
24 whether controlled by the local government unit or by the
25 authority which incurred such debt, reserve funds or accounts,
26 [therein,] except maintenance and replacement reserve funds or
27 accounts, and net bond proceeds, [including interest thereon,]
28 held for the payment of the cost of a project financed by such
29 debt, including, in each case, interest accrued thereon, but
30 only to the extent that such funds are available for payment of

1 the principal amount of such debt;

2 (2) The current appropriation for the payment of the
3 principal of and overdue interest on such nonelectoral debt or
4 [of] for the payment of the net lease rental in the case of
5 lease rental debt, except to the extent that the same shall
6 already have been deposited in sinking funds;

7 (3) The uncollected amount of the benefits or costs or the
8 estimates thereof which have been or are authorized to be
9 assessed against owners of property and for which liens may be
10 legally filed, to the extent that such assessments are
11 [applicable to] available for the payment of the principal
12 amount of such debt;

13 (4) The amount of delinquent taxes from prior years and
14 other undisputed municipal liens actually filed against property
15 less the sum of (y) a reserve, reasonable in amount, for so much
16 thereof as may not be collected and (z) the amount thereof
17 appropriated for current expenses in the current year's budget;

18 (5) The amount of self-liquidating debt and subsidized debt
19 properly excluded and concurrently excludable from each
20 respective category being computed;

21 (6) The amount of surplus cash not specifically appropriated
22 to any purpose and available for the payment of the principal
23 amount of debt; but if such deduction is claimed the amount so
24 claimed may not thereafter be appropriated to any purpose except
25 the payment of debt;

26 (7) All other solvent debts due the local government unit
27 directly, the payment of which can be enforced as one of the
28 unit's quick assets, and which have not been committed to any
29 other purpose;

30 (8) The amount of any insurance coverage indemnifying the

1 local government unit against any outstanding liability to the
2 extent such liability is debt[; and].

3 [(9) To the sum determined above there should be added the
4 interest payable thereon for the current year and a like
5 addition should be made to net lease rental debt.]

6 (c) In determining net nonelectoral debt, the amounts
7 claimed under clause (8) of subsection (b) shall be exclusively
8 applicable to nonelectoral debt and clauses (4), (6), and (7)
9 shall be first applied against nonelectoral debt, with any
10 excess being applicable against lease rental debt.

11 (d) In computing the value of any funds, all legal
12 investments therein shall be computed at current market values.

13 (e) The net nonelectoral debt so determined shall be used in
14 determining compliance with the limit imposed by section 202(a).
15 The sum of such net nonelectoral debt and the net lease rental
16 debt so determined shall be used in determining compliance with
17 the limit imposed by section 202(b).

18 Section 209. Determination of Debt Limits.--Whenever it
19 shall be necessary to determine the limitations on the amount of
20 nonelectoral debt, or nonelectoral debt plus lease rental debt
21 that may be incurred by any local government unit, the
22 appropriate percentage limitations of section 202 shall be
23 applied to the borrowing base of such local government unit. The
24 certificate as to the borrowing base shall be made a part of all
25 proceedings for the sale of bonds or notes, for the guaranty of
26 authority obligations or the incurring of lease rental debt and
27 a copy shall be filed with the department as a part of all
28 proceedings required to be filed for its approval. The borrowing
29 base set forth in such certificate and a similar certificate as
30 to net nonelectoral debt or net lease rental debt outstanding

1 shall be conclusive as to the respective figures for the
2 purposes of this act, upon the approval of the proceedings by
3 the department, unless contested within the specified time
4 limits as herein provided.

5 Section 8. The article heading of Article III of the act is
6 reenacted to read:

7 ARTICLE III

8 Procedure for Securing Approval of Electors

9 Section 9. Sections 301, 302 and 303 of the act are
10 reenacted and amended to read:

11 Section 301. Desire [Ordinance] Resolution; Expense of
12 Certain Elections.--(a) Whenever the governing body of any local
13 government unit shall determine that it is advisable to make an
14 increase in the debt of such local government unit with the
15 assent of the electors, or to obtain the assent of the electors
16 to establish any [nonelectoral] debt previously incurred without
17 the approval of the electors as electoral debt, it shall adopt
18 [an ordinance] a resolution signifying such determination,
19 calling an election for the purpose of obtaining such assent,
20 and approving the content and substantial form of notice of
21 election.

22 (b) The date fixed shall be that of a municipal, general,
23 primary, or special election for other purposes, but if the date
24 of the nearest of such elections shall be more than ninety or
25 less than thirty days from the effective date of the desire
26 [ordinance] resolution the governing body may fix a date for a
27 special election.

28 (c) In the case of a special election to increase debt not
29 held concurrently with an election for other purposes, the
30 expense of holding such election shall be paid by the local

1 government unit for whose benefit it is held.

2 Section 302. Advertisement of Election.--(a) Notice of the
3 election shall be given in one but not more than two newspapers
4 published or circulating, in such local government unit and in
5 the legal journal, if any, designated by the rules of court of
6 the county in which such local government unit is located, for
7 the publication of legal notices and advertisements. If
8 published in a daily newspaper or newspapers it shall be
9 published three times at intervals of not less than three days,
10 but if published in a weekly newspaper or newspapers and in the
11 legal journal, it shall be published only twice, once a week for
12 two successive weeks. The first publication in at least one
13 paper shall be not less than fourteen nor more than twenty-one
14 days before the day of the election, but all such publications
15 shall be after the effective date of the [ordinance] resolution,
16 and need not be upon the same dates in different papers.

17 (b) The election notice shall contain and state:

18 (1) The date (determined as provided in section 301 of this
19 act) upon which the election is to be held;

20 (2) The estimated amount of the debt to be incurred, or to
21 be approved by the electors if already incurred;

22 (3) The project for which the debt will be, or was incurred;

23 (4) The estimated cost of the project;

24 (5) The question to be submitted to the voters at the
25 election which shall be substantially in the following
26 appropriate form:

27 "Shall debt in the sum of.....

28 dollars for the purpose of financing.....

29 (insert brief description of project) be Yes

30 (authorized to be incurred as) (transferred

1 from nonelectoral debt to) debt approved by the No
2 electors?"

3 Section 303. Conduct of Election.--(a) The governing body,
4 at least forty-five days before any election [upon an increase
5 in debt], called pursuant to section 301 shall cause to be
6 certified to the county board of elections of each county in
7 which such election is to be held a copy of the desire
8 [ordinance] resolution and the form of the question to be
9 submitted to the electors.

10 (b) Elections [to authorize an increase of debt] called
11 pursuant to section 301 shall be held at the place, during the
12 hours, and under the same regulations as provided by law for the
13 holding of municipal elections. In receiving, counting, and
14 making returns of the votes cast, the inspectors, judges, and
15 clerks of such election shall be governed by the act of June 3,
16 1937 (P.L.1333, No.320), known as the "Pennsylvania Election
17 Code."

18 (c) At such elections ballots shall only be furnished to, or
19 provision for voting on the question shall only be made for,
20 such voters as are resident in the local government unit the
21 debt of which is to be increased or approved by the electors.

22 (d) The election officers and clerks shall make return on
23 forms provided by the county board of elections of the votes
24 cast on such question to the county board of elections, which
25 shall compute the same and transmit a certified return thereof
26 to the governing body of the local government unit which shall
27 enter the same on its minutes. If [it appears] such certified
28 return shows that a majority of those voting on such question
29 have voted in favor [of the increase of debt] thereof,
30 irrespective of any other law requiring a greater percentage,

1 [the county board of elections shall also file a certified copy
2 of such return together with the copy of the ordinance certified
3 to the county board of elections by the local government unit,
4 in the office for the recording of deeds in and for such county,
5 where the recorder of deeds or similar officer shall enter the
6 same in the debt records of the local government unit. The local
7 government unit shall also file in the same place proofs of the
8 advertisement of the notice of election.] the local government
9 unit shall file with the department a certified copy of the
10 desired resolution, the certified return and proofs of
11 publication of the notice of election, whereupon the amount of
12 such debt so approved shall constitute electoral debt from and
13 after the date of the election, subject to the provisions of
14 section 304.

15 Section 10. Section 304 of the act is reenacted to read:

16 Section 304. Finality of Result of Election.--Any interested
17 party or any taxpayer may contest the validity of any election
18 proceedings under this Article III by filing with the
19 Commonwealth Court within thirty days from the date of the
20 election and not thereafter, a petition in the nature of a bill
21 in equity, specifically alleging the error or errors complained
22 of in the proceedings, and the petitioner shall have the burden
23 of proof. If no such petition has been filed within such period
24 of thirty days from the date of election, or if a petition shall
25 have been filed and shall have been finally dismissed, the
26 election shall be conclusively deemed to be valid for all
27 purposes. If prior to the timely filing of a petition, further
28 proceedings in connection with the incurring of such debt shall
29 have been filed with the department, then any contest shall
30 proceed by way of an appeal to the Commonwealth Court from the

1 action of the department upon such proceedings. The petition or
2 appeal provided by this section shall be such party's, or such
3 taxpayer's, sole and exclusive remedy.

4 Section 11. Section 305, 306 and 307 of the act are
5 reenacted and amended to read:

6 Section 305. Effect of Defeat of Question.--If at the
7 election the question is defeated, another election for the same
8 purpose or purposes may not be held until one hundred fifty-five
9 days have elapsed since the prior election; nor during the
10 interim shall any bonds or notes be issued or any lease rental
11 debt be incurred for such purpose or purposes except that
12 nonelectoral or lease rental debt may be incurred where required
13 to complete projects already under construction, to finance a
14 different portion or portions of a capital budget, or to
15 evidence debt incurred for purposes and pursuant to a court
16 approval obtained in accordance with subsection [(c)] (e) of
17 section 202 of this act.

18 Section 306. Issue of Bonds or Notes or Other Instruments to
19 Evidence Electoral Debt.--If at the election the question is
20 approved, the governing body shall issue bonds or notes as
21 electoral debt [either] as obligations of the local government
22 unit or [through an authority] shall authorize execution and
23 delivery of an instrument which, but for such electoral
24 approval, would evidence lease rental debt at such times and
25 [in] evidencing such amounts of obligations not exceeding in the
26 aggregate the estimated amount approved by the electors, subject
27 to the provisions of Article VI of this act. The bonds, notes or
28 obligations shall be or continue for such term as may have been
29 stated in the notice of election, or if none were stated for
30 such term as the governing body shall determine. The initial

1 series may be of bond anticipation notes or of notes to be
2 refunded by a bond issue. If the governing body determines it
3 advisable, the initial series of bonds or notes constituting a
4 part of the issue may be for a shorter term of years, with the
5 maturity or maturities of subsequent series stated to mature
6 later than the last stated maturity of the preceding series for
7 the same project: Provided, That nothing in Article III shall
8 preclude the issue of additional nonelectoral debt or lease
9 rental debt, to complete the project, or the issue of additional
10 electoral debt for the purpose if authorized by a subsequent
11 election.

12 Section 307. Cancellation or Termination of Approval of
13 Electors.--(a) On the [seventh] tenth anniversary of the date on
14 which an assent of the electors obtained under this act became
15 final, the authority to issue any or any further bonds or notes,
16 other than as nonelectoral debt or lease rental debt subject to
17 the limitations imposed by this act, shall cease and terminate.
18 [Any terminations of authorization to issue bonds or notes with
19 the assent of the electors shall be reflected in any annual debt
20 statement subsequently filed and recorded pursuant to this act.]

21 (b) The governing body of any local government unit may by
22 [ordinance] resolution, without the assent of the electors,
23 rescind or cancel, in whole or in part, the authorization to
24 incur electoral debt for any reason stated in such [ordinance]
25 resolution, and thereupon such assent of the electors shall be
26 rescinded and of no further effect. A certified copy of such
27 [ordinance] resolution with proof of the due publication thereof
28 shall be filed with the department [and with the office for the
29 recording of deeds of the county in which such local government
30 unit is located.]

1 Section 12. Section 308 of the act is reenacted to read:

2 Section 308. Limitation on Use of Proceeds of Electoral
3 Debt.--Where bonds or notes have been issued pursuant to an
4 assent of the electors given under this act, the proceeds
5 thereof shall be kept in a separate account and shall be
6 invested and used only for the cost (including the retirement of
7 notes previously issued for the same project with the proceeds
8 of bonds) of the project for which such assent was obtained
9 unless such purpose be changed as provided in this act;
10 otherwise such proceeds shall be kept invested and used for the
11 retirement at maturity, or earlier call date, of the fifth or
12 any subsequent stated maturity of the relevant series of bonds
13 or notes, unless such proceeds were previously used to purchase
14 such bonds or notes in the open market or upon tenders at prices
15 not exceeding the principal amount thereof plus accrued and
16 unpaid interest to the date of purchase.

17 Section 13. Section 309 of the act is reenacted and amended
18 to read:

19 Section 309. Manner of Effecting Change of Purpose of
20 Electoral Debt.--If the governing body shall determine it to be
21 advisable either before or after the issue of bonds or notes to
22 use the proceeds, or any part thereof, of bonds or notes
23 evidencing electoral debt, for any purpose other than the
24 project approved by the electors or the payment or prior
25 redemption or purchase of bonds or notes evidencing debt
26 incurred for such project, the governing body shall by
27 [ordinance] resolution express its desire to do so, specifying
28 the project for which the funds are proposed to be used, and
29 shall provide for an election to be held in like manner, time,
30 and place as provided in this article for elections to secure

1 the assent of the electors to the increase of debt, except that
2 the notice of the election shall state:

- 3 (1) The date on which such election is to be held;
4 (2) The date and amount of money theretofore borrowed and
5 the project for which borrowed;
6 (3) The amount of money remaining unused;
7 (4) The new purpose for which the local government unit
8 desires to make use of the money;
9 (5) The reason why the money is not being used for the
10 purpose for which it was borrowed; and
11 (6) The question to be submitted to the electors, which
12 shall be substantially in the following form:

13 "Shall the sum of.....dollars Yes
14 heretofore borrowed or authorized to be borrowed
15 by this local government unit for
16 the purpose of..... No
17be used for the purpose of.....
18?"

19 The election shall be conducted, return made thereon, notices of
20 election published and certificates filed and recorded as
21 provided in section 303 above. If it appears that a majority of
22 those voting on the question have voted in favor of using the
23 funds for the changed purpose (irrespective of any other law
24 requiring a greater percentage) the funds specified may be used
25 for such changed purpose.

26 Section 14. The article heading of Article IV of the act is
27 reenacted to read:

28 ARTICLE IV
29 Actions of Governing Body with Respect
30 to Incurring Debt, and Issuing Bonds, Notes, and

Bond Anticipation Notes

Section 15. Section 401, 402, 403, 404, 405, 406, 407 and 408 of the act are reenacted and amended to read:

Section 401. Combining Projects for Financing or Series of Bonds for Sale.--The Governing body of a local government unit may by ordinance [combine any two or more projects for financing purposes, including combining all rates, rentals, receipts, tolls and charges, creating common reserve funds, and the like, and it may also, combine by ordinance any one or more series of general obligation bonds or notes for purposes of simultaneous sale; subject, in each case, to the provisions of section 710 of this act.] take any of the following actions in connection with the issuance of bonds or notes or the authorization of the instrument creating lease rental debt:

(a) In lieu of combining two or more items or elements permitted to be combined pursuant to section 102(c)(12) as a single project, designate any one or more of such items or elements as a project and, in such case, combine such projects for financing purposes by one series of bonds or notes provided that if such series of bonds or notes shall be revenue bonds or notes, all projects so combined shall be revenue producing projects, all or a portion of the rates, rentals, receipts, tolls and charges may be combined and common reserve funds created and common or cross covenants made in respect of each project.

(b) Offer for simultaneous sale under separate or combined bids any two or more series of bonds or notes of any type.

(c) Provide for the financing of a project or projects by the issuance, either simultaneously or in succession, of any combination of instruments evidencing debt applicable to such

1 project or projects and authorized by this act.

2 Any ordinance required by this section may be included in any
3 authorizing ordinance required by section 403.

4 Section 402. [Ordinance Authorizing Issuance of Debt]

5 Preliminary Authorizations as to Financing.--The governing body
6 of a local government unit[, when it is determined to incur] may
7 express its intent to evidence debt[, whether] as electoral
8 debt, nonelectoral debt, or lease rental debt. [may determine by
9 ordinance to evidence such debt by an issue of bonds or notes of
10 the local government unit, or by the incurring of lease rental
11 debt. Such an ordinance shall not take effect unless adopted by
12 the affirmative vote of a majority of the members of the
13 governing body then holding office, and the vote of each member
14 thereon shall be recorded upon the minutes of such governing
15 body.] Such action may be taken by resolution which may also
16 provide for the submission of proposals to purchase any bonds or
17 notes, or such action may be taken by ordinance. But neither
18 bonds or notes nor lease, guaranty, subsidy contract or other
19 agreement evidencing lease rental debt shall be authorized other
20 than by the enactment of the ordinance or ordinances required
21 hereinafter in this article, or, in the case of notes issued
22 under section 409, other than by adoption of the resolution
23 therein required.

24 Section 403. Contents of Ordinance Authorizing [Debt]

25 Issuance of Bonds or Notes or Instruments Evidencing Lease
26 Rental Debt; Fixing the Date of Incurring Nonelectoral and Lease
27 Rental Debt; Changes in Purpose of Nonelectoral General
28 Obligation Bonds.--The ordinance or ordinances or, in the case
29 of notes issued under section 409, the resolution, authorizing
30 the [incurring of debt] issuance of bonds or notes or the

1 execution of a lease, guaranty, subsidy contract or other
2 agreement evidencing lease rental debt by a local government
3 unit shall contain, in substance:

4 (1) In all cases, including lease rental debt:

5 (i) A brief description of the project for which the debt is
6 to be incurred, and, if a capital project, a realistic estimated
7 useful life thereof;

8 (ii) A statement of the aggregate principal amount of bonds
9 or notes proposed to be issued pursuant to the ordinance or, as
10 the case may be, to be secured by the [lease rentals] instrument
11 evidencing lease rental debt;

12 (iii) A statement whether the debt is to be incurred as
13 electoral debt, nonelectoral debt or lease rental debt;

14 (iv) An authorization and direction to a specified officer
15 or specified officers and their successors to prepare and
16 certify and; except in the case of notes issued under section
17 409, to file the debt statement required by section 410 of this
18 act, to execute and deliver the bonds or notes or the [lease]
19 instrument evidencing lease rental debt; and to take other
20 necessary action, and such designation may be changed from time
21 to time thereafter; and

22 (v) An authorization, in the case of nonelectoral or lease
23 rental debt which is subject to exclusion as subsidized debt or
24 self-liquidating debt if such exclusion is presently desired, to
25 the proper officers of the local government unit to prepare and
26 file [originally, and annually thereafter as required,] any
27 statements required by Article II of this act which are
28 necessary to qualify all or any portion of the debt for
29 exclusion from the appropriate debt limit as self-liquidating
30 debt or subsidized debt.

(2) In every case except that of lease rental debt, the following:

(i) A statement whether the bonds or notes when issued will be general obligation bonds or notes, guaranteed revenue bonds or notes or revenue bonds or notes;

(ii) The covenant required by section 404 of this act if the bonds or notes when issued will be general obligation bonds or notes or guaranteed revenue bonds or notes and the pledge of specific rents, revenues or receipts, if the bonds or notes when issued will be guaranteed revenue bonds or revenue bonds, and if limited guaranteed revenue bonds or notes, a statement of the limitations on the guaranty;

(iii) The substantial form of the [bond or note] bonds or notes to be issued, including the substantial form of any coupon or authentication certificate;

(iv) A schedule of stated principal maturity or mandatory redemption amounts and dates, the rate or rates of interest and interest payment dates, places of payment, [sinking fund provisions,] and, if desired, provisions for prior redemption, including call dates and call prices; all of which shall conform with the provisions of Article VI of this act;

(v) A statement of the manner in which the bonds or notes are to be or have been sold and if to be sold at public sale, the matters required or permitted by Article VII of this act, or if to be sold at negotiated sale, there may be included the matters required or permitted by section 407;

(vi) [A] Except in the case of notes issued under section 409, a covenant creating the sinking fund required by Article X of this act [and such accounts in the sinking fund as may be necessary or desirable];

(vii) A statement of any tax or taxes the payment of which is assumed by the local government unit in consideration of the purchase of the bonds or notes[; and] and, if desired, authorization for the purchase of bond insurance; and

(viii) The authorization to the proper officials of the local government unit to contract with [a bank or bank and trust company] one or more banks or bank and trust companies for [its] services as trustee, fiscal agent, [or] sinking fund depository, [and] or paying agent, and to contract with such additional co-paying agents as may be desired, but compliance with this subclause shall not be required in the case of notes issued under section 409.

(3) In the case of lease rental debt the authorization to the proper officials of the local government unit to execute and deliver a lease, [as lessee, of the project,] guaranty, subsidy contract or other agreement, and the annual or semi-annual rental or payment to be paid thereunder, and source or sources of payment, and, in the case of a guaranty, the covenant required by section 404.

(4) [In the case of nonelectoral general obligation debt the purpose may be changed by ordinance at any time.] In the case of revenue or guaranteed revenue bonds or notes, there may be included the matters set forth in sections 405, 606, and 607.

The nonelectoral debt evidenced by the issuance of bonds or notes or the lease rental debt evidenced by the execution of a lease, guaranty, subsidy contract or other agreement shall be deemed to have been incurred upon the final enactment of the ordinance required by this section or, in the case of small borrowings, upon final adoption of the resolution required by section 409. Electoral debt is incurred when the assent of the

1 electors shall have been given.

2 In the case of nonelectoral general obligation debt the
3 purpose may be changed by similar action at any time.

4 Section 404. [Covenant to Pay General Obligation or
5 Guaranteed Revenue Bonds or Notes.--The local government unit
6 shall, in the ordinance authorizing the issue of general
7 obligation bonds or notes or guaranteed revenue bonds or notes,
8 covenant with the holders from time to time of the bonds and
9 coupons outstanding pursuant to the ordinance, that the local
10 government unit shall include the amount of the debt service and
11 the amounts payable in respect of its guaranty or guaranteed
12 revenue bonds for each fiscal year in which such sums are
13 payable in its budget for that year, shall appropriate such
14 amounts to the payment of such debt service, and shall duly and
15 punctually pay or cause to be paid the principal of every bond
16 and the interest thereon at the dates and places and in the
17 manner stated in the bonds and the coupons thereto appertaining,
18 according to the true intent and meaning thereof, and for such
19 budgeting, appropriation and payment, the local government unit
20 shall pledge its full faith, credit and taxing power; but
21 nothing in this covenant contained shall in any way oblige the
22 local government unit to make any payments on limited guaranteed
23 revenue bonds beyond the stated terms of its guaranty, as set
24 forth in the bonds. The covenant shall be specifically
25 enforceable.] Covenant to Pay Bonds or Notes or a Guaranty.--The
26 local government unit shall, in the ordinance authorizing the
27 issue of bonds or notes or a guaranty or in such bonds or notes,
28 or in the trust indenture securing the same, or in the
29 instrument of guaranty, covenant with the holders from time to
30 time of such bonds or notes or guaranteed bonds or notes, and of

1 the coupons thereto appertaining, that the local government unit
2 (i) shall include the amount of the debt service, or the amounts
3 payable in respect of its guaranty, in each case specified in
4 such covenant, for each fiscal year in which such sums are
5 payable in its budget for that year, (ii) shall appropriate such
6 amounts from its general or specially pledged revenues, as the
7 case may be, for the payment of such debt service or guaranty,
8 and (iii) shall duly and punctually pay or cause to be paid from
9 its sinking fund or any other of its revenues or funds the
10 principal of and interest on every such bond or note or, to the
11 extent of its obligation, the amount payable in respect of such
12 guaranty, at the dates and places and in the manner stated in
13 the bonds and in the coupons thereto appertaining or in such
14 guaranty, according to the true intent and meaning thereof. For
15 such budgeting, appropriation and payment in respect of its
16 general obligation bonds or notes, its guaranteed revenue bonds
17 or notes or its guaranty of the bonds or notes of an authority
18 or other local government unit, the local government unit shall
19 pledge its full faith, credit and taxing power unless such
20 guaranty is limited to specified revenues of the guarantor; but
21 nothing in the covenant contained shall in any way obligate the
22 local government unit to budget, appropriate or make any
23 payments on limited guaranteed revenue bonds or on a limited
24 guaranty of bonds or notes of any authority or other local
25 government unit beyond the stated terms of its guaranty. The
26 covenant shall be specifically enforceable. Nothing in this
27 section shall be construed to give to any local government unit
28 any taxing power not granted by another provision of law.

29 Section 405. Additional Provisions in Ordinance Authorizing
30 Issuance of Revenue or Guaranteed Revenue Bonds or Notes.--In

1 addition to the provisions required or permitted by [section]
2 sections 403, 606, and 607, the ordinance authorizing the
3 issuance of revenue bonds or notes or guaranteed revenue bonds
4 or notes may also contain:

5 (1) Such covenants or provisions with respect to the
6 collection, custody, investment and disbursement of rents,
7 revenues, rates and charges for the use of the project as may be
8 desired;

9 (2) Such covenants as to the fixing and collection of rents,
10 rates and charges for the use of the project, as may be desired,
11 and deemed necessary for the lawful security of the holders of
12 the bonds or notes, except that no such covenant, and no
13 agreement with the holders of bonds or notes shall require an
14 increase in such rents, rates, tolls and charges to a level
15 which, in the opinion of the registered professional engineer
16 advising the local government unit, will result in a decrease in
17 gross revenues over what would have been received at a somewhat
18 lower rate level;

19 (3) Provisions [creating] granting a [perfected] security
20 interest in the rents, revenues, rates, tolls and charges for
21 the security and benefit of the holders of the notes, bonds and
22 coupons;

23 (4) Provisions creating such reserve funds or accounts as
24 may be deemed desirable for the further security of the notes,
25 bonds and coupons and requiring the observance of such covenants
26 on the part of the local government unit as may be deemed
27 necessary or desirable for the protection of the holders of the
28 notes, bonds and coupons or for the maintenance and preservation
29 of the project;

30 (5) The authorization to the proper officers of the local

1 government unit to execute and deliver any trust indenture
2 containing such other, further and lawful provisions as may be
3 desired.

4 Section 406. Sinking Fund Depositary; Trustee for
5 Bondholders or Noteholders.--(a) Every local government unit
6 issuing bonds or notes (other than notes issued under section
7 409) shall appoint a sinking fund depositary which [shall] may
8 also serve as paying agent for the bonds or notes. The sinking
9 fund depositary shall be a bank or bank and trust company
10 authorized to do business in the Commonwealth of Pennsylvania
11 and may serve as such for one or more series of bonds or notes.
12 Funds, which may include interest accrued and to accrue on
13 lawful investments, in an amount sufficient for the payment of
14 the principal of and the interest on the bonds or notes shall be
15 deposited with the sinking fund depositary not later than the
16 date fixed for the disbursement thereof, unless the ordinance
17 authorizing the issuance of the bonds or notes shall require
18 that such deposit be made on an earlier date or on earlier
19 dates.

20 (b) If the ordinance authorizing the issuance of the bonds
21 or notes provides for a fiscal agent, or authorizes the
22 execution of a trust indenture appointing a trustee, the fiscal
23 agent or trustee shall also be the sinking fund depositary.

24 (c) If the local government unit shall fail or refuse to
25 make any required deposit in the sinking fund, the sinking fund
26 depositary, the fiscal agent, or the trustee, as the case may
27 be, may, and upon request of the holders of twenty-five per cent
28 in principal amount of the outstanding notes and bonds and upon
29 being indemnified against cost and expense, shall exercise any
30 remedy, provided in this act or at law or in equity, for the

1 equal and ratable benefit of the holders of the outstanding
2 notes, bonds and coupons, and shall disburse all funds so
3 collected equally and ratably to the holders of the notes, bonds
4 and coupons as provided in the ordinance authorizing the bonds,
5 subject to any limitations contained in Article XII of this act.

6 Section 407. Award of Bonds or Notes.--When an acceptable
7 proposal for the purchase of the bonds or notes, or any parcel
8 thereof offered separately, has been received and is in
9 conformity with the terms of the official invitation for
10 proposals or is an acceptable proposal at negotiated or invited
11 sale, and is in compliance with the provisions of this act, it
12 may be accepted by resolution or by ordinance. [which] If the
13 acceptance shall be made by resolution, the acceptance shall be
14 conditional upon compliance with section 403. If the acceptance
15 shall be by ordinance, the ordinance shall also fix any details
16 of the series of bonds or notes being sold not fixed by [the]
17 prior ordinance, and award the bonds or notes, or such of them
18 as have been sold, to specified purchasers at prices specified
19 in such ordinance. Such provisions may be included in the
20 ordinance adopted pursuant to section 403 [in the case of a
21 negotiated sale]. Notwithstanding any other provision of this
22 act or of any other law, as between the local government unit
23 and the purchasers, an awarding resolution or ordinance shall be
24 effective upon its final adoption or enactment by the governing
25 body. The advertisement [thereof] of the ordinance prior to
26 enactment shall be sufficient if it describes the items to be
27 completed from the proposal.

28 Section 408. Bond Anticipation Notes.--(a) If deemed
29 desirable, the governing body may evidence all or part of any
30 electoral or nonelectoral debt by the issue of a series of bond

1 anticipation notes. Such notes shall be payable by exchange for,
2 or out of the proceeds of, the sale of a designated series of
3 bonds referred to in the bond anticipation notes. The reference
4 to the bonds shall specify a maximum rate of interest to be
5 borne by the series of bonds and provide that the series shall
6 be offered for sale but if no proposals shall be received, the
7 sole remedy of the holders of the bond anticipation notes shall
8 be either to accept the bonds at the specified maximum interest
9 rate, or to extend the maturity of the bond anticipation notes
10 for one or more specified additional periods of not less than
11 six months each during which additional offers of the bonds may
12 be made.

13 (b) Bond anticipation notes may be authorized, issued and
14 sold in the same manner as the bonds in anticipation whereof the
15 notes are being issued and principal amounts thereof shall be
16 retired in accordance with the specified stated maturity dates
17 of the said bonds occurring prior to the refunding of such
18 notes.

19 Section 16. Section 409 of the act, amended June 18, 1975
20 (P.L.20, No.8), is reenacted and amended to read:

21 Section 409. Small Borrowing for Capital Purposes.--(a) Any
22 local government unit is hereby authorized to incur debt by
23 resolution rather than by ordinance to be evidenced by notes to
24 provide funds for a project as defined in this act without
25 complying with the requirements of Article VIII provided: (i)
26 that the aggregate amount of such debt outstanding at any one
27 time shall not exceed the lesser of [fifty thousand dollars]
28 \$50,000 or thirty percent of the borrowing base; (ii) that the
29 principal of each such debt shall mature not later than five
30 years from the date of issuance; (iii) that the incurrence of

1 such debt shall not cause the debt limits of Article II to be
2 exceeded; [(iv) that a debt statement prepared pursuant to
3 section 410 certifying thereon compliance with this act shall be
4 filed with the department; and (v)] that the provisions of
5 section 10 of Article IX of the Constitution shall have been
6 observed and provided further that the provisions of section 808
7 shall apply to notes issued in violation of the foregoing
8 requirements.

9 (b) Except as otherwise specifically stated in this section
10 or in Articles IV, VI and VII, the provisions of Article IV
11 applicable to ordinances authorizing general obligation bonds or
12 notes and the provisions of Articles VI and VII applicable to
13 general obligation bonds or notes shall apply, respectively, to
14 resolutions authorizing notes and to the notes, authorized under
15 this section. Notes authorized under this section may be sold,
16 without formal documents of sale, by delivery of the notes upon
17 receipt of the purchase price, or at the option of the local
18 government unit they may be sold in compliance with section 407
19 in which event the term "ordinance" in section 407 shall have
20 reference to the authorizing resolution required by this
21 section. Refunding notes may be issued in compliance with this
22 section and with the provisions of Article XI for the purpose of
23 refunding notes previously issued under this section provided
24 that the maturity of the refunding notes shall not extend beyond
25 five years from the date of issuance of the notes originally
26 evidencing the debt refunded.

27 Section 17. Section 410 of the act is reenacted and amended
28 to read:

29 Section 410. Debt Statement.--(a) Before delivering any
30 general obligation bonds or notes, or guaranteed revenue bonds

1 or notes constituting nonelectoral debt or executing [a lease
2 evidencing the acquisition of a capital asset,] an instrument
3 evidencing lease rental debt the officer or officers [authorized
4 by ordinance] of [the] a local government unit shall prepare and
5 verify under oath or affirmation a debt statement as of a date
6 not more than sixty days before the filing with the department
7 or, in the case of notes issued under section 409, before the
8 final adoption of the resolution authorizing their issue,
9 showing:

10 (1) The gross indebtedness of the local government unit
11 giving prospective effect to the provisions of section 1110(b)
12 if debt is to be refunded;

13 (2) By items, the claimed credits and exclusions from such
14 gross indebtedness permitted by this act in determining net
15 debt;

16 [(3) The remaining electoral debt, net nonelectoral debt and
17 net lease rental debt of the local government unit totaled
18 separately for each applicable debt limitation specified in this
19 act;

20 (4)] (3) The aggregate principal amount of the bonds or
21 notes being issued or [to be supported by a lease] evidencing
22 lease rental debt;

23 [(5) The amount thereof constituting new net nonelectoral
24 debt or new net lease rental debt;

25 (6) The aggregate net nonelectoral debt and the net
26 nonelectoral debt and net lease rental debt combined, stated
27 separately, to be outstanding after settlement for the issue;

28 (7)] (4) The borrowing base of the local government unit as
29 shown by an appended borrowing base certificate;

30 [(8)] (5) The applicable nonelectoral debt limit and the

1 limit for nonelectoral plus lease rental debt computed as
2 provided in this act;

3 (6) In the case of a refunding, the principal amount of
4 bonds or notes which will no longer be deemed to be outstanding
5 pursuant to section 1110(b) after settlement of the issue.

6 (b) Where debt has previously been excluded as self-
7 liquidating or subsidized debt, the debt statement shall be
8 accompanied by a certification that no decrease in the amounts
9 to be excluded is required by any change of circumstances, or if
10 there has been a change so that less debt is to be excluded or
11 if it has become possible to exclude a greater amount of debt,
12 and the local government unit desires to do so, the debt
13 statement shall be accompanied by appropriate certificates
14 supporting the revised amount to be excluded and a revised
15 approval shall be obtained from the department and filed in the
16 office for the recording of deeds in the county in which such
17 local government unit is located to effectuate such exclusion.

18 Section 18. Section 411 of the act, amended June 18, 1975
19 (P.L.20, No.8), is reenacted and amended to read:

20 Section 411. Submission to Department.--(a) Before
21 delivering any bonds or notes [in excess of fifty thousand
22 dollars (\$50,000) or thirty percent of the borrowing base,
23 whichever is lesser] other than notes representing small
24 borrowings issued under section 409, the local government unit
25 shall apply for and receive or be deemed to have received the
26 approval of the department under section 804 or 806. The
27 application, in such form as the department shall prescribe,
28 shall be accompanied by a transcript of the proceedings
29 consisting of certified copies of any of the following, not
30 previously filed, which are applicable:

1 (1) The ordinance calling the election in the case of
2 electoral debt with proofs of all proper advertisements;
3 (2) The return of election;
4 (3) The ordinance or ordinances [or resolution] authorizing
5 the bonds or notes [and prescribing the manner of sale] with
6 proofs of proper publication;

7 (4) The accepted proposal for the purchase of the bonds or
8 notes;

9 (5) The ordinance or [ordinances] resolution awarding the
10 bonds or notes with proofs of proper publication of the
11 ordinance;

12 (6) The debt statement if required by section 410 prepared
13 pursuant [to section 410] thereto;

14 (7) Such certificates and proofs as may be necessary for the
15 exclusion of any portion of the series proposed to be delivered
16 or any prior series as self-liquidating debt or subsidized debt
17 if such exclusion is desired by the local government unit.

18 (b) Before becoming bound [in an amount in excess of fifty
19 thousand dollars (\$50,000) or thirty percent of the borrowing
20 base, whichever is lesser,] on any lease, guaranty, subsidy
21 contract, or other agreement evidencing [the acquisition of a
22 capital asset] lease rental debt, a local government unit shall
23 apply for and receive or be deemed to have received the approval
24 of the department under section 804 or 806.

25 The application, in such form as the department shall
26 prescribe, shall be accompanied by certified copies of the
27 following:

28 (1) The ordinance authorizing the execution of the lease,
29 guaranty, subsidy contract, or other agreement with proofs of
30 proper publication; and

(2) The debt statement prepared pursuant to section 410.

(c) No lease, guaranty, subsidy contract or other agreement
evidencing lease rental debt executed and delivered after the
effective date of the act and prior to the approval [or the
presumed approval] pursuant to section 804 or 806 of the
department shall be valid or obligatory. Except as reference is
made in this act to lease rental debt, this act shall have no
application to the authorization, issue or sale of its
obligations by any authority.

(d) The application may be made in as many counterparts as
desired. The department, if it approves the application, shall
return all such counterparts, save one, with its certificate of
approval appended to each.

Section 19. Sections 412, 413, 414 and 415 of the act are
reenacted and amended to read:

Section 412. Agreements with Bondholders or Noteholders.--
Except as otherwise specified in this act, a local government
unit has the authority to enter into and perform contracts with
the holders of its bonds or notes binding upon the original
purchasers and their respective transferees placing greater
reasonable and lawful restrictions on the local government unit
or on the action of individual holders of bonds or notes than
are provided in this act, but no such additional agreement
restricting the action of a holder of a bond or note shall be
binding upon a remote holder of a bond or note unless the
substance of such agreement is set forth in the text of the bond
or note, or set forth in a bond resolution or indenture of trust
which is kept available in one or more designated public offices
and to all of which a reference is [conspicuously] made in the
text of the bond or note.

1 Section 413. Lost, Stolen, Destroyed or Mutilated Bonds or
2 Notes.--If any temporary or definitive bond or note [issued
3 under this act] (including any tax anticipation note) lawfully
4 issued under this act or under applicable law prior to the
5 effective date of this act shall become mutilated or be
6 destroyed, stolen or lost, the local government unit shall
7 execute and any sinking fund depositary, fiscal agent or trustee
8 for bondholders shall, if required, authenticate and deliver a
9 new bond or note, with appropriate coupons attached in the case
10 of a bond or note in coupon form, of like series and principal
11 amount as the bond or note and attached coupons, if any, so
12 mutilated, destroyed, stolen or lost, upon surrender and
13 cancellation of such mutilated bond or note and attached
14 coupons, if any, or in lieu of and in substitution for the bond
15 or note and coupons, if any, destroyed, stolen or lost, upon
16 filing with the local government unit, or if so provided in the
17 bond ordinance, with the sinking fund depositary, fiscal agent
18 or trustee, evidence satisfactory to it, that such bond or note
19 and attached coupons, if any, have been destroyed, stolen or
20 lost and proof of ownership thereof and upon furnishing of
21 satisfactory indemnity and complying with such other reasonable
22 regulations as the local government unit shall prescribe, and
23 paying any reasonable expenses, including counsel fees, as the
24 local government unit or the sinking fund depositary, fiscal
25 agent or trustee may incur. Mutilated bonds or notes and
26 appurtenant coupons, if any, surrendered shall be cancelled. The
27 new bonds or notes and coupons, if any, so issued shall be
28 independent obligations and all limitations and debt limits
29 shall be deemed increased to the extent necessary to validate
30 such new bonds or notes and any appurtenant coupons.

1 Section 414. Evidence of Signatures of Holders [of Bonds or
2 Notes] and of Ownership of Bonds, [or] Notes and Tax
3 Anticipation Notes.--Any request, consent or other instrument
4 which may be required or permitted to be executed by the holders
5 of bonds or notes (including tax anticipation notes) may be in
6 one or more instruments of similar tenor, and shall be signed or
7 executed by such holders in person or by their attorneys
8 appointed in writing. Proof of (i) the execution of any such
9 instrument, or of an instrument appointing any such attorney, or
10 (ii) the holding by any person of bonds or notes or coupons
11 appertaining thereto, shall be sufficient for the purposes of
12 this act and any proceeding thereunder if made in the following
13 manner:

14 (1) The certificate shall state that the person or persons
15 signing such instrument were known to be such persons by the
16 individual certifying and that such person or persons
17 acknowledged the execution of the instrument as his or their
18 act. The authority of an attorney or agent may be proven by like
19 statement of the principal acknowledged in a like manner, but a
20 certificate as to authority shall not be necessary if an
21 instrument is executed on behalf of a corporate holder of bonds,
22 notes or coupons by a person purporting to be the president or a
23 vice-president of such corporation with the corporate seal
24 affixed and attested by a person purporting to be its secretary
25 or an assistant secretary.

26 The fact and date of the execution by the holder of any
27 bond, note or coupon, or the attorney thereof, of any instrument
28 may be proved by the certificate, which, except as hereinafter
29 provided, need not be acknowledged or verified of:

30 (i) an officer of any bank or bank and trust company which

1 is in Pennsylvania, or which has a correspondent in Pennsylvania
2 certifying to the authenticity of its certificate;

3 (ii) an authorized signer for any broker or dealer in
4 securities doing business in Pennsylvania, or having a
5 correspondent in Pennsylvania certifying to the authenticity of
6 its certificate;

7 (iii) any notary public or other officer authorized to take
8 acknowledgments of deeds to be recorded in the state in which he
9 purports to act;

10 (iv) any other witness to such execution, whose certificate,
11 however, must be verified before a notary public or other
12 officer authorized to take acknowledgments of deeds in the state
13 in which he purports to act.

14 (2) The ownership of fully registered bonds or notes or of
15 notes issued payable to the order of a named person, or bonds or
16 notes registered as to principal, and the amount, number and
17 date of holding the same shall be proved by the registry records
18 maintained for the series in question.

19 (3) The amount of bonds or notes transferable by delivery
20 held by any person executing any instrument as the holder of a
21 bond, note or coupon, the number thereof and the date of holding
22 such bond, note or coupon may be proved by a like certificate of
23 any person mentioned in subclauses (i) or (ii) of clause (1) of
24 this section 414, stating that such holder exhibited to the
25 person executing the certificate, or had on deposit with him the
26 bonds or notes described in the certificate. For purposes of
27 action to be taken by the holders of bonds, notes or coupons,
28 the holder shall be deemed to continue as such if he acts as
29 such, for a period of nine months after the date of the proof of
30 holding. Continued ownership after such period shall require a

1 new certificate or shall be taken as continuing if the original
2 certificate contains a statement that the bonds, notes or
3 coupons are on deposit with the signer and an undertaking not to
4 release the same, and not to attorn to any new owner, unless the
5 certificate is presented to such depository.

6 (4) Any request, consent or vote of the owner of any bond,
7 note, or coupon shall bind all future holders thereof if a
8 notation of such action is placed on the bond, note or coupon,
9 and also even if not so noted, if notice thereof is given once
10 by publication in a newspaper of general circulation in the
11 county in which the local government unit is located, and in a
12 journal of general circulation among dealers in investment
13 securities.

14 (5) In cases of disputed ownership, and in other cases, in
15 its discretion, a court, a local government unit, or a trustee
16 or fiscal or paying agent, may require further or other proof in
17 cases where it deems the same desirable.

18 Section 415. Ordinances and Resolutions Are Contracts with
19 Holders of Bonds, [or] Notes and Tax Anticipation Notes.--Except
20 as otherwise provided in any ordinance or resolution authorizing
21 or awarding bonds or notes or tax anticipation notes, the terms
22 thereof and of this act as in effect when such bonds or notes
23 were authorized shall constitute a contract between the local
24 government unit and the holders from time to time of such bonds
25 and notes subject to modification by the vote of a majority of
26 the holders or such larger portion thereof as may be provided in
27 the bond or note.

28 Section 20. The article heading of Article V of the act is
29 reenacted to read:

30 ARTICLE V

1 Tax Anticipation Notes and Funding Debt

2 Section 21. Sections 501 and 502 of the act, amended October
3 11, 1972 (P.L.901, No.214), are reenacted and amended to read:

4 Section 501. Power to Issue Tax Anticipation Notes.--A local
5 government unit shall have power and authority, by resolution of
6 its governing body, to borrow money from time to time in any
7 fiscal year in anticipation of the receipt of current taxes
8 [and] or current revenues, or both, to evidence the
9 [indebtedness] obligation by notes, [denominated tax
10 anticipation notes] appropriately designated, and to authorize,
11 issue and sell such [tax anticipation] notes in the manner, and
12 subject to the limitations provided therefor in this article.

13 References in this act to tax anticipation notes include also
14 revenue anticipation notes and tax and revenue anticipation
15 notes. Limitations imposed by this act on the incurring of
16 nonelectoral debt shall not apply to the [indebtedness]
17 obligations evidenced by tax anticipation notes. Such power to
18 borrow from time to time shall include but not be limited to,
19 the power to make a single authorization and then issue and sell
20 portions of such amount of authorized notes whenever desired
21 during the fiscal year.

22 Section 502. Limitation on Amount of Tax Anticipation
23 Notes.--No local government unit shall authorize or issue tax
24 anticipation notes in any one fiscal year [in an amount
25 exceeding] which in the aggregate shall exceed eighty-five per
26 cent of: [the sum of the taxes levied for the current fiscal
27 year and the current revenues for such year, not yet received,
28 which]

29 (1) in the case of notes solely payable from and secured by
30 a pledge of taxes, the amount of such taxes levied for the

1 current fiscal year;

2 (2) in the case of notes solely payable from and secured by
3 a pledge of revenues other than tax revenues, the amount of such
4 revenues pledged; or

5 (3) in the case of notes payable from and secured by a
6 pledge of taxes and other revenues, the sum of such taxes levied
7 and such revenues pledged, which, in all cases, are certified,
8 pursuant to section 506 as remaining to be collected or received
9 in such fiscal year during the period [between the first day of
10 the month next following the date of the delivery of the tax
11 anticipation notes to the first purchasers thereof and the
12 stated maturity date thereof] when the notes will be
13 outstanding. The certificate shall be as of a date not more than
14 thirty days prior to, and no later than, the date of the vote on
15 the resolution authorizing the issue and sale of the tax
16 anticipation notes. In computing the aggregate amount of tax
17 anticipation notes outstanding at any given time during the
18 fiscal year for the purpose of the limitation imposed by this
19 section, allowance shall be made for such notes as have already
20 been fully paid and for amounts already paid into appropriate
21 sinking funds, if any.

22 Section 22. Section 503 of the act is reenacted to read:

23 Section 503. Limitation on Stated Maturity Date of Tax
24 Anticipation Notes; Time of Payment of Interest.--No tax
25 anticipation notes shall be stated to mature beyond the last day
26 of the fiscal year in which such tax anticipation notes are
27 issued. Interest on tax anticipation notes from the date thereof
28 shall be payable at the maturity of such notes or payable in
29 installments at such earlier dates and at such annual rate or
30 rates as the governing body of the local government unit may

1 determine.

2 Section 23. Section 504 of the act, amended October 11, 1972
3 (P.L.901, No.214), is reenacted and amended to read:

4 Section 504. Other Terms of Tax Anticipation Notes.--Tax
5 anticipation notes shall be issued in such denominations, shall
6 be subject to such rights of prior redemption, shall have such
7 privileges of interchange and registration, shall be dated,
8 shall be stated to mature (subject to the provisions of section
9 503) on such dates and in such amounts, shall be in registered
10 or bearer form with or without coupons, shall be payable in such
11 coin or currency as at the place and at the time of payment
12 shall be legal tender for the payment of public and private
13 debts, and shall be payable at such place or places, one of
14 which shall be within the Commonwealth of Pennsylvania, all as
15 the governing body of the issuing local government unit may
16 determine by resolution.

17 Section 24. Section 505 of the act, amended November 30,
18 1972 (P.L.1252, No.280), is reenacted and amended to read:

19 Section 505. Security for Tax Anticipation Notes; Sinking
20 Fund.--All tax anticipation notes issued in a single fiscal
21 year, shall be equally and ratably secured by the pledge of,
22 security interest in, and a [first] lien and charge on, the
23 taxes [and] or revenues or both of the local government unit
24 specified in the authorizing resolution to be received [between
25 the first day of the month next following the date of the
26 delivery of such tax anticipation notes to the first purchasers
27 thereof and the last stated maturity date of such notes] during
28 the period when the notes will be outstanding. Such pledge, lien
29 and charge shall be fully perfected as against the local
30 government unit, all creditors thereof, and all third parties in

1 accordance with the terms of such resolution from and after the
2 filing [thereof in the office for the recording of deeds in and
3 for the county in which such local government unit is located
4 notwithstanding the provisions of any other law. Unless
5 otherwise provided in the tax anticipation notes, eighty-five
6 per cent or such lesser percentage of anticipated taxes and
7 revenues as was borrowed plus an added percentage to provide for
8 estimated net interest to maturity of all moneys collected after
9 such first day of the month shall be paid into a separate
10 sinking fund for the tax anticipation notes to be held by a bank
11 or bank and trust company authorized to do business in the
12 Commonwealth of Pennsylvania as sinking fund depository, until
13 the amount held in the sinking fund including any interest to be
14 earned thereon shall equal the principal of and the interest
15 remaining to be paid upon the outstanding tax anticipation
16 notes. The terms of the tax anticipation notes may provide for
17 the payment of specific sums into the separate sinking fund for
18 the tax anticipation notes on specified dates in amounts
19 sufficient to provide moneys for the payment of the principal of
20 and the interest on such tax anticipation notes as the same
21 shall fall due; but no such specified payments in the aggregate
22 shall be in an amount larger than eighty-five per cent plus an
23 added percentage to provide for estimated net interest to
24 maturity of the taxes and revenues estimated to be collected in
25 such fiscal year on and after the date of the notes and before
26 the date of the last of such payments. Such specified amounts
27 shall on such dates be paid into the separate sinking fund by
28 the treasurer of the local government unit. In default of such
29 payment, all tax moneys and revenue thereafter received by the
30 local government unit shall be paid into such separate sinking

1 fund, until such sum shall have been paid in full. Such
2 obligation shall be specifically enforceable by the sinking fund
3 depository for the benefit of the holders of the tax
4 anticipation notes.] of a financing statement or statements in
5 accordance with the Uniform Commercial Code. For the purpose of
6 such filing the sinking fund depository, if any, otherwise the
7 fiscal agent or paying agent designated in the notes, may act as
8 the representative of noteholders and, in such capacity, execute
9 and file the financing statement and any continuation or
10 termination statements as secured party. The authorizing
11 resolution may establish one or more sinking funds and provide
12 for periodic or other deposits therein, and may contain such
13 covenants or other provisions as the local government unit shall
14 determine. The amount of any tax anticipation notes issued in
15 compliance with this act shall be general obligations of the
16 local government unit and, if the same shall not be paid within
17 the fiscal year in which such notes were issued, shall be deemed
18 to be nonelectoral debt enforceable in the manner of a general
19 obligation which unless funded pursuant to this article, shall
20 be included in the budget of the local government unit for the
21 ensuing fiscal year and shall be payable from the taxes and
22 revenues of such ensuing year notwithstanding that the amount
23 thereof shall cause the nonelectoral debt of such local
24 government unit to exceed the limitations of Article II.

25 The holder of such tax anticipation notes issued by a first
26 class school district or the sinking fund depository of the
27 applicable sinking fund, if any, therefor shall have the right
28 to enforce such pledge of, security interest in and [first] lien
29 and charge on, the pledged taxes and revenues of the first class
30 school district against all State and local public officials in

1 possession of any of such taxes and revenues at any time which
2 may be collected directly from such officials upon notice by
3 such holder or depositary for application to the payment thereof
4 as and when due or for deposit in the applicable sinking fund at
5 the times and in the amounts specified in such tax anticipation
6 notes. Any State or local public official in possession of any
7 of such taxes and revenues shall make payment, against receipt
8 therefor, directly to the holder of such tax anticipation notes
9 or to such depositary upon such notice and shall thereby be
10 discharged from any further liability or responsibility for such
11 taxes and revenues. If such payment shall be to a holder of tax
12 anticipation notes, it shall be made against surrender of the
13 notes to the payor for delivery to the first class school
14 district in the case of payment in full, otherwise it shall be
15 made against production of the notes for notation thereon of the
16 amount of the payment. The provisions of this paragraph with
17 respect to the enforceability and collection of taxes and
18 revenues which secure tax anticipation notes of a first class
19 school district shall supersede any contrary or inconsistent
20 statutory provision or rule of law. This paragraph shall be
21 construed and applied to fulfill the legislative purpose of
22 clarifying and facilitating temporary borrowings by a first
23 class school district by assuring to holders of tax anticipation
24 notes the full and immediate benefit of the security therefor
25 without delay, diminishment or interference based on any
26 statute, decision, ordinance or administrative rule or practice.

27 Section 25. Section 506 of the act is reenacted and amended
28 to read:

29 Section 506. Certification as to Taxes and Revenues to be
30 Collected.--Prior to each [issuance] authorization of tax

1 anticipation notes, [the] authorized officers of the local
2 government unit shall make [a careful monthly] an estimate of
3 the moneys to be received [in each remaining months of the
4 fiscal year] during the period when such notes will be
5 outstanding from taxes then levied and assessed and revenues
6 including, without limitation, subsidies or reimbursements to be
7 received. Such estimate shall take due account of the past and
8 anticipated collection experience of the local government unit
9 and of current economic conditions. The estimate shall be
10 certified by such officers and their written certificate dated
11 as of a date not more than thirty days prior to the date of the
12 authorization of the notes shall be filed [of record] with the
13 proceedings authorizing the tax anticipation notes [in the
14 office for the recording of deeds in and for the county in which
15 such local government is located] with the department.

16 Section 26. Sections 507 and 508 of the act, amended October
17 11, 1972 (P.L.901, No.214), are reenacted and amended to read:

18 Section 507. Sale of Tax Anticipation Notes.--Tax
19 anticipation notes may be sold at public, [or] private, or
20 invited sale as the governing body of the local government unit
21 may determine. Any public sale shall be advertised and conducted
22 in the manner and subject to the conditions provided for a
23 public sale of bonds in Article VII of this act, except as
24 modified by this Article V. The governing body of the local
25 government unit shall award the notes by resolution to specified
26 purchasers at a specified price, not less than the principal
27 amount thereof. At the time of delivery of each issue, series or
28 subseries of tax anticipation notes, authorized officers of the
29 local government unit shall certify to the original purchasers
30 thereof that the amount of all such notes to remain outstanding

1 will not exceed the limitations of section 502 calculated,
2 however, from the date of such certificate to the respective
3 maturity dates of all such notes to remain outstanding. Such
4 certificate need not be filed with the department but a copy
5 thereof shall be retained by the local government unit until all
6 tax anticipation notes issued during the fiscal year shall have
7 been paid in full.

8 Section 508. Condition Precedent to Validity of Tax
9 Anticipation Notes.--No tax anticipation note shall be valid or
10 obligatory in the hands of an original purchaser thereof until
11 certified copies of the authorizing and awarding resolution, the
12 certificate as to the taxes and revenues remaining to be
13 collected, and a true copy of the accepted proposal for the
14 purchase of the tax anticipation notes shall have been filed
15 [for record in the office for the recording of deeds in and for
16 the county in which the local government unit is located and]
17 with the department. No approval of the department shall be
18 required. [, nor shall the provisions of Article VIII apply, in
19 the case of tax anticipation notes.]

20 Section 27. Section 509 of the act is reenacted and amended
21 to read:

22 Section 509. Unfunded Debt.--[Unfunded] For the purpose of
23 this article, unfunded debt shall mean obligations of the same
24 or a prior year [properly contracted] incurred for current
25 expenses (including tax anticipation notes) due and owing[,
26 which] or judgments against the local government unit entered by
27 a court of competent jurisdiction after adversary proceedings,
28 for the payment of either of which category the taxes and other
29 revenues remaining to be collected in the fiscal year and funds
30 on hand will not be sufficient [to pay] without a curtailment of

1 municipal services to an extent endangering the health or safety
2 of the public or proper education of school children, and the
3 local government unit either may not legally levy a sufficient
4 tax for the balance of the fiscal year, or a sufficient tax, if
5 legally leviable, would [be seriously regressive and] not be in
6 the public interest. Unfunded debt shall not, however, include
7 debt incurred under this act nor obligations in respect of a
8 project or part of a project as defined in section 102(c)(12) or
9 incurred in respect of the cost of a project as defined in
10 section 107.

11 Section 28. Sections 510 and 511 of the act are repealed.

12 Section 29. Section 512 of the act, amended December 21,
13 1973 (P.L.434, No.153), is reenacted and amended to read:

14 Section [512] 510. Approval by Court.--(a) [In all cases
15 not covered in section 511, including cases covered thereby in
16 which the funding debt would exceed applicable debt limitations,
17 the local government unit shall] Whenever the governing body of
18 a local government unit shall be of the opinion that it has
19 outstanding unfunded debt, it may, by petition to the court of
20 common pleas of the county where the local government unit is
21 located or, if located in two counties, of either county,
22 setting forth the facts, request approval for the issuance of
23 bonds or notes to fund the unfunded debt. After hearing, on such
24 notice to the local government unit and its taxpayers as the
25 court may prescribe, the court shall make an order granting
26 authority to fund all or a part of such unfunded debt if the
27 court shall find that such unfunded debt [was lawfully
28 incurred,] is a lawful obligation of the local government unit,
29 that there has been an unforeseeable decline in revenues, or
30 that taxes levied have not produced the revenues anticipated or

1 that it was not reasonable to foresee such obligation; that
2 paying such debt by curtailing municipal services will be
3 dangerous to the public health, safety or education, and that it
4 is not feasible or not in the public interest to levy additional
5 taxes in the current fiscal year. The funding debt so approved
6 shall be stated to mature in such amounts and over such number
7 of years, not exceeding ten, as the court shall find will
8 accomplish the payment of the debt without endangering the
9 rendering of municipal services or requiring the levying of
10 excessive taxes. [The provisions of section 409 of this act
11 shall not be applicable to such notes.] If the funding of the
12 unfunded debt has not been approved by a vote of the [people]
13 electors, the order of the court [shall] upon cause shown may
14 fix the portion thereof, if any, which shall not be charged
15 against the nonelectoral debt limitations of the local
16 government unit under [section 202] sections 202 or 505 of this
17 act during the time such funding debt is outstanding. [, so as
18 to leave some available borrowing capacity for other
19 situations.] The percentages fixed by section 202 of this act
20 shall be deemed increased to the extent required for such
21 funding debt.

22 (b) The bonds or notes representing funding debt so
23 authorized by the court shall be issued and sold by the
24 governing body as provided by other provisions of this act,
25 [except that no approval of the department shall be required,
26 but the local government unit shall file a certified copy of the
27 proceeding together with a certified copy of the order of the
28 court in the office for the recording of deeds in and for the
29 county in which such local government unit is located prior to
30 the delivery of any bonds or notes evidencing such debt.] in

1 respect of general obligation bonds except as such provisions
2 are modified by this section or by orders of the court issued
3 under this section, and the proceedings filed by the local
4 government unit in respect of such funding bonds under section
5 801 shall include certified copies of the petition and of the
6 order of the court.

7 (c) This section shall not be applicable to the funding of
8 obligations in respect of a project or part of a project as
9 defined in section 102(c)(12) or incurred in respect of the cost
10 of a project as defined in section 107.

11 Section 30. The article heading of Article VI of the act is
12 reenacted to read:

13 ARTICLE VI

14 Limitations on Provisions of Bonds or Notes;

15 Required Terms and Stated Maturities

16 Section 31. Sections 601, 602, 603, 604, 605 and 606 of the
17 act are reenacted and amended to read:

18 Section 601. Form of Bonds or Notes.--Bonds or notes may be
19 issued in such denominations, in coupon form payable to bearer
20 or registrable as to principal, or in fully registered form,
21 with such provisions for exchangeability and interchangeability;
22 shall bear such identifying designation or title, including
23 words indicating whether the bonds or notes are general
24 obligation, revenue, guaranteed revenue or limited guaranty
25 revenue bonds or notes; shall be dated; shall bear such rate or
26 rates of interest, including supplemental, contingent, or
27 variable interest (but if contingent or variable interest is
28 specified, a maximum rate or amount shall also be specified),
29 may be subject to such provisions for prior redemption in whole
30 or in part or both, at such price or prices and at such times;

1 and shall be stated to mature, or may be payable in
2 installments, on such date or dates and in such amounts; may
3 provide for the payment by the issuer of such tax or taxes on
4 the bonds or notes, either absolutely or out of pledged
5 revenues; and may provide for such pledge of revenues, the
6 establishment of such reserves and other terms; all as the
7 governing body of the issuing local government unit may
8 determine by ordinance or ordinances [determine] adopted prior
9 to the delivery of the bonds or notes, subject to the
10 limitations and restrictions specified in this act.

11 Section 602. Limitations on Stated Maturity Dates.--(a)
12 [Except as provided in subsection (b) of section 710 on
13 combining for purposes of sale, or in Articles V or XI hereof,
14 no] No bonds or notes shall be issued with a stated maturity
15 date exceeding the sooner to occur of:

16 (1) Forty years from the date of the [first incurring of
17 any] series of any bonds or notes issued to evidence debt for
18 the purpose of financing the cost of actually constructing,
19 acquiring or improving a project or a separately financed
20 portion of a project; or

21 (2) The useful life of the project being financed as stated
22 in the ordinance of the local government unit enacted in
23 connection with the [first] series of [notes or] bonds or notes
24 to be issued for such project [after the effective date of this
25 act], which statement in such [first] ordinance shall be
26 conclusive for all purposes[, including any subsequent
27 financing]. If projects have been combined for financing
28 pursuant to section 401 and such projects have different useful
29 lives, it shall be sufficient for this section if an aggregate
30 principal amount of bonds or notes equal to the separate cost of

1 each project having a shorter useful life shall have been stated
2 to mature prior to the end of such useful life, and the balance
3 prior to the end of the longest useful life. For the purpose of
4 this section, the inclusion of furnishings, machinery, apparatus
5 or equipment for a construction or acquisition project shall not
6 be deemed to be the combining of projects but the useful life of
7 such project shall be that of the building, structure or
8 improvement constructed or acquired.

9 Where capital budgeting is practiced, and bonds are issued to
10 fund the current portion of a capital budget involving projects
11 of varying useful lives a uniform term of thirty years may be
12 used.

13 (b) [The bonds or notes of an issue may be authorized to be
14 sold in one or more consecutively maturing series, the first to
15 be issued having the first stated maturity dates, and so on in
16 sequence. Such bonds or] Bonds or notes may be serial bonds or
17 notes, or term bonds or notes any combination thereof that may
18 be selected by the governing body of the issuing local
19 government unit. If term bonds or notes[, other than as required
20 by section 610,] are issued, such bonds or notes must be subject
21 to [a] mandatory redemption, [sinking fund designed,] and, if
22 serial or installment bonds or notes, [bonds,] the amounts of
23 the stated maturities or installments shall be fixed, (1) so as
24 to amortize the issue on at least an approximately level annual
25 debt service plan during the period specified for the payment of
26 principal in subsection (c) of this section 602; or (2) so that
27 [only one-quarter of the principal amount of the issue is
28 amortized on the level annual debt service plan, and the balance
29 is stated to mature or be subject to a mandatory sinking fund in
30 such a manner as to bring] the debt service on outstanding debt

1 of the same classification (and for this purpose lease rental
2 debt [not excluded as subsidized or self-sustaining may] shall
3 be considered as the same classification as general obligation
4 debt) will be brought more nearly into an over-all level annual
5 debt service plan. [provided that no bond or note in such
6 balance of the issue shall be stated to mature at a date later
7 than the shorter of (i) three-quarters of the remaining
8 estimated useful life of the project as stated in the first
9 ordinance incurring debt for the project enacted after the
10 effective date of this act, or (ii) thirty years from date of
11 issue.]

12 (c) [Stated maturities of principal in any issue or the
13 operation of a mandatory call for debt retirement may not be
14 deferred beyond the later of:] Except as provided by subsection
15 (e), stated installments or maturities of principal of any
16 series of bonds or notes or the mandatory redemption of such
17 principal may not be deferred beyond the later of:

18 (1) two years from date of issue, or

19 (2) one year after estimated completion of construction;

20 In the case of revenue or guaranteed revenue bonds this
21 provision will be satisfied by a covenant for the mandatory
22 application to term bonds or such revenues as may remain after
23 payment of interest and operating expenses up to such fixed
24 amount conforming to subsection (b) above as shall be specified
25 in the ordinance pursuant to which the bonds or notes are
26 issued. [Where an issue is sold in two or more consecutive
27 series, the first stated maturity of a later series shall be
28 stated to mature not later than fifteen months after the last
29 stated maturity date of the next preceding series.]

30 (d) Nothing in this section shall prevent the fixing of the

1 amount of stated maturity dates so that a greater percentage of
2 a series will mature on earlier dates than those allowable by
3 this act.

4 (e) Nothing in this section shall prevent the authorization
5 of bonds or notes of an issue for sale in one or more series, in
6 which case the first stated maturity of a later series may be
7 later than, but not more than fifteen months later than, the
8 last stated maturity of the next preceding series.

9 Section 603. Number of Interest Rates; Variation.--A series
10 of bonds or notes may have any number of interest rates, subject
11 to any limitation on such number fixed by the governing body of
12 the issuing local government unit, but, unless further limited
13 by the issuing local government unit in the official notice of
14 sale, [the rate of interest fixed at the time of original issue,
15 for any stated maturity date in the last two-thirds of the
16 period of the series may not be at a lower rate than the
17 interest rate stated for an earlier year in such last two-
18 thirds.] no fixed interest rate for any stated maturity date in
19 the last two-thirds of the period of the series may be less than
20 that stated for the immediately preceding year which falls
21 within such last two-thirds period.

22 Section 604. Place and Medium of Payment.--Bonds or notes
23 shall be payable in such coin or currency as at the respective
24 dates of payment thereof shall be legal tender for the payment
25 of public and private debts at the place or places of payment.
26 Both principal and interest shall be payable at such place or
27 places as may be determined by the local government unit [by
28 ordinance]. If more than one place of payment is specified, one
29 or more of the additional places of payment may be outside of
30 the Commonwealth of Pennsylvania or outside of the United States

1 of America.

2 Section 605. Execution of Bonds or Notes.--Bonds or notes
3 (including tax anticipation notes) shall be signed by such
4 officers [as the governing body shall determine,] of the local
5 government unit, and coupon bonds shall have attached thereto
6 interest coupons bearing the facsimile signature of [the
7 treasurer] such officer of the local government unit, and such
8 bonds or notes may be sealed with the seal of the local
9 government unit or a facsimile thereof, all as may be determined
10 by [ordinance] the governing body. Bonds or notes may provide
11 that they shall not be valid nor enforceable, unless
12 authenticated by a specified bank, bank and trust company or
13 trust company. If any one signature on a bond or note (including
14 the signature of the authenticating party) shall be manual, [the
15 ordinance may provide that] all other signatures may be by
16 facsimile. If any officer whose signature, or a facsimile of
17 whose signature, shall appear on any notes, bonds or coupons
18 shall cease to be such officer before the delivery of such notes
19 or bonds, such signature, or such facsimile, shall nevertheless
20 be valid and sufficient for all purposes as if he had remained
21 in office until such delivery, and, also, any note, bond or
22 coupon may bear the facsimile signature of, or may be signed by,
23 such persons as at the actual time of the execution of such
24 note, bond or coupon shall be the proper officers to sign
25 although at the date of such instrument such persons may not
26 have been such officers.

27 Section 606. Pledge of Revenues.--The governing body of any
28 local government unit which has determined to issue any revenue
29 bonds or notes, or any guaranteed revenue bonds or notes, may
30 provide, by ordinance, for such pledges of or priorities in such

1 rentals, revenues, receipts, rates and charges to be received
2 from projects of the issuing local government unit as may be
3 desirable. Such pledge or priority shall be perfected as a
4 security interest against all creditors of the local government
5 unit[, all creditors thereof,] and all third parties, in
6 accordance with the terms of such ordinance, from and after the
7 filing of [such ordinance in the office for the recording of
8 deeds in the county in which such local government unit is
9 located, notwithstanding the provisions of any other law.] a
10 financing statement or statements in accordance with the Uniform
11 Commercial Code. For the purpose of such filing the sinking fund
12 depository may act as representative bond or note holders and,
13 in such capacity, execute and file the financing statement and
14 any continuation or termination statements as secured party.

15 Section 32. Section 607 of the act is reenacted to read:

16 Section 607. Deeds of Trust and Other Agreements with
17 Bondholders and Noteholders.--(a) A local government unit shall
18 have the power to enter into any deed of trust, trust indenture
19 or other agreement with any bank, bank and trust company, trust
20 company or other person or persons in the United States having
21 power to enter into such agreements or accept such trusts,
22 including any Federal agency, as security for any notes or bonds
23 of the local government unit providing for the following:

24 (1) The payment of the interest on and principal of such
25 notes or bonds; the authentication of the original issue
26 thereof; the custody of sinking funds or other funds held or to
27 be held pending presentation of coupons, notes or bonds for
28 payment; the custody of debt service reserve funds or other
29 funds to be held as reserves; the disbursement of interest to
30 holders of fully registered bonds or notes; the cremation or

1 other destruction of coupons, bonds or notes which have been
2 paid; the maintenance of records as to registration, exchanges
3 and transfers and the effecting of the same;

4 (2) The construction, improvement, operation, maintenance
5 and repair of any project being financed;

6 (3) Limitations on the purposes to which the proceeds of the
7 bonds then or thereafter to be issued in connection with the
8 project, or of any loan or grant by the United States or the
9 Commonwealth of Pennsylvania, may be applied;

10 (4) The rights and remedies of such trustee or other person
11 and the holder of the bonds or notes (which may include
12 reasonable restrictions upon the individual right of action of
13 such holders); and

14 (5) The terms and provisions, including stated maturities
15 and sinking fund and other reserve fund provisions (not in
16 conflict with the limitations imposed by this act, but which may
17 be more limiting) of, or provided for the bonds or notes being
18 issued or which may hereafter be issued in connection with the
19 project being financed.

20 (b) In connection with any revenue bonds or guaranteed
21 revenue bonds, such deeds of trust, trust indentures or other
22 agreements may contain provisions as to the following:

23 (1) The rate of rents, charges, rates, or tolls to be
24 imposed for the use of the project being financed or the
25 rendering of services through the use of the project or both, to
26 ensure a sufficiency of revenues to cover operating expenses,
27 debt service and an appropriate surplus;

28 (2) The setting aside of reserves or other earmarked funds,
29 and limitation upon the use, investment and disposition thereof
30 for the better security of the bonds or notes;

(3) Limitations on the issue of additional bonds or notes ranking equally or having priority in claim on revenues with the bonds being issued; and

(4) Any other or additional agreements with the holders of the bonds or notes as may be customary in such agreements, provided no delegation of essential governmental powers is made.

(c) In lieu of a deed of trust, trust indenture or other agreement specified above, the bond ordinance of the local government unit may contain similar provisions which shall be a contract between the local government unit and the holders from time to time of its bonds or notes.

(d) No such deed of trust shall delegate the performance of essential governmental functions to a trustee, fiscal agent or receiver. The matters enumerated herein are hereby determined not to be essential governmental functions.

Section 33. Sections 608 and 609 of the act are reenacted and amended to read:

Section 608. Negotiable Qualities of Bonds and Notes.--(a) Bonds or notes issued pursuant to this act, [shall] including tax anticipation notes, which have all the qualities and incidents of securities under Article 8 of the Uniform Commercial Code [and] shall be negotiable instruments.

(b) [Notes] Such bonds and notes issued pursuant to this act which are not securities shall have all the qualities and incidents of commercial paper under Article 3 of the Uniform Commercial Code and shall be negotiable instruments notwithstanding any references therein to the terms of the authorizing bond ordinance or any trust indenture, deed of trust or other agreement, or any variations in the rate of interest provided in such note, or any limitations upon the funds from

1 which or limitations as to the bonds with which the notes may be
2 paid, or any restriction upon the remedies of the holders.

3 Section 609. Temporary Bonds or Notes or Interim Receipts.--
4 Pending the preparation of definitive bonds or notes, including
5 tax anticipation notes, temporary bonds or notes or interim
6 receipts may be issued in such form and containing such terms
7 and such provisions for exchange for definitive bonds or notes
8 as the local government unit may determine.

9 Section 34. Section 610 of the act is repealed.

10 Section 35. The article heading of Article VII of the act is
11 reenacted to read:

12 ARTICLE VII

13 Sale of Bonds

14 Section 36. Section 701 of the act, amended October 11, 1972
15 (P.L.901, No.214), is reenacted and amended to read:

16 Section 701. Manner of Sale of Bonds or Notes.--(a) Except
17 as otherwise specifically provided in this act and subject to
18 the following subsection, bonds or notes may be sold at public
19 sale or private sale by negotiation or upon invitation and at
20 such price all as the governing body of the issuing local
21 government unit shall determine. Bonds or notes may be
22 conditionally sold before the final details of the series are
23 fixed.

24 (b) [Except for the sale of tax anticipation notes or of
25 term-bonds authorized pursuant to section 610 of this act,
26 bonds] Bonds or notes, if sold at public sale, shall be sold to
27 the highest responsible bidder or bidders after one public
28 notice by advertisement of either the official notice of sale,
29 or of the availability of the official notice of sale, in at
30 least one and not more than two newspapers of general

1 circulation in the county in which the local government unit is
2 located. [and in the legal journal, if any, designated by the
3 rules of court for the publication of legal notices and
4 advertisements, and may be combined with the advertisement of
5 the adoption of the ordinance authorizing the sale.] The
6 advertisement [shall] may also be published [once] in a
7 financial journal circulating among the underwriters of
8 securities. Advertisements shall be published not less than ten
9 nor more than thirty days prior to the date fixed for opening
10 proposals, and need not appear on the same date nor successively
11 in each newspaper journal.

12 Section 37. Sections 702, 703 and 704 of the act are
13 reenacted and amended to read:

14 Section 702. Contents of Public Advertisement and of
15 Official Notice of Sale.--(a) The advertisement of the
16 availability of the official notice of sale shall contain the
17 following:

18 (1) The title, designation and principal amount of the bonds
19 or notes to be sold;

20 (2) A general statement of the term of the issue and whether
21 it will consist of term bonds or notes, serial bonds or notes,
22 or both;

23 (3) A statement whether proposals must be for all but not
24 less than all of the notes or bonds being sold, or, if separate
25 lots may be bid separately, a statement as to the composition of
26 each lot;

27 (4) The place and time for the receipt of sealed proposals;

28 (5) The amount of the bid security to be furnished by the
29 bidder, and the method selected for determining net interest
30 cost; and

1 (6) A statement of the names and addresses of the officer
2 and any other persons from whom an official notice of sale,
3 other details concerning the issuing local government unit, the
4 project, and the official form of proposal, if any, may be
5 obtained.

6 (b) The local government unit shall adopt an official notice
7 of sale which shall set forth, succinctly:

8 (1) The time and place for the receipt of proposals and the
9 officer designated to receive the same[, the extent of his power
10 of delegation, and whether and for how long the hour for receipt
11 may be adjourned by announcement prior to opening of any bids];

12 (2) A description of the bonds or notes being offered,
13 including but not limited to, the title and type of bonds or
14 notes being offered, the date thereof, the stated maturity dates
15 and amounts at each date, the dates of interest payments, the
16 place or places of payment of interest and principal (which
17 amounts, dates and places may be left open to selection by the
18 successful bidder), the form and denominations of the notes or
19 bonds being offered, [the] any provisions for [registrability]
20 registration, exchange and interchange, the terms of any sinking
21 fund or reserve funds to be established, the terms of other
22 provisions made for the security of the bonds or notes, and the
23 dates, prices and terms of any provision for the redemption
24 thereof prior to stated maturity dates[, and any other relevant
25 provisions of the bonds or notes];

26 (3) A statement of the terms of the bidding, including, but,
27 without limitation: the method for determining net interest
28 cost, whether bids must be for all but not less than all; or, if
29 separate bids for separate lots may be submitted, a description
30 of each lot; the limitation on the number and variation between

1 high and low interest rates to be permitted; the required bid
2 security; the permitted discount from par, if any; the funds in
3 which the balance of the purchase price shall be paid; the place
4 at which the balance may be paid or the method of determining
5 such place; the effect on the obligation to purchase the notes
6 or bonds of litigation pending or change in tax or other
7 applicable laws occurring before the settlement for the bonds or
8 notes; the [terms] nature of the opinion of bond counsel to be
9 delivered at the time of payment for the bonds or notes; the
10 effect of any failure to deliver such opinion; [and other
11 relevant terms] and the reserved right to reject bids provided
12 for in section 707; and

13 (4) [Any additional] Such additional provisions as may be
14 desired, including, without limitation, statements as to the
15 furnishing of copies of documents, including an official
16 statement of essential facts, the estimated date for delivery of
17 bonds or notes and whether such bonds or notes will be delivered
18 in definitive or temporary form, and if temporary, the time and
19 manner of exchange for definitive bonds or notes.

20 Section 703. Proposals for Purchase.--Every bid or proposal
21 for bonds or notes [to be sold at public or private sale] shall
22 be in writing, shall be properly executed, and, in the case of
23 public sale, bids shall be placed in a sealed envelope
24 sufficiently labeled to indicate that it is a bid or proposal
25 for the bonds or notes being sold, before being delivered to the
26 officer designated to receive the same, or to his or her
27 authorized delegate.

28 Section 704. Opening of Bids.--[At] In the case of public
29 sale, at the time and place fixed in the notice, [or at a
30 subsequent hour on the same date to which the time may have been

1 adjourned prior to the opening of any proposals pursuant to any
2 right of adjournment reserved in the official notice of sale,]
3 the bids or proposals received shall be publicly opened by the
4 designated officer, or his or her authorized delegate, and
5 publicly read aloud, unless the governing body determines to
6 return all bids unopened.

7 Section 38. Section 705 of the act is reenacted to read:

8 Section 705. Determination of Highest and Best Bid; Tie
9 Bids.--The highest responsible bidder shall be the one who,
10 having complied with the terms of the official notice of sale,
11 offers to take all of the bonds or notes, or any separate lot
12 thereof on which separate bids may be made, at the lowest net
13 interest cost to the local government unit, or, if required by
14 the terms of any agreement with the United States of America or
15 the Commonwealth of Pennsylvania or any agency of either
16 thereof, the highest responsible bidder shall be the one bidding
17 in conformity with the requirements for the successful bidder
18 stipulated in any such agreement. The net interest cost shall be
19 computed in accordance with section 709 of this act. If two or
20 more proposals are found to be the highest and best bids on
21 identical terms conforming to the offering, the bonds or notes
22 shall, with the consent of the bidders, be awarded to them
23 jointly, or, absent such consent, may be awarded to any one of
24 such bidders selected by lot in any manner deemed fair by the
25 local government unit.

26 Section 39. Sections 706, 707, 708 and 709 of the act are
27 reenacted and amended to read:

28 Section 706. Required Bid Security.--[The bid] Bid security
29 [to] shall be given by each bidder, shall be in cash or by
30 certified or official bank check payable to the local government

1 unit, and shall be not less than two per cent of the principal
2 amount of the bonds or notes to be purchased. The bid security
3 of the unsuccessful bidder or bidders shall be returned to each
4 unsuccessful bidder, without interest in accordance with written
5 instructions of the bidder conforming to the official notice of
6 sale, promptly upon an award of the bonds or notes or upon the
7 rejection of all bids. The bid security of the successful bidder
8 shall be retained by the treasurer of the local government unit
9 and (with or without allowance for interest as the official
10 notice of sale may specify) shall be applied on the purchase
11 price when the bonds or notes are actually delivered and paid
12 for, retained as liquidated damages if the bidder defaults, or
13 returned to the bidder with interest at the judgment rate if,
14 after an acceptance of the proposal, the bonds or notes are not
15 issued for any reason not constituting a default by the bidder.
16 Unless required by the local governing body, no bid security
17 shall be required in the case of tax anticipation notes, bond
18 anticipation notes or notes to be issued under section 409.

19 Section 707. Reserved Right to Reject Bids; Effect of
20 Rejection.--Every official notice of sale of bonds or notes
21 shall provide that the right is reserved to the governing body
22 of the local government unit to reject all bids or proposals,
23 but in a case where conforming bids have been received, opened
24 and rejected any subsequent sale within a period of two calendar
25 months of bonds or notes in [the amount of such series]
26 substantially the same amount and for the same [project] purpose
27 must be a public sale to be held at such later time as the
28 governing body may determine to be advantageous.

29 Section 708. Public Sale; Failure to Receive Conforming
30 Bid.--If bonds or notes are advertised for public sale and no

1 conforming bid is received, or if all bids are returned
2 unopened, then the local government unit may cancel the sale and
3 devise a new series for sale or, in the alternative, it may sell
4 such series of bonds or notes, or any part or parts thereof,
5 from time to time, during the ensuing six months at private sale
6 in accordance with the terms originally advertised with any
7 changes in call price or dates of call for prior redemption or
8 both as may be deemed desirable. After such six-month period the
9 local government unit may sell any unsold portion of the series
10 in any manner permitted by this act, with such appropriate
11 changes in the call prices or dates of call for prior redemption
12 or both or in other terms as may be deemed advisable, provided
13 that as so changed, the two portions of the series when combined
14 and any issue of which such series is a part are in conformity
15 with the requirements of this act as to term, interest rate and
16 stated maturities.

17 Section 709. Determination of Net Interest Cost and Net
18 Interest Rate.--(a) Net interest cost may be determined by
19 using either the street method or the present worth method
20 whichever method shall be specified in the official notice of
21 sale.

22 (b) Under the street method a dollar amount shall be
23 determined by computing the total amount of interest payable
24 over the life of the series to stated maturity dates or earlier
25 mandatory call dates and subtracting therefrom the amount of any
26 premium paid above the aggregate principal amount of the bonds
27 or notes, or adding thereto the amount of any discount lawfully
28 allowed in the sale.

29 (c) Under the present worth method there shall be
30 ascertained the semiannual rate, compounded semiannually,

1 necessary to discount to present worth as of the date of the
2 bonds or notes the amounts payable on each interest payment date
3 and on each stated maturity or earlier mandatory redemption date
4 so that the aggregate of such amounts will equal the purchase
5 price offered therefor exclusive of interest accrued to the date
6 of delivery. The net interest cost shall be stated in terms of
7 an annual percentage rate and shall be that rate of interest
8 which is twice the semiannual rate so ascertained.

9 (d) The net interest rate for a series sold under the
10 present worth method shall be the rate of the net interest cost.
11 For a series sold under the street method the net interest rate
12 shall be determined by dividing the net interest cost by the
13 product of: (i) [one thousand dollars] \$1,000 multiplied by (ii)
14 the number of bond years from the date of the bonds or notes to
15 the stated maturity or earlier mandatory call dates. A bond year
16 shall be one full year that [one thousand dollars] \$1,000 of
17 principal amount shall be outstanding and less than full years
18 shall be fractionalized on a [three hundred and sixty-five-day]
19 three hundred and sixty-day year basis.

20 Section 40. Section 710 of the act is repealed.

21 Section 41. The article heading of Article VIII of the act
22 is reenacted to read:

23 ARTICLE VIII

24 Filing with and Duties of the Department

25 Section 42. Sections 801 and 802 of the act are reenacted
26 and amended to read:

27 Section 801. Certification to Department of Bond or Note
28 Transcript, [to Department] or Lease, Guaranty, Subsidy Contract
29 or Other Agreement.--The governing body of each local government
30 unit shall, before any bonds or notes (except [funding bonds

1 issued with court approval)] tax anticipation notes issued
2 pursuant to section 501 and notes representing small borrowings
3 issued pursuant to section 409) are actually delivered to the
4 initial purchasers, or before becoming bound on any lease,
5 guaranty, subsidy contract or other agreement, evidencing [the
6 acquisition of a capital asset] lease rental debt cause to be
7 certified to the department, under the signature of the clerk or
8 secretary of the governing body and its corporate seal, a
9 complete and accurate copy of the proceedings had for the
10 incurring of debt, as provided in section 411 of this act. The
11 provisions of this section shall not be construed to eliminate
12 the filing requirements of sections 204, 205, 206, 506 and 508.

13 Section 802. Filing of Statements of [Completion]
14 Noncompletion of Sale with Department[; Penalty].--[If a bond or
15 note settlement] If settlement for an issue of bonds or notes or
16 bonds or notes representing lease rental debt, which have
17 received a required approval by the department shall fail of
18 completion, in whole or in part, the local government unit shall
19 file with the department [within twenty days] a notification of
20 noncompletion of sale, stating what part[, if any,] of the issue
21 shall have been delivered. [From and after the prescribed filing
22 date required by this section no certificate of approval of any
23 debt shall be issued by the department if any filing required to
24 be made by this section, with the required fee, shall not have
25 been made prior to the issuance of such certificate. The
26 provisions of this section are not subject to waiver by the
27 department.]

28 Section 43. Section 803 of the act, amended November 30,
29 1972 (P.L.1252, No.280), is reenacted to read:

30 Section 803. Fees for Filing.--Every filing with the

1 department shall be accompanied by a filing fee of [fifteen
2 dollars] \$15. No submission shall constitute a filing until the
3 proper fee is paid. All fees received hereunder shall be paid by
4 the department into the State Treasury through the Department of
5 Revenue.

6 Section 44. Section 804 of the act is reenacted and amended
7 to read:

8 Section 804. Examination of Bond or Note Transcript and
9 Other Filings by Department; Certificate of Approval.--The
10 department shall, upon receipt of any bond or note transcripts,
11 or other filings, carefully examine the same to determine
12 whether the debt outstanding and to be outstanding is within the
13 applicable limitations imposed by this act, [whether prior debt
14 was lawfully incurred] and whether the proceedings for incurring
15 the debt, for issuing and selling the bonds or notes and for
16 excluding self-liquidating and subsidized debt have been taken
17 in conformity with the Constitution and all then applicable
18 laws. If, upon completion of its examination, a transcript or
19 other filing is found by the department to be in conformity with
20 the Constitution and existing laws, [and is consistent with the
21 record of prior filings by the local government unit,] the
22 department shall certify its approval, if required under other
23 provisions of this act, to the local government unit.

24 Section 45. Sections 805 and 806 of the act are reenacted to
25 read:

26 Section 805. Certificate of Disapproval; Correction of
27 Proceedings.--If the department, upon completion of its
28 examination finds it cannot issue a certificate of approval, it
29 shall notify the local government unit of the reasons why it
30 cannot do so. If the proceedings or any prior filings are

1 subject to correction for demonstrated typographical or
2 computational error, or otherwise or for failure to include a
3 necessary document or certification and such correction is
4 approved by the department, the error shall be corrected in all
5 places, or the additional document or certification shall be
6 furnished to the department, within ten days, and upon such
7 other terms as the department may specify, and thereupon the
8 department shall certify its approval. If the deficiency shall
9 not be subject to correction, the department shall certify its
10 disapproval to the local government unit.

11 Section 806. Effect of Failure of Timely Action by
12 Department; Extension of Time to Act.--If the local government
13 unit shall have submitted a filing to the department by
14 certified mail, return receipt requested, or shall otherwise
15 have an official receipt therefor from the department, and the
16 local government unit shall not, within twenty days of the date
17 of receipt of the filing by the department have received the
18 certificate of approval or disapproval or notification of
19 correctable error, the filing shall be deemed to have been
20 approved for all purposes, unless the local government unit
21 shall have extended the time within which the department may act
22 by written communication to the department, or by failure to
23 object to a written communication from the department requesting
24 such extension. Extensions shall not exceed one additional
25 period of twenty days.

26 Section 46. Sections 807, 808, 809 and 810 of the act are
27 reenacted and amended to read:

28 Section 807. Records of Department.--(a) The department
29 shall keep all proceedings on file for a period of not less than
30 four months after issuance of its certificate of approval or

1 disapproval and thereafter, as long as any appeal respecting
2 such proceedings shall be pending and not finally determined.

3 (b) The department shall keep a public record, with respect
4 to each local government unit showing:

5 (1) The name of the local government unit;

6 (2) The purpose of each series issued or lease executed;

7 (3) Whether such series represents nonelectoral lease rental
8 or electoral debt, and the extent to which such debt is
9 subsidized or self-liquidating, and if subsidized or self-
10 liquidating in part the principal amount thereby eliminated from
11 nonelectoral debt;

12 (4) The schedule of stated maturity dates, interest rates
13 and mandatory sinking fund payments for each outstanding issue
14 of bonds or notes or the schedule of lease rentals;

15 (5) The dates and designations of each issue of bonds or
16 notes [or], lease or other document to be executed with the
17 approval number assigned to each [series or] such issue, lease
18 or other document approved;

19 (6) The local government unit's most recently certified
20 borrowing base and regular debt limits computed therefrom;

21 (7) The date and manner of authorization of any use of any
22 additional debt limit.

23 [(c) Documents no longer required to be kept in file by the
24 provisions of subsection (a) of this section 807 and from which
25 all record entries required by the preceding subsection have
26 been made, may be disposed of as waste paper in the manner
27 prescribed by law.

28 (d)] (c) The records of the department shall be public
29 records, available for examination by any citizen of the
30 Commonwealth or any bondholders or noteholders, and copies

1 thereof, certified as correct by the secretary of the department
2 under the seal of the department, shall be admitted as evidence
3 of the facts therein stated in all courts of this Commonwealth
4 and elsewhere.

5 Section 808. Invalidity of Bonds, [or] Notes, [Required to
6 be Approved by the Department] Tax Anticipation Notes, Leases or
7 Other Instruments Which are Delivered [Prior to Approval by the
8 Department.] without Compliance with Requirements or Conditions
9 Precedent to Issuance or Delivery.--[Bonds or notes sold and
10 delivered to the initial purchasers prior to an approval of the
11 series by the department under section 804 or section 806 of
12 this act shall be invalid and of no effect in the hands of the
13 initial purchasers except to the extent provided in this section
14 808. In the hands of a bona fide purchaser (other than an
15 initial purchaser or member of an underwriting or selling group)
16 for value without actual notice of the lack of a prior approval
17 by the department, any bonds or notes containing a recital that
18 the series had been approved by the department shall be valid
19 and subsisting instruments enforceable in accordance with their
20 terms, and any applicable borrowing base shall be deemed
21 increased to the extent necessary to validate and keep such
22 bonds valid, but not for the purpose of reducing the liability
23 of any person under the next sentences.] In all cases in which
24 the approval of the department is required by this act prior to
25 the issuance of bonds or notes or the execution of a lease,
26 guaranty, subsidy contract or other agreement evidencing lease
27 rental debt, in the case of small borrowings evidenced by notes
28 in respect of which compliance with the conditions of section
29 409 is required, and in the case of tax anticipation notes in
30 respect of which compliance with the conditions of sections 506,

1 507 and 508 is required, if such bonds or notes or such lease or
2 other instrument shall be sold, or executed, and delivered prior
3 to receipt of actual or deemed approval under section 804 or
4 806, or as the case may be, without compliance with applicable
5 conditions of issuance, or prior to a required filing with the
6 department, as aforesaid, such bonds, notes, lease or other
7 instrument shall be invalid and of no effect in the hands of or
8 for the security of the holder of such bonds or notes or of the
9 obligations secured by such lease or other instrument, except to
10 the extent provided in this section 808. If the bonds or notes
11 or the obligations secured by such lease or other instrument
12 shall be held by a bona fide purchaser (other than an initial
13 purchaser or member of an underwriting or selling group) for
14 value without actual notice of a lack of such prior approval,
15 filing or compliance as the case may be, and such bonds, notes
16 or other obligations shall contain a recital that such prior
17 approval, filing or compliance was received, made or observed,
18 then such bonds, notes, lease or other instrument shall be valid
19 and enforceable in accordance with their terms and any
20 applicable debt limits shall be deemed increased to the extent
21 necessary to validate and keep valid such bonds, notes, lease or
22 other instrument, but not for the purpose of reducing the
23 liability of any person under this section. The local government
24 unit shall be entitled to recover all interest and principal or
25 other amounts payable thereon or thereunder from the initial
26 purchasers and the individuals, including the officers of the
27 local government unit, responsible for making the unapproved or
28 unauthorized delivery. Notwithstanding the invalidity of the
29 instruments as to them, the initial purchasers and such
30 individuals shall be entitled to credit, in any action

1 determining such invalidity or for the recovery provided by the
2 preceding sentence for the amount of:

3 (1) Any proceeds of the sale of the instruments still held
4 unexpended by the local government unit; and

5 (2) The lesser of either: (i) the cost or fair market value,
6 whichever is the lesser, of any capital project or part thereof
7 or interest therein acquired by the local government unit by an
8 expenditure of a portion or all of the proceeds of [the] such
9 bonds, [or] notes or other obligations; or (ii) the remaining
10 nonelectoral borrowing capacity of the local government unit.

11 Section 809. Finality of Proceedings; Validity of Bonds,
12 [or] Notes, Tax Anticipation Notes, Leases, Guaranties, Subsidy
13 Contracts or Other Agreements.--(a) Where a certificate of
14 approval has been issued by the department or has been deemed
15 issued under section 806, or, in the case of tax anticipation
16 notes where the filing with the department required by section
17 508 has occurred, and no [appeal] petition for a declaratory
18 order has been [taken] filed within the applicable time limits
19 specified in section 901, or when after [appeal,] a petition for
20 a declaratory order has been filed, the proceedings have been
21 approved finally by the court, the validity of the proceedings,
22 the right of the local government unit lawfully to issue its
23 bonds or notes [lawfully] or to enter into a lease, guaranty,
24 subsidy contract or other agreement evidencing lease rental debt
25 pursuant to [those] such proceedings, and the validity and due
26 enforceability of the bonds, [or] notes or other instruments in
27 accordance with their terms shall not thereafter be inquired
28 into judicially, in equity, at law, or by civil or criminal
29 proceedings, or otherwise, either directly or collaterally
30 [except where a constitutional question is involved]. The effect

1 of the approval by the department, or by the court on appeal,
2 or, in the case of tax anticipation notes, the effect of filing
3 in compliance with section 508, shall be to ratify, validate and
4 confirm[, so far as good faith purchasers of the bonds or notes
5 are concerned,] such proceedings absolutely, including the
6 lawful nature of the project and, in the case of tax
7 anticipation notes, the accuracy of the estimates contained in
8 the certificate as to taxes and revenues to be collected,
9 notwithstanding any defect or error in such proceedings, except
10 as specifically provided hereinafter in this section, and any
11 debt limit imposed by this act shall be deemed increased to the
12 extent necessary to validate such debt or obligation. Nothing
13 herein contained shall, however, free an initial purchaser of
14 bonds or notes from liability to a local government unit for the
15 payment of the consideration agreed in the contract of sale, or
16 make all such bonds or notes valid and enforceable in the hands
17 of an initial purchaser unless the issuer shall have received a
18 substantial consideration for the series as a whole.

19 (b) Nothing herein contained shall, however, relieve any
20 person participating in such proceedings from liability for
21 knowingly participating in an ultra vires act of a local
22 government unit, or from any civil or criminal liability for
23 false statements in any certificates filed or delivered in such
24 proceedings.

25 Section 810. Power of Department to Define Terms, Issue
26 Rules and Regulations and Prescribe Forms.--[The] Subject to the
27 definitions in Article I, the department shall have power to
28 define terms and to prescribe rules and regulations regarding,
29 and to prescribe forms for, reports and filings to be submitted
30 to the department pursuant to this act. Such definitions, rules

1 and regulations when published and made available to the public
2 shall have the force of law.

3 Section 47. Section 811 of the act is repealed.

4 Section 48. The article heading of Article IX of the act is
5 reenacted and amended to read:

6 ARTICLE IX

7 [Appeals Concerning Debt]

8 Petitions for Declaratory Orders and

9 Complaints to the Department; Jurisdiction of

10 Department; Appellate Review by Commonwealth Court

11 Section 49. Section 901 of the act, amended June 18, 1975
12 (P.L.20, No.8), is reenacted and amended to read:

13 Section 901. [Appeals by Interested Parties and Taxpayers.--

14 (a) Where proceedings for the incurring of debt and sale of
15 bonds or notes or the exclusion of debt as self-liquidating or
16 subsidized have been taken by a local government unit and the
17 department shall have certified or shall have been deemed to
18 have certified its approval or disapproval of the series or the
19 exclusion of any debt from net nonelectoral and net lease rental
20 or where department approval is not required and the fact of
21 final adoption of the ordinance approving the sale or the
22 exclusion shall have been advertised one time in a newspaper of
23 general circulation in the area of the local government unit,
24 such local government unit or any other interested party, or any
25 taxpayer of the local government unit may appeal within fifteen
26 days from the earlier of:

27 (1) The date of advertisement of the fact of the final
28 passage of the ordinance approving the sale of the bonds; or

29 (2) The date of the department's certificate of approval,
30 the date it is deemed to have been approved, or the date of its

1 disapproval. The appeal shall be by petition to the Commonwealth
2 Court. The petition shall allege the error or errors in the
3 proceedings in the manner required of bills in equity, and the
4 burden of persuading the trier of fact as to all matters of fact
5 shall be upon the appellant.

6 (b) Jurisdiction is hereby conferred upon the Commonwealth
7 Court to hear and determine such appeals, and all other appeals
8 and actions provided for in this act.] Petitions for Declaratory
9 Orders and Complaints to the Department; Exclusive Jurisdiction
10 of Department.--(a) Where proceedings for the incurring of debt
11 represented by bonds or notes or by a lease, guaranty, subsidy
12 contract or other agreement evidencing the acquisition of a
13 capital asset, for the issuance of tax anticipation notes, or
14 for the exclusion of debt as self-liquidating or subsidized,
15 have been taken by a local government unit, such local
16 government unit, or any taxpayer of the local government unit,
17 or other interested party may file with the department a
18 petition for a declaratory order asserting the validity or a
19 complaint asserting the invalidity of such proceedings, or any
20 part thereof. Any such complaint asserting the invalidity of
21 such proceedings or part thereof taken under section 409 may be
22 filed at any time not later than one year after final adoption
23 of the resolution authorizing the debt. Any such complaint
24 asserting the invalidity of such proceedings or part thereof
25 excluding debt as self-liquidating under section 205 or
26 authorizing tax anticipation notes under Article V may be filed
27 at any time not later than fifteen days after the filing with
28 the department of the documents required by section 205 or of
29 the proceedings pursuant to section 506, as the case may be. Any
30 such complaint asserting the invalidity of any such proceedings

or part thereof in cases in which, under this act, the approval or deemed approval of the department is required, may be filed with the department at any time not later than fifteen days after the date of the submission of the proceedings by the local government unit to the department for approval.

If a petition for a declaratory order or complaint shall be filed in respect of proceedings requiring the approval of the department after the submission of the proceedings to the department but prior to approval, disapproval or deemed approval, the department shall not be deemed to have approved the proceedings during the pendency of the matter before the department.

(b) Exclusive jurisdiction is hereby conferred on the department to hear and determine all procedural and substantive matters arising from the proceedings of a local government unit taken pursuant to this act, including without limitation, the regularity of the proceedings, the validity of the bonds, notes, tax anticipation notes or other obligations of the local government unit, and the legality of the purpose for which such obligations are to be issued. If a local government unit shall file a petition for a declaratory order with the department, relating to such proceedings, the department may require such service by publication on taxpayers as the circumstances warrant. In all other respects the proceedings before the department shall be governed by regulations of the department. The department shall have the power, after appropriate proceedings in accordance with such regulations, to approve or disapprove the proceedings of the local government unit or to direct correction as provided in section 805. A determination by the department under this act shall, except as provided in

1 section 902, be conclusive and binding as to all procedural and
2 substantive matters which were or could have been presented to
3 the department hereunder. A determination in favor of the local
4 government unit under this section shall have the effect
5 provided in section 809.

6 Section 50. Section 902 of the act is reenacted and amended
7 to read:

8 Section 902. [Action to Contest Proceedings Before
9 Departmental Approval.--Any local government unit, taxpayer, or
10 other interested party may bring an action in the Commonwealth
11 Court asserting the validity or invalidity of any action
12 concerning the incurring or exclusion of debt from nonelectoral
13 debt or lease rental debt prior to action thereon by the
14 department, in like manner as an appeal from departmental
15 action; except in cases where this act expressly confers
16 jurisdiction upon another tribunal.] Appellate Review by

17 Commonwealth Court.--In all cases in which proceedings of a
18 local government unit shall have been approved, disapproved or
19 deemed approved and in all cases in which the department shall
20 have determined the issues presented upon petition for a
21 declaratory order or complaint under section 901, the local
22 government unit, any taxpayer of the local government unit, or
23 any other interested party, aggrieved by the determination of
24 the department, may petition the Commonwealth Court for review
25 of the determination of the department asserting the validity or
26 invalidity of the local government unit proceedings or any part
27 thereof or the error or errors of the department in respect of
28 such proceedings. The Commonwealth Court shall have exclusive
29 appellate jurisdiction to review all determinations of the
30 department (including deemed approvals under section 806), to

1 affirm, modify or reverse any actions taken by the department,
2 or to remand the matter for further proceedings. The time within
3 which petitions for review shall be filed with the Commonwealth
4 Court and all other appellate procedure before the Commonwealth
5 Court shall be governed by the Pennsylvania Rules of Appellate
6 Procedure. Pending the effective date of such general rules,
7 appeals from action of the department shall be taken to the
8 Commonwealth Court not later than fifteen days after the action
9 of the department.

10 Section 51. Sections 903, 904, 905, 906 and 907 of the act
11 are repealed.

12 Section 52. The article heading of Article X of the act is
13 reenacted and amended to read:

14 ARTICLE X

15 SINKING AND ASSESSMENT FUNDS: RESERVES

16 AND PLEDGED REVENUES

17 Section 53. Sections 1001, 1002, 1003, 1004, 1005 and 1006
18 of the act are reenacted and amended to read:

19 Section 1001. Creation of Sinking [Fund] Funds and
20 [Accounts] Deposits Therein, Reserves and Surplus Funds.--(a)
21 Every local government unit having outstanding any bonds or
22 notes, other than tax anticipation notes and other than notes
23 issued under section 409, shall create forthwith, subject to the
24 terms of any existing contracts with the holders of such bonds
25 or notes, and every local government unit hereafter issuing any
26 bonds or notes shall create simultaneously with or prior to the
27 delivery of the bonds or notes, and thereafter maintain until
28 such bonds or notes are paid in full, a sinking fund (i) for the
29 aggregate or for one or more issues or series of its general
30 obligation bonds and notes, and (ii) separately for each project

1 or combination of projects financed by revenue or guaranteed
2 revenue bonds or notes as to which different revenues are
3 pledged. If a sinking fund is established for more than one
4 issue of bonds, a separate debt service account for each issue
5 may be established in the sinking fund. The sinking fund shall
6 be maintained with [the Pennsylvania] a bank, trust company or
7 bank and trust company located and lawfully conducting a banking
8 or trust business in the Commonwealth of Pennsylvania and
9 appointed from time to time as sinking fund depository [and all
10 moneys deposited therein and the investments thereof shall
11 without further action or filing be subject to a perfected
12 security interest for the bonds and notes for which such sinking
13 fund is operated until such moneys or funds shall have been
14 properly disbursed].

15 (b) Moneys for the payment of taxes assumed, and principal
16 and interest on outstanding bonds or notes shall be deposited in
17 [a separate debt service account in] the applicable sinking fund
18 [for each series] or sinking fund account from the sources, at
19 the times and in the amounts provided in any contract with the
20 holders of the bonds and notes but, in any event, prior to the
21 time when payment of such taxes, principal and interest become
22 due and payable. All moneys deposited in sinking funds as
23 required by this act and all investments and proceeds of
24 investments thereof shall, without further action or filing be
25 subject to a perfected security interest for the holders of the
26 bonds or notes for which such sinking fund is held until such
27 money or investments shall have been properly disbursed or sold.

28 (c) A local government unit pledging the rates, rentals,
29 receipts, charges and tolls from the use of a capital project,
30 for the security of revenue or guaranteed revenue bonds or

1 notes, [shall] may, by ordinance, provide for the deposit
2 thereof as and when received in the sinking fund for the
3 project.

4 (d) A local government unit may provide, by ordinance, for
5 the creation and maintenance of other accounts in the sinking
6 fund or of other funds for revenue or guaranteed revenue bonds
7 or notes, including operating accounts or funds for financed
8 projects, reserve accounts or funds for various purposes, a bond
9 or note redemption account or fund and a surplus account or
10 fund, and may prescribe the purposes for which the [funds]
11 moneys and investments in each such account or fund may be
12 withdrawn and the amounts, times and sources of deposits
13 therein. [but every such ordinance shall provide that moneys in
14 the surplus fund may be used by the local government unit for
15 any lawful purpose of such local government unit, and no
16 contract with the holders of bonds or notes shall provide to the
17 contrary.] However, no such ordinance shall restrict the
18 application of the rates, receipts, charges and tolls received
19 in respect of a capital project or combined capital projects
20 (exclusive of assessments and contributions for capital
21 improvements) in any fiscal year in excess of the amount
22 required during such year for operating expenses plus one
23 hundred and forty per cent, or such lesser per cent as may be
24 fixed by ordinance, of the amount required to be deposited
25 during such year from such revenues in the applicable sinking
26 fund for the payment, at maturity or scheduled mandatory
27 redemption, of the principal of and interest on the related
28 bonds or notes but such excess shall at all times be available
29 for use by the local government unit for any lawful purpose and
30 no contract with the holders of bonds or notes shall provide to

1 the contrary.

2 [(e) Deposits in the surplus account of the sinking fund for
3 revenue or guaranteed revenue bonds or notes shall be made in
4 each year of all pledged revenues in excess of the sum of the
5 operating expenses plus one hundred and forty per cent of the
6 annual debt service (which term shall include funds set aside
7 for the amortization of term bonds) for such year but this
8 provision shall not apply to receipts from contracts for
9 construction for additions or betterments which are held for
10 application to such purpose.]

11 Section 1002. [Sinking] Assessment Fund [for Assessments].--
12 If a local government unit issues bonds or notes as general
13 obligation bonds or guaranteed revenue bonds to provide funds
14 for and towards the cost of making permanent street, sidewalk,
15 water or sewer improvements, or other assessable improvements,
16 and such cost is assessed against the properties benefited
17 thereby, the assessments as collected shall be paid into [the
18 sinking] a separate assessment fund [for such bonds]. [The
19 ordinance authorizing such bonds may provide for the payment of
20 such assessments into a revolving fund account to provide moneys
21 for and towards the cost of other such improvements, and in such
22 case, the ordinance shall also provide for the payment into the
23 sinking fund from other sources of moneys sufficient to pay the
24 principal of and the interest on such bonds or notes and such
25 bonds or notes shall not by virtue of such assessment revenues
26 be excluded from nonelectoral debt. To the extent that such
27 other moneys are paid into the sinking fund, the revenues from
28 the assessments may be used to make other assessable
29 improvements.] Moneys to the credit of the assessment fund may
30 be used for any one or more of the following purposes in any

proportions and subject to any priorities set forth in the ordinance incurring the debt:

(1) for the payments to the sinking fund;

(2) for payment of the cost of such improvements;

(3) for the creation and maintenance of a revolving fund if permitted by the laws governing the local government unit; and

(4) for payment to the general fund or any other fund of the local government unit. The fund may be continued as a revolving

fund, if permitted by law, or discontinued at any time. [Upon]

Unless otherwise provided in the ordinance incurring the debt,

upon discontinuance of the fund the proceeds of the assessments

shall be used to pay any bonds or notes remaining outstanding

and to reimburse the general fund of the local government unit

for the moneys theretofore paid on account of the bonds or

notes.

Section 1003. Duty of Treasurer [with Respect to Sinking

Fund].--It shall be the duty of the treasurer of each local

government unit to deposit into the applicable sinking fund or

other fund the moneys to be deposited therein pursuant to the

pledge or covenant [entered into] made or adopted by the local

government unit [with the holders of its bonds and notes,] at

the times and in the amounts provided in [the pledges made by

the local government unit] such pledge or covenant or, if no

pledge or covenant has been made or adopted, as provided in the

appropriations made by the governing body. If no appropriation

of moneys shall have been made, or if it shall appear that, as a

result of other expenditures, the appropriated revenues will not

be received in sufficient amounts in time to make the deposits

required to be made for the payment of the taxes assumed and the

interest on and principal of general obligation bonds and notes,

1 or the amount due on a guaranty of guaranteed revenue bonds or
2 notes or on a guaranty of any authority or other local
3 government unit obligation, it shall be the duty of the
4 treasurer to pay into the applicable sinking fund, or other
5 fund, that portion of each receipt of tax moneys and other
6 available revenues, subject, in the case of a limited guaranty,
7 to the terms thereof, as will result in the [timely
8 accumulation] deposit of sufficient moneys in the sinking fund
9 or other fund to pay the taxes assumed and the principal of and
10 interest on the bonds or notes, or to meet the guaranty
11 obligation of the local government unit as and when the same
12 shall become due and payable. The governing body of a local
13 government unit may issue its tax anticipation notes under
14 Article V of this act to provide all or any part of any moneys
15 needed for deposit in [the] such sinking funds [of the local
16 government unit] or other funds.

17 Section 1004. Deposit of and Investment of Moneys in Sinking
18 Funds and Other Funds.--(a) Any moneys in sinking funds and
19 other funds established by ordinance as in this act provided,
20 not required for prompt expenditure may be deposited at interest
21 in time accounts or certificates of [deposits] deposit of any
22 bank or bank and trust company, accounts with any savings bank,
23 or [in shares of] deposits in building and loan associations or
24 [Federal] savings and loan associations. Moneys required for
25 prompt expenditure shall be held in demand deposits. To the
26 extent that such deposits or accounts are insured by the Federal
27 Deposit Insurance Corporation or the Federal Savings and Loan
28 Insurance Corporation, they need not be secured; otherwise such
29 deposits shall be secured as public deposits whether or not
30 title shall, by virtue of the deposit with a fiscal agent or

1 trustee for bondholders, be in such fiscal agent or trustee,
2 except that moneys held by the fiscal agent, trustee or sinking
3 fund depositary itself may be secured as trust funds.

4 (b) Any moneys in [sinking] funds or accounts not required
5 for prompt expenditure and not deposited at interest shall, to
6 the extent practicable and reasonable be invested in any
7 securities in which the Commonwealth may at the time of
8 investment, invest moneys of the Commonwealth not required for
9 the time being for expenditure, subject to any stricter
10 requirements in any contract with the holders of bonds or notes
11 for which the particular [sinking] fund or account was created
12 or maintained.

13 (c) All such deposits and investments shall be in the name
14 of the local government unit but moneys and investments in the
15 sinking fund shall be subject to withdrawal or collection only
16 by the sinking fund depositary for proper purposes in accordance
17 with this act.

18 (d) Income received from any deposit or investment shall be
19 a part of the fund or account invested and may be applied if so
20 desired by the local government unit, in reduction of or to
21 complete any required deposits in such fund or account.

22 (e) For the purposes of investment or deposit at interest,
23 all accounts in a sinking fund or other accounts or funds
24 established in respect of one or more series of bonds or notes
25 having the same depositary may be combined and each such
26 combined account shall be entitled to its pro rata share of each
27 deposit or investment.

28 (f) The sinking fund depositary shall return to the local
29 government unit all moneys deposited in a sinking fund for the
30 payment of bonds, notes or coupons which have not been claimed

1 by the holders thereof after two years from the date when
2 payment is due, except where such funds are held for the payment
3 of outstanding checks, drafts or other instruments of the
4 sinking fund depository. Nothing in this subsection or in any
5 action taken hereunder shall relieve the local government unit
6 of its liability to the holders of unrepresented bonds, notes, or
7 coupons.

8 (g) Any investments of a sinking fund, including bonds of
9 the local government unit held therein, may be sold at any time
10 by the sinking fund depository if cash is required for
11 expenditure, or as directed by the managers of the sinking fund,
12 through any broker or dealer in securities, any other law
13 concerning dispositions of assets of a local government unit to
14 the contrary notwithstanding.

15 Section 1005. Management of Sinking [Fund] and Other
16 Funds.--The management and control of sinking and other funds,
17 and investments thereof, subject to the provisions of this act
18 shall be vested in the governing body of the local government
19 unit except:

20 (1) Where by any other law there has been created any board
21 or commission for the management and control of sinking funds of
22 a particular class of local government units, in which case such
23 board or commission shall have the management and control of the
24 sinking funds of such local government units;

25 (2) To the extent otherwise provided by this act; and

26 (3) To the extent otherwise lawfully provided in any
27 contract with the holders of bonds or notes.

28 Section 1006. Inspection of Sinking Funds; Orders to
29 Comply.--(a) The department [shall] may from time to time[, not
30 less frequently than triennially,] audit the sinking funds and

1 all records pertaining thereto of local government units which
2 have any outstanding debt, except those annually submitting to
3 the department reports of their sinking funds audited by an
4 independent [certified] public accountant and except for school
5 districts of the first class or cities of the second class and
6 second class A.

7 (b) If such audit or reports shall disclose that any local
8 government unit has refused or neglected to establish sinking
9 funds as required by this act, or has failed to provide
10 sufficient moneys for any sinking fund to meet the payments of
11 assumed taxes, principal and interest to be made therefrom, is
12 not investing sufficient of the sinking fund moneys or is
13 otherwise in violation of this article, the department shall
14 make an order requiring the local government unit or any officer
15 thereof or the governing body to take such steps as, in the
16 opinion of the department, will cause such sinking funds
17 thereafter to comply with this article or to be sufficient.

18 (c) In addition to the criminal prosecutions provided for in
19 Article XIII of this act, or in lieu thereof, the department
20 may, in its discretion, apply to the Commonwealth Court for a
21 writ of mandamus to issue to such officer or governing body of
22 the local government unit to compel compliance with such order
23 of the department or such order with such modifications thereof
24 as to the court may seem just and proper.

25 Section 54. The act is amended by adding a section to read:

26 Section 1007. Sinking Fund not Required for Small
27 Borrowings.--A local government unit may, but shall not be
28 required to, comply with the provisions of this Article X in
29 respect of notes issued in compliance with section 409.

30 Section 55. The article heading of Article XI of the act is

1 reenacted to read:

2 ARTICLE XI

3 Refunding of Debt

4 Section 56. Sections 1101, 1102, 1103, 1104, 1105, 1106,
5 1107, 1108, 1109 and 1110 are reenacted and amended to read:

6 Section 1101. Power to Refund.--Subject to the provisions of
7 the outstanding bonds, [or] notes or obligations evidencing
8 lease rental debt, and subject to the provisions of this
9 article, a local government unit shall have the right and power
10 to refund any outstanding debt in whole or in part at any time
11 [by the issue of bonds or notes of the same type as the bonds or
12 notes being refunded or by adjustments of lease rentals in
13 connection with any refunding of lease rental debt,] and shall
14 have the right and power to refund any outstanding notes with
15 bonds [of the same type] or bonds with notes.

16 For the purpose of this Article XI, the term "refund" and its
17 variations shall mean the issuance and sale of obligations the
18 proceeds of which are used or are to be used for the payment or
19 redemption of outstanding obligations upon or prior to maturity.

20 The refunding may be for any one or more of the following
21 purposes:

22 (1) Reducing total [interest payable] debt service over the
23 life of the series; [by issuing bonds or notes of a shorter term
24 or at a lower interest rate or rates;]

25 (2) Reducing the annual debt service in any particular year
26 or years, by extending the life of the issue subject to the
27 limitations imposed by section 1107;

28 (3) Eliminating any covenant or restriction in, or
29 applicable to, any outstanding series or issue of bonds or notes
30 determined by the local government unit to be unduly burdensome

1 or restrictive;

2 (4) Refunding any maturity or maturities or any portions
3 thereof to a later date subject to the limitations imposed by
4 section 1107; [or]

5 (5) Substituting [a bond issue] bonds for notes or bond
6 anticipation notes or substituting notes for bonds; and

7 (6) Adjusting lease rentals upon refunding of lease rental
8 debt for any one or more of the foregoing purposes.

9 It is immaterial whether or not any such refunding under clauses
10 (2), (3), (4), or (5) increases the total [interest] debt
11 service payable over the life of the series.

12 Section 1102. [Treatment of Refunding Premium and Costs of
13 Issue on Refunding Bonds] Treatment of Costs Upon a Refunding.--
14 In any refunding, a principal amount of refunding bonds or notes
15 or obligations evidencing lease rental debt equal to the sum of
16 the following:

17 (1) The call premium payable on the bonds, notes or
18 obligations being refunded;

19 (2) The discount allowed on the sale of the refunding bonds,
20 notes or obligations;

21 (3) Any funds [needed] borrowed to [cover] pay interest
22 [payable] on bonds, notes or obligations being refunded [not
23 otherwise made available]; and

24 (4) The costs of issue and sale of the refunding bonds,
25 notes or obligations;

26 may be considered as interest on the refunding bonds, notes or
27 obligations may be separately stated in all reporting of debt,
28 and in all computation of debt limits and if so considered and
29 reported by the local government unit shall not be considered as
30 electoral, [or] nonelectoral or lease rental debt. In subsequent

1 debt statements, any such separately stated principal amount of
2 bonds, [or] notes or obligations shall be reported as being
3 amortized in the same proportion as the series of which they are
4 a part. [In computing whether savings are being effected by a
5 refunding, the interest on the bonds or notes being refunded and
6 the interest on all refunding bonds or notes being issued shall
7 be calculated to stated maturity dates or earlier mandatory call
8 dates on both series except as provided in the last sentence of
9 this section. The amounts computed from clauses (1) to (4) above
10 shall be added to the interest computed on the refunding bonds
11 or notes to determine the total interest on such bonds or notes.
12 In computing interest on the bonds or notes being refunded,
13 surplus revenues pledged to the series shall, subject to
14 subsection (e) of section 1001 be applied to reduce outstanding
15 bonds or notes at the earliest optional call dates covered by
16 available funds.]

17 For the purpose of computing whether savings are being
18 effected, however, the comparison of debt service which would be
19 payable on the refunded bonds, notes or obligations shall be
20 with debt service on the refunding bonds, notes or obligations
21 without reference to the designation of the costs in clauses (1)
22 through (4) above, adjusted in each case by projected receipt of
23 interest on invested funds, of excess revenues or application of
24 reserves to make the comparison reasonable and proper.

25 Section 1103. Limitation on Extending Term of Debt by
26 Refunding.--(a) Subject to the terms of section 1107 and to the
27 terms of subsection (b) of this section, no local government
28 unit shall extend the term of outstanding debt through refunding
29 to a maturity date that could not have been included in the
30 original issue, except in the case of an emergency refunding of

1 stated maturity date to avoid a default occasioned by an
2 unforeseen shortage in total revenues proven to the satisfaction
3 of the department upon petition filed by the governing body of
4 the local government unit, alleging the emergency and the
5 unforeseen loss of revenues. Public notice of the intention to
6 file such a petition shall be given by advertisement not less
7 than five nor more than twenty days before the filing thereof.
8 Such emergency refunding shall be made only in the amount and
9 with the stated maturity date or dates approved by the
10 department. The first maturity of a refunding issue need not
11 occur until the year after the last stated maturity date of the
12 bonds not called in the series being refunded.

13 (b) Except in the case of refundings [which effect savings
14 in interest cost] for the purposes specified in clauses (1) and
15 (5) of section 1101, and except for emergency refundings
16 approved by the department, no refunding bonds shall be issued
17 which will increase the amount of principal payable (after
18 provision for earlier mandatory calls) in any year or years
19 after the latest stated maturity date of the bonds being
20 refunded, [over the amount payable in each such year, computed
21 to the nearest whole multiple of five thousand dollars (\$5,000),
22 as if the bonds or notes originally issued for the project were
23 payable at six per cent on the level annual debt service plan
24 with a final maturity at the last stated maturity date proposed
25 for the refunding bonds, as such amounts shall be computed by a
26 financial advisor, other qualified person, or by a certified
27 public accountant.] over the amount of the principal which would
28 have been payable on the bonds or notes originally issued for
29 the project in each such year if such original bonds or notes
30 had been structured on a six per cent level annual debt service

1 plan to the last stated maturity date of the proposed refunding
2 bonds, computed to the nearest whole multiple of \$5,000, as such
3 amounts shall be computed by a financial advisor, other
4 qualified person, or by a public accountant.

5 Section 1104. Effect of Debt Limits on Refunding

6 Nonelectoral Bonds or Notes or Lease Rental Debt.--If any debt
7 originally incurred was lawfully incurred and issued, and, at
8 the time such debt was incurred, the portion constituting
9 nonelectoral debt or lease rental debt was within every
10 limitation imposed thereon by law, the issue of refunding bonds
11 or notes or the adjustment of lease rentals in respect of such
12 debt shall be lawful and valid, notwithstanding that the
13 aggregate of outstanding debt shall thereby exceed the then
14 applicable limitations set by section 202 of this act, which
15 limitations shall be deemed increased but only to the extent
16 necessary to effectuate and amortize the refunding lawfully. Any
17 portion of such refunding bonds, [or] notes or obligations may
18 be excluded from nonelectoral debt or lease rental debt, either
19 as subsidized debt or self-liquidating debt, in accordance with
20 the procedure provided in Article II of this act.

21 Section 1105. Refunding of Electoral Debt.--A local
22 government unit may, by action of its governing body, and in
23 accordance with the limitations of this Article XI, refund any
24 debt originally incurred as electoral debt. The refunding bonds,
25 [or] notes or obligations so issued shall not thereby be
26 considered nonelectoral debt or lease rental debt for any
27 purpose.

28 Section 1106. Procedure for Authorization, Sale, Issue, and
29 Approval of Refunding Bonds or Notes.--Bonds or notes issued for
30 refunding purposes shall be authorized, issued, sold, approved

1 and settled and refunding of lease rental debt shall be
2 authorized and approved in the manner provided in this act for
3 the authorization, issue, sale and approval of the original
4 debt, subject to any additional limitations provided in this
5 Article [XI]. No refunding bonds or notes shall be delivered to
6 the purchasers thereof unless, simultaneously therewith, the
7 notes or bonds being refunded become no longer outstanding in
8 accordance with section 1110 and no adjustment in lease rentals
9 shall be made unless appropriate provision for the retirement of
10 the outstanding lease rental debt shall have been made.

11 Section 1107. Special Limitation on Refunding of Funding
12 Debt.--No debt incurred for funding purposes pursuant to section
13 510, or under law in existence prior to the effective date of
14 this act, shall be refunded except pursuant to clause (1) of
15 section 1101 until such refunding shall have been approved as
16 necessary by the [Commonwealth Court] court of common pleas.
17 Such approval shall be obtained by petition to reopen the
18 proceedings in which the funding debt was originally incurred,
19 and the court shall grant such petition, if, after hearing, the
20 court shall be satisfied that such refunding is necessary and is
21 in the public interest. Due public notice of the filing of the
22 petition, shall be given by advertisement not less than five nor
23 more than twenty days before the filing thereof. All subsequent
24 proceedings in respect of the refunding of such funding debt
25 shall be taken in accordance with the provisions of this act
26 applicable to the incurring of the original debt. Bonds or notes
27 issued to refund funding debt shall be stated to mature at the
28 dates and in the amounts on each such date as may be approved by
29 the court, notwithstanding any limitation on the term of funding
30 debt imposed elsewhere in this act.

1 Section 1108. Approval of a Refunding by the Electors.--The
2 governing body of any local government unit may also obtain the
3 approval of the electors to any refunding of nonelectoral or
4 lease rental debt in the manner prescribed for an original issue
5 by Article III of this act, and may issue general obligation
6 bonds or guaranteed revenue bonds or incur other obligations in
7 such refunding if approved by the electors regardless of the
8 class of bonds, notes or obligations originally issued.

9 Section 1109. Refunding with Bonds of Another Type.--Subject
10 to the limitations of section 202 of this act, or after a
11 referendum held pursuant to section 1108, the governing body of
12 any local government unit may for any purpose specified in
13 section 1101, refund with its general obligation bonds or notes
14 or its guaranteed revenue bonds, or notes all or any part of any
15 outstanding [callable] revenue bonds or notes or bonds, [or]
16 notes or obligations of any authority [formed by it or of which
17 it is a member] or other local governmental unit constituting
18 lease rental debt of the local government unit or may refund any
19 outstanding [callable] revenue bonds or guaranteed revenue bonds
20 or notes with like bonds or notes. It may also refund any
21 general obligation or guaranteed revenue bonds with its revenue
22 bonds, by the incurring of lease rental debt or by guaranteeing
23 the obligations of an authority.

24 Section 1110. Use of Proceeds of Refunding Bonds; When
25 Refunded Bonds Are No Longer Deemed Outstanding.--(a) The
26 proceeds of refunding bonds, together with any other moneys made
27 available for the purpose shall be used solely for the purpose
28 of retiring the bonds being refunded and for the purpose of
29 paying the costs of the refunding.

30 (b) Any bonds or notes to be redeemed or paid shall no

longer be deemed to be outstanding for the purpose of determining the net debt of the local government unit or for the purposes of any indenture limitations on replying revenues when the local government unit shall have irrevocably deposited with a bank or bank and trust company in a sufficient amount:

(1) Moneys;

(2) Noncallable securities of the United States of America or of the Commonwealth maturing or payable at par at the option of the holders at or prior to the dates needed for disbursement;

(3) Time deposits or certificates of deposit, with a firm rate of interest or stated minimum rate of interest issued by a bank or bank and trust company and insured or adequately secured as [public deposits] required by section 1004; or

(4) Any combination of the foregoing.

Subject to any relevant contrary law or regulation, the amount deposited may be equal to the principal and interest to become due on the bonds or notes being refunded to the date on which the bonds or notes are stated to mature or any lesser amount computed in accordance with the provisions of the next sentence.

The deposited amount shall be sufficient when it, together with the interest to be earned thereon will equal the principal, premium, and interest to become due on the bonds or notes being refunded to the earlier of the date at which any such bonds or notes are stated to mature, or have been called for prior redemption: Provided, however, That the local government unit shall simultaneously have given such bank or bank and trust company instructions and authority, stated to be irrevocable, to publish any notices of redemption remaining to be published.

When stated to be irrevocable, the instructions and authority to call bonds or notes for redemption shall become irrevocable

1 upon the delivery thereof, or upon the deposit of the moneys or
2 securities in a sufficient amount to effect the redemption,
3 whichever shall occur the later. Until such irrevocability shall
4 have occurred, a call for redemption may be revoked by notice
5 given in like manner as the notice of redemption.

6 Section 57. Section 1111 of the act is reenacted to read:

7 Section 1111. Cessation of Interest on Called Bonds or
8 Notes.--Upon the date fixed for redemption, such irrevocable
9 deposit having been made, and due notice of the redemption
10 having been given, no further interest on the bonds or notes so
11 called for redemption shall accrue. Nothing in this article
12 shall, however, relieve the issuing local government unit of its
13 obligation to see to it that the holders of the bonds or notes
14 called for redemption are paid in full on the date fixed for
15 redemption. From and after such date, such irrevocable deposit
16 having been made and being the proper amount on such date, the
17 holders of bonds or notes called for redemption shall have no
18 rights against the local government unit except to receive
19 payment from the deposited funds, or from the local government
20 unit to the extent of the moneys returned to it pursuant to
21 subsection (f) of section 1004 of this act.

22 Section 58. The article heading of Article XII of the act is
23 reenacted to read:

24 ARTICLE XII

25 Remedies

26 Section 59. Sections 1201, 1202, 1203 and 1204 of the act
27 are reenacted and amended to read:

28 Section 1201. Failure to Budget Debt Service.--If a local
29 government unit having outstanding any general obligation bonds
30 or notes or guaranteed revenue bonds or notes, lease rental debt

1 or guaranty of authority obligations fails or refuses to make
2 adequate provision in its budget for any fiscal year for the
3 sums payable in respect of such bonds or notes, lease rental or
4 guaranty in such year or shall fail to appropriate or pay the
5 moneys necessary in such year for the payment of the amount of
6 the lease rental or guaranty, or as the case may be, of the
7 maturing principal of and the interest on such bonds or notes or
8 any of them, or any tax anticipation notes, or any sinking fund
9 obligation for such bonds or notes or tax anticipation notes, or
10 guaranty or the lease rental payment coming due in the fiscal
11 year of such budget or for which such appropriations or payments
12 should have been made, then at the suit of the holder of any
13 bond, note, or tax anticipation note, or coupon or guaranty, or
14 the holder of any authority obligation secured by a lease
15 evidencing the acquisition of a capital asset or of any taxpayer
16 of the local government unit, the court of common pleas of the
17 county in which such local government unit is located, or, if
18 located in two counties, then of either county, shall, after a
19 hearing held upon such notice to the local government unit as
20 the court may direct, and upon a finding of such failure or
21 neglect, by writ of mandamus, require the treasurer of the local
22 government unit and it shall be the duty of such treasurer to
23 pay into the sinking fund for each series of bonds or notes then
24 outstanding, or for each guaranty or lease rental payment, the
25 first tax moneys or other available revenues or moneys
26 thereafter received in such fiscal year by such treasurer,
27 equally and ratably for each series for which provision has not
28 been made in proportion to debt service for such year on each
29 such series then outstanding, or the amounts due upon guaranties
30 or as [rental under leases evidencing the acquisition of capital

1 assets,] payments with respect to lease rental debt, as the case
2 may be, (except that any priority on incoming tax moneys
3 accorded to a separate sinking fund for tax anticipation notes
4 under the authority of section 505, shall not be affected by
5 this provision), until the sum on deposit in each sinking fund
6 shall equal the moneys that should have been budgeted or
7 appropriated for each such series.

8 Section 1202. Failure to Pay Principal or Interest.--(a) If
9 a local government unit fails or neglects to pay or cause to be
10 paid the interest or principal on any of its general obligation
11 bonds or notes, or tax anticipation notes, as the same becomes
12 due and payable whether at the stated maturity date or upon an
13 unrevoked call for prior redemption, or to perform its payment
14 obligations with respect to any lease rental debt or guaranteed
15 revenue bonds or notes, and such failure shall continue for
16 thirty days, the holder thereof shall, subject to [section]
17 priorities created under sections 505, 1201 and 1203 of this act
18 and to any [reasonable] limitations upon individual rights of
19 action properly provided in the bond ordinance or any indenture,
20 have the right to recover the amount due in an action in
21 assumpsit in the court of common pleas of the county in which
22 such local government unit is located, or if located in two
23 counties, of either county. The judgment recovered shall have
24 [first] an appropriate priority upon the moneys next coming into
25 the treasury of the local government unit and shall be a
26 judgment upon which funding bonds may be issued pursuant to
27 Article V of this act.

28 (b) If a local government unit fails or neglects to pay or
29 cause to be paid the principal of or the interest upon any
30 revenue bond or note as the same shall become due, whether at

1 the stated maturity or upon call for prior redemption, the
2 holder thereof shall, subject to [section] priorities created
3 under sections 505, 1202 and 1203 of this act and to any
4 [reasonable] limitations upon individual rights of action
5 properly provided in the bond ordinance or any indenture, have
6 the right to recover the amount due in an action in assumpsit in
7 the court of common pleas of the county in which such local
8 government unit is located, or, if located in two counties, of
9 either county but the judgment shall be limited to payment out
10 of the assessments, revenues, rates, rents, tolls and charges
11 from the project which are pledged for the payment of such bonds
12 or notes.

13 Section 1203. Trustee for Bondholders.--(a) Notwithstanding
14 any provision in the bonds or notes or in any authorizing
15 ordinance, if a local government unit defaults in the payment of
16 the principal of or the interest on any series of bonds or notes
17 after the same shall become due, whether at the stated maturity
18 or upon call for prior redemption, and such default shall
19 continue for thirty days, or if the local government unit fails
20 to comply with any provision of the bonds or notes, or in any
21 authorizing resolution or indenture of trust, the holders of
22 twenty-five per cent in aggregate principal amount of the bonds
23 or notes of such series then outstanding, by an instrument or
24 instruments filed in the office for the recorder of deeds in the
25 county in which such local government unit is located, signed
26 and acknowledged in the same manner as a deed to be recorded,
27 may appoint a trustee, who may be the sinking fund depository,
28 to represent the holders of all such bonds or notes, and such
29 representation shall be exclusive for the purposes herein
30 provided.

1 (b) Such trustee may, and upon written request of the
2 holders of twenty-five per cent in principal amount of such
3 bonds or notes then outstanding and upon being furnished with
4 identity satisfactory to it shall, in his or its own name take
5 one or more of the actions set forth below and the taking of
6 such actions shall preclude similar action whether previously or
7 subsequently initiated by individual holders of bonds or notes.

8 (1) By mandamus or other suit, action or proceeding at law
9 or in equity enforce all rights of the holders of the bonds or
10 notes, including in the case of revenue or guaranteed revenue
11 obligations the right to require the local government unit to
12 impose and collect rents, rates, tolls and charges adequate to
13 carry out any agreement or covenant as to, or pledge of such
14 rents, rates, tolls or charges, for the use of the project or
15 projects financed by such bonds or notes, or to require the
16 local government unit to carry out any other agreements with the
17 holders of such bonds or notes;

18 (2) Bring suit on the bonds or notes without the necessity
19 for producing the bonds or notes, and with same effect as a suit
20 by any holder;

21 (3) In the case of revenue or guaranteed revenue bonds or
22 notes to require the local government unit to account as if it
23 were the trustee of an express trust for the holders of such
24 bonds or notes, for any pledged revenues received;

25 (4) In the case of general obligation bonds or notes,
26 petition the court to levy, and the court is hereby empowered to
27 levy, after a hearing upon such notice to the owners of
28 assessable real estate, as the court may prescribe, the amount
29 due before or after the exercise of any right of acceleration on
30 the bonds or notes plus estimated costs of collection as an

1 assessment upon the properties benefited by the improvement
2 pursuant to the front foot rule if the project is an assessable
3 improvement, otherwise upon all taxable real estate and other
4 property subject to ad valorem taxation in the local government
5 unit, in proportion to the value thereof as assessed for tax
6 purposes, and the trustee may collect or cause the local
7 government unit to collect, such assessments as by foreclosure
8 of a mortgage or security interest on the realty or other
9 property if not paid on demand;

10 (5) In the case of guaranteed revenue bonds or notes or a
11 guarantee [or] of authority obligations or unpaid lease rentals
12 under leases evidencing the acquisition of capital assets, to
13 petition the court to levy, and the court is hereby empowered to
14 levy, after hearing upon such notice to the owners of assessable
15 real estate, and other property subject to ad valorem taxation,
16 as the court may prescribe, the amount due on the guaranty or
17 under the lease plus estimated costs of collection as an annual
18 assessment for the current and future years upon all taxable
19 real estate and other properties subject to ad valorem taxation
20 in the local government unit in proportion to the value thereof
21 as assessed for tax purposes, and the trustee may collect or
22 cause the local government unit to collect such assessments as
23 by foreclosure of a mortgage or security interest on the realty
24 or other property if not paid on demand. The levy shall bear
25 interest, until paid, at a rate sufficient to cover accruing
26 interest on the bonds or notes;

27 (6) By suit in equity, enjoin any acts or things which may
28 be unlawful or in violation of the rights of the holders of such
29 bonds, notes, guaranty, or authority obligations under a lease
30 evidencing the acquisition of capital assets;

1 (7) After thirty days prior written notice to the local
2 government unit, and subject to any limitations in the bond
3 ordinance or relevant indenture declare the unpaid principal of
4 all such bonds or notes to be, and it shall thereby become
5 forthwith due and payable with interest at the rates stated in
6 the bonds until final payment, and, if all defaults shall be
7 made good then to annul such declaration and its consequences.

8 Any assessment levied pursuant to clauses (4) and (5) above
9 shall have the same priority and preference as to other liens or
10 mortgages on the real estate or security interests in fixtures
11 thereon or other property, as a lien for unpaid taxes.

12 (c) The court of common pleas of the jurisdiction in which
13 such local government unit is located shall have jurisdiction of
14 any suit, action, or proceeding by the trustee on behalf of
15 bondholders under this section, and, in cases of extreme
16 hardship may provide for the payment of sums levied in five or
17 less annual installments with interest at a rate sufficient to
18 cover the interest accruing on the bonds or notes. Appeals shall
19 be to the Commonwealth Court in accordance with the Appellate
20 Court Jurisdiction Act of 1970.

21 (d) If a trustee or fiscal agent for the bondholders or
22 noteholders was appointed in connection with the original issue
23 of the bonds or notes, and is willing to serve and exercise the
24 powers [confined] conferred upon a trustee appointed by this
25 section, no trustee appointed in the manner provided in this
26 section shall have the powers herein set forth unless the
27 appointment under this section was executed by or pursuant to
28 the authority of the holders of a principal amount of such bonds
29 or notes sufficient to remove such originally appointed trustee
30 or fiscal agent.

1 Section 1204. Receiver for Revenue Projects.--A trustee for
2 the holders of defaulted bonds or notes, whether or not the
3 series of bonds presented by the trustee has been declared to be
4 and has become forthwith due and payable, shall be entitled as
5 of right to the appointment, by the court of common pleas of the
6 county in which such local government unit is located, or, if
7 located in two counties, then of either county, of a receiver of
8 all or any part of parts of a project or the projects, the
9 rents, rates, revenues, tolls and charges of which are pledged
10 for the security of the bonds or notes of such series. [Such]
11 Except as otherwise provided in the section, such receiver shall
12 have no power [of sale] to sell, assign, mortgage, or otherwise
13 dispose of, but may enter and take possession of the project or
14 projects or part or parts thereof, and, subject to the equal or
15 prior rights of the holders of any other series of bonds or
16 notes, shall take possession of all moneys and other property
17 derived from or applicable to the construction, operation,
18 maintenance, repair and reconstruction of such project or
19 projects or parts thereof. The receiver may thereafter proceed
20 with any construction or other work thereon which the local
21 government unit is under obligation to do. The receiver may
22 operate, maintain, repair, and reconstruct such project or
23 projects, or parts thereof and collect and receive all rents,
24 rates, receipts, tolls, other charges and revenues arising
25 therefrom, subject to the equal or prior rights of the holders
26 of any other series of bonds or notes therein. As part of his
27 power to operate and maintain a project, the receiver may sell
28 or otherwise dispose of equipment which is no longer used or
29 usable by the project. The receiver shall perform the public
30 duties and carry out the lawful agreements and obligations of

1 the local government unit with respect to the project or
2 projects or parts thereof, all under the direction of the court
3 but shall not perform any essential governmental functions.

4 Section 60. Section 1205 of the act is reenacted to read:

5 Section 1205. Costs of Suits or Proceedings.--In any suit,
6 action or proceeding by or on behalf of the holders of defaulted
7 bonds or notes of a local government unit brought under this act
8 the fees and expenses of a trustee or receiver, including
9 operating costs of a project and reasonable counsel fees, shall
10 constitute taxable costs, and all such costs and disbursements
11 allowed by the court shall be deemed additional principal due on
12 the bonds or notes, and shall be paid in full from any recovery
13 prior to any distribution to the holders of the bonds or notes.

14 Section 61. Section 1206 of the act is reenacted and amended
15 to read:

16 Section 1206. Distribution of Moneys Realized for
17 Bondholders.--Moneys or funds collected for the holders of
18 defaulted bonds or notes entitled to share equally and ratably
19 therein shall, after the payment of costs and fees as provided
20 in section 1205, be applied by the trustee or receiver, unless
21 the terms of the bonds or notes provide otherwise, as follows:

22 (1) Unless the principal of all of the bonds or notes
23 represented shall have become or have been declared due and
24 payable, (i) to the payment to the persons entitled thereto of
25 all installments of interest then due in the order of the stated
26 maturity dates of such installments of such interest and, if the
27 amount available shall not be sufficient to pay any installment
28 in full, then to the payment ratably, according to the amounts
29 due on such installment, to the persons entitled thereto,
30 without any discrimination or preference except as to any

1 difference in the respective rates of interest expressed in the
2 bonds or notes or coupons for interest; and (ii) to the payment
3 to the persons entitled thereto of the unpaid principal of any
4 bonds or notes which shall have become due, whether at stated
5 maturity dates or by call for redemption, in the order of their
6 respective due dates, and if the amount available shall not be
7 sufficient to pay in full all the bonds or notes due on any
8 date, then to the payment ratably, according to the amounts of
9 principal due on such dates, to the persons entitled thereto
10 without any discrimination or preference.

11 (2) If the principal of all of the bonds or notes entitled
12 to share equally in such moneys shall have become or shall have
13 been declared due and payable, to the payment of the principal
14 and interest then due and unpaid upon the bonds or notes without
15 preference or priority of principal over interest or interest
16 over principal, or of any installment of interest over any other
17 installment of interest, or of any bond or note over any other
18 bond or note, ratably according to the [accounts] amounts due
19 respectively for principal and interest, to the persons entitled
20 thereto without any discrimination or preference except as to
21 any difference in the respective rates of interest specified in
22 the bonds, notes and coupons.

23 (3) If more than one series is involved and the principal of
24 all bonds or notes of one or more series has become or has been
25 declared due and payable, and that if one or more others has
26 not, the funds available shall be apportioned to each series
27 according to the respective amounts of principal of each series
28 then outstanding less, as to each series any amounts held
29 earmarked for such series, and distribution to the holders of
30 the bonds, notes and coupons of each series shall be made

1 according to whichever of clauses (1) and (2) above may be
2 applicable.

3 Section 62. The article heading of Article XIII of the act
4 is reenacted to read:

5 ARTICLE XIII

6 Miscellaneous; Repeals; Effective Date

7 Section 63. Section 1301 of the act is reenacted and amended
8 to read:

9 Section 1301. False Statement in Documents Constitute
10 Perjury; Fines and Penalties Therefor.--Whoever wilfully and
11 corruptly makes under oath false oral or written statements or
12 any false statement in any document required to be filed in the
13 department, [or] in the office of the recorder of deeds or in
14 the office of the prothonotary of the appropriate county is
15 guilty of perjury, [a felony,] or false swearing, as the case
16 may be, and whoever wilfully and corruptly procures or suborns
17 any other person to make any such false statement, is guilty of
18 [subornation of perjury, a felony] a crime, and on conviction of
19 either offense, shall be sentenced to pay a fine [not exceeding
20 ten thousand dollars (\$10,000),] or undergo imprisonment [by
21 separate or solitary confinement at labor not exceeding seven
22 years], or both within the limits prescribed by Title 18 Pa.C.S.
23 (relating to crimes and offenses).

24 Section 64. Section 1302 of the act is reenacted to read:

25 Section 1302. Failure to Obey Sinking Fund Directive of
26 Department Constitutes a Misdemeanor; Fines and Penalties
27 Therefor.--Any officer or any member of the governing body of
28 any local government unit who shall refuse or neglect to obey
29 any order of the department made under the provisions of Article
30 X concerning sinking funds or who shall refuse to furnish

1 requested information required by the department, or refuse
2 agents of the department access to any books, records or
3 documents relating to sinking funds shall be guilty of a
4 misdemeanor, and upon conviction thereof, shall be each
5 sentenced to pay a fine not exceeding [five hundred dollars]
6 \$500 for each day of violation.

7 Section 65. Section 1303 of the act is reenacted and amended
8 to read:

9 Section 1303. Exemption of Bonds and Notes from Taxation in
10 Pennsylvania.--The Commonwealth does hereby pledge to and agree
11 with any person, firm, or corporation or Federal Agency
12 subscribing to or acquiring any bonds or notes, including tax
13 anticipation notes issued by any local government unit pursuant
14 to the provisions of this act or the act approved June 25, 1941,
15 as amended, that such bonds or notes, their transfer and the
16 income therefrom [including any gains made on the sale thereof
17 (other than the underwriting spread in a distribution thereof)]
18 (including any profits made on the sale thereof) shall at all
19 times be free from taxation for State and local purposes within
20 [and by] the Commonwealth of Pennsylvania, but this exemption
21 shall not extend to [underwriting profits or to] gift, estate,
22 succession or inheritance taxes or any other taxes not levied
23 directly on the bonds or notes, the transfer thereof, the
24 [receipt of the] income therefrom, or the realization of [gains]
25 profits on the sale thereof.

26 Section 66. Section 1304 of the act is reenacted to read:

27 Section 1304. Exclusive Method of Borrowing on Bonds or
28 Notes, Including Tax Anticipation Notes.--Hereafter a local
29 government unit, as defined in this act, may borrow money on
30 bonds or notes, including tax anticipation notes, only as

1 provided in this act, it being the intention that this act shall
2 provide an exclusive and uniform system on the subjects covered
3 by this act: Provided, however, That school districts of the
4 first class may for their first four full fiscal years following
5 the effective date of this act borrow on tax anticipation notes
6 and other short term borrowing authority in accordance with
7 prior law.

8 Section 67. Section 1305 of the act is reenacted and amended
9 to read:

10 Section 1305. Duties of [Recorders of Deeds;]
11 Prothonotaries; Filing Fees.--(a) It shall be the duty of the
12 [recorders of deeds] prothonotaries of the several courts of
13 common pleas in each county to accept, file and index the
14 several statements, resolutions and other matters required by
15 this act to be filed in [the office for the recording of deeds.
16 A separate index of debt records shall be established and
17 maintained in which the filings of each local government unit
18 will be indexed under the name of the local government unit
19 making the filing.] their respective offices. Such officers
20 shall to the extent that such filing shall not fall within
21 established indexing and filing dockets, establish appropriate
22 records and indices for such filings under the name of the local
23 government unit making the filing or in respect of the debt of
24 which such filing is made. If a microfilm record is made of the
25 filings, the originals may be destroyed by [the recorder of
26 deeds] such officer, and his certificate as to the filings and
27 as to the accuracy of any copy of a filing shall be admitted in
28 evidence in any court of this Commonwealth as proof [of what was
29 filed] thereof.

30 (b) The local government unit or other person making the

1 filing shall pay to [the recorder of deeds] such officer a
2 filing fee based upon the fees charged for the filing of [deeds
3 or mortgages of the same length] similar documents under
4 established procedures.

5 Section 68. Section 1306 of the act is reenacted to read:

6 Section 1306. Severability.--The provisions, terms, and the
7 applications of this act shall be severable, and if any term or
8 provision or any application of this act to any situation
9 including, but without limitation, the restrictions on lease
10 rental debt and the application of this act thereto, shall be
11 held to be unconstitutional, such decision shall not affect the
12 validity of any other term or provision or the application of
13 this act or of any expressed limits on debt to any other
14 situation. It is hereby declared as the legislative intent that
15 this act would have been adopted had such unconstitutional
16 application been expressly excluded or had such unconstitutional
17 term or provision not been included herein.

18 Section 69. Section 1307 of the act is reenacted and amended
19 to read:

20 Section 1307. Repeals.--[(a) The following acts are
21 repealed absolutely:

22 (1) The act of June 25, 1941 (P.L.159), known as the
23 "Municipal Borrowing Law."

24 (2) The act of March 6, 1970 (P.L.145), known as "The
25 General Obligation Non-debt Bond Act."

26 (b) The following parts of acts are repealed in so far as
27 they relate to the authorization, issue and sale of tax
28 anticipation notes:

29 (1) Section 1 of the act of June 23, 1931 (P.L.922),
30 entitled "A supplement to the act, approved the seventh day of

1 March, one thousand nine hundred and one (Pamphlet Laws,
2 twenty), entitled 'An act for the government of cities of the
3 second class,' as amended, authorizing the mayor, city
4 controller, and council to make emergency loans."

5 (2) Section 1811.2 of the act of June 23, 1931 (P.L.932),
6 known as "The Third Class City Code."

7 (3) Section 1703 of the act of June 24, 1931 (P.L.1206),
8 known as "The First Class Township Code."

9 (4) Section 903 of the act of May 1, 1933 (P.L.103), known
10 as "The Second Class Township Code."

11 (5) Section 640 of the act of March 10, 1949 (P.L.30), known
12 as the "Public School Code of 1949."

13 (6) Clause (3) of section 1005 of the act of February 1,
14 1966 (P.L.1656), known as "The Borough Code."

15 (c)] All [other] acts and parts of acts are repealed in so
16 far as they are inconsistent herewith.

17 Section 70. Section 1308 of the act is repealed.

18 Section 71. This act shall take effect immediately. All
19 bonds or notes sold prior to the effective date may be settled
20 and delivered either in accordance with the provisions hereof or
21 in accordance with the provisions of the act of which this is a
22 reenactment.