

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1410 Session of
1972

INTRODUCED BY MAHADY, FRAME, W. E. FLEMING, REIBMAN and MURPHY,
MAY 9, 1972

REFERRED TO LOCAL GOVERNMENT, MAY 9, 1972

AN ACT

1 Providing debt limits for local government units, including
2 municipalities and school districts; providing the methods of
3 incurring and evidencing debt; defining the powers and duties
4 of the Department of Community Affairs with respect thereto;
5 exercising the inherent legislative authority of the General
6 Assembly by providing additional over-all limitations on the
7 incurring of lease rental and other obligations for the
8 acquisition of capital assets to be repaid from the general
9 tax revenues of such local government units; imposing duties
10 upon the officers in charge of the recording of deeds,
11 imposing penalties for filing false or untrue statements or
12 refusing to give information with respect to proceedings for
13 the incurring of debt; and conferring jurisdiction on the
14 Commonwealth Court with respect to certain proceedings
15 relating to the incurring of debt.

TABLE OF CONTENTS

16
17 Article I. Short Title, Definitions and Preliminary Matters
18 Section 101. Short Title.
19 Section 102. Definitions.
20 Section 103. Effectiveness and Required Notice of
21 Ordinances.
22 Section 104. When Lease or Other Agreement Evidences
23 Acquisition of Capital Asset.
24 Section 105. Designation of Bonds and Notes; Authority

1 to Issue.

2 Section 106. Preliminary Cost Estimates.

3 Section 107. Cost of a Project.

4 Section 108. Local Government Units Hereafter Obtaining Home

5 Rule Charters.

6 Article II. Limitations on Debt of Local Government Units

7 Section 201. No Limitation on Debt Approved by Electors.

8 Section 202. Limitations on the Incurring of Other Debt.

9 Section 203. Transfer of Nonelectoral Debt to Electoral

10 Debt.

11 Section 204. Procedure for Exclusion of Subsidized Debt

12 to Find Net Nonelectoral Debt or Net Lease

13 Rental Debt.

14 Section 205. Procedure for Exclusion to Find Net Non-

15 electoral Debt of Self-liquidating Debt

16 Evidenced by Revenue Bonds or Notes.

17 Section 206. Procedure for the Exclusion to Find Net

18 Nonelectoral Debt or Net Lease Rental Debt of

19 Self-liquidating Debt Evidenced by Other Bonds

20 or Notes or a Guaranty.

21 Section 207. Effect of Debt Limitations on Outstanding Debt.

22 Section 208. Determination of Existing Net Nonelectoral and

23 Net Lease Rental Debt.

24 Section 209. Determination of Debt Limits.

25 Article III. Procedure for Securing Approval of Electors

26 Section 301. Desire Ordinance; Expense of Certain Elections.

27 Section 302. Advertisement of Election.

28 Section 303. Conduct of Election.

29 Section 304. Finality of Result of Election.

30 Section 305. Effect of Defeat of Question.

1 Section 306. Issue of Bonds or Notes to Evidence Electoral
2 Debt.

3 Section 307. Cancellation or Termination of Approval of
4 Electors.

5 Section 308. Limitation on Use of Proceeds of Electoral
6 Debt.

7 Section 309. Manner of Effecting Change of Purpose of
8 Electoral Debt.

9 Article IV. Actions of Governing Body with Respect to Incurring
10 Debt, and Issuing Bonds, Notes, and Bond
11 Anticipation Notes

12 Section 401. Combining Projects for Financing.

13 Section 402. Ordinance Authorizing Issuance of Debt.

14 Section 403. Contents of Ordinance Authorizing Debt.

15 Section 404. Covenant to Pay General Obligation or
16 Guaranteed Revenue Bonds or Notes.

17 Section 405. Additional Provisions in Ordinance Authorizing
18 Issuance of Revenue or Guaranteed Revenue
19 Bonds.

20 Section 406. Sinking Fund Depositary; Trustee for
21 Bondholders or Noteholders.

22 Section 407. Award of Bonds or Notes.

23 Section 408. Bond Anticipation Notes.

24 Section 409. Borrowing by Notes.

25 Section 410. Debt Statement.

26 Section 411. Submission to Department.

27 Section 412. Agreements with Bondholders or Noteholders.

28 Section 413. Lost, Stolen, Destroyed or Mutilated Bonds or
29 Notes.

30 Section 414. Evidence of Signatures of Holders of Bonds or

1 Notes and of Ownership of Bonds or Notes.

2 Section 415. Ordinances Are Contracts with Holders of

3 Bonds or Notes.

4 Article V. Tax Anticipation Notes and Funding Debt

5 Section 501. Power to Issue Tax Anticipation Notes.

6 Section 502. Limitation on Amount of Tax Anticipation Notes.

7 Section 503. Limitation on Stated Maturity Date of Tax

8 Anticipation Notes; Time of Payment of

9 Interest.

10 Section 504. Other Terms of Tax Anticipation Notes.

11 Section 505. Security for Tax Anticipation Notes; Sinking

12 Fund.

13 Section 506. Certification as to Taxes and Revenues to be

14 Collected.

15 Section 507. Sale of Tax Anticipation Notes.

16 Section 508. Condition Precedent to Validity of Tax

17 Anticipation Notes.

18 Section 509. Unfunded Debt.

19 Section 510. Procedure to Fund Unfunded Debt.

20 Section 511. Approval by Department.

21 Section 512. Approval by Court.

22 Article VI. Limitations on Provisions of Bonds or Notes;

23 Required Terms and Stated Maturities

24 Section 601. Form of Bonds or Notes.

25 Section 602. Limitations on Stated Maturity Dates.

26 Section 603. Number of Interest Rates; Variation.

27 Section 604. Place and Medium of Payment.

28 Section 605. Execution of Bonds or Notes.

29 Section 606. Pledge of Revenues.

30 Section 607. Deeds of Trust and Other Agreements with

1 Bondholders and Noteholders.
2 Section 608. Negotiable Qualities of Bonds or Notes.
3 Section 609. Temporary Bonds or Notes or Interim Receipts.
4 Section 610. Term-bonds of the Denomination of One
5 Hundred Dollars Each.

6 Article VII. Sale of Bonds or Notes

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

8 Section 702. Contents of Public Advertisement and of
9 Official Notice of Sale.

10 Section 703. Proposals for Purchase.

11 Section 704. Opening of Bids.

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

14 Section 706. Required Bid Security.

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

17 Section 708. Public Sale; Failure to Receive Conforming
18 Bid.

19 Section 709. Determination of Net Interest Cost and Net
20 Interest Rate.

21 Section 710. Combining for Purposes of Financing or Sale.

22 Article VIII. Filing with and Duties of the Department

23 Section 801. Certification of Bond or Note Transcript to
24 Department.

25 Section 802. Filing of Statements of Completion of Sale with
26 Department; Penalty.

27 Section 803. Fees for Filing; Extra Fees for Late Filings.

28 Section 804. Examination of Bond or Note Transcript and
29 Other Filings by Department; Certificate of
30 Approval.

1 Section 805. Certificate of Disapproval; Correction of
2 Proceedings.

3 Section 806. Effect of Failure of Timely Action by Depart-
4 ment; Extension of Time to Act.

5 Section 807. Records of Department.

6 Section 808. Invalidity of Bonds or Notes Delivered Prior to
7 Approval by the Department.

8 Section 809. Finality of Proceedings; Validity of Bonds
9 or Notes.

10 Section 810. Power of Department to Define Terms, Issue
11 Rules and Regulations and Prescribe Forms.

12 Article IX. Appeals Concerning Debt

13 Section 901. Appeals by Interested Parties and Taxpayers.

14 Section 902. Action to Contest Proceedings Before
15 Departmental Approval.

16 Section 903. Notice of Appeal or Commencement of Action;
17 Record; Service of Notice.

18 Section 904. Filing of Answer.

19 Section 905. Hearings; Pleadings.

20 Section 906. Order; Further Proceedings Subject to
21 Approval of Department.

22 Section 907. Appeals from Commonwealth Court.

23 Article X. Sinking Funds; Reserves and Pledged Revenues

24 Section 1001. Creation of Sinking Fund and Accounts Therein.

25 Section 1002. Sinking Fund for Assessments.

26 Section 1003. Duty of Treasurer with Respect to Sinking Fund.

27 Section 1004. Deposit of and Investment of Moneys in
28 Sinking Funds.

29 Section 1005. Management of Sinking Fund.

30 Section 1006. Inspection of Sinking Funds; Orders to Comply.

1 Article XI. Refunding of Debt

2 Section 1101. Power to Refund.

3 Section 1102. Treatment of Refunding Premium and Costs of
4 Issue on Refunding Bonds.

5 Section 1103. Limitation on Extending Term of Debt by
6 Refunding.

7 Section 1104. Effect of Debt Limits on Refunding Non-
8 electoral Bonds or Notes.

9 Section 1105. Refunding of Electoral Debt.

10 Section 1106. Procedure for Authorization, Sale, Issue, and
11 Approval of Refunding Bonds or Notes.

12 Section 1107. Special Limitation on Refunding of Funding
13 Debt.

14 Section 1108. Approval of a Refunding by the Electors.

15 Section 1109. Refunding with Bonds of Another Type.

16 Section 1110. Use of Proceeds of Refunding Bonds; When
17 Refunded Bonds Are No Longer Deemed
18 Outstanding.

19 Section 1111. Cessation of Interest on Called Bonds or Notes.

20 Article XII. Remedies

21 Section 1201. Failure to Budget Debt Service.

22 Section 1202. Failure to Pay Principal or Interest.

23 Section 1203. Trustee for Bondholders.

24 Section 1204. Receiver for Revenue Projects.

25 Section 1205. Costs of Suits or Proceedings.

26 Section 1206. Distribution of Moneys Realized for
27 Bondholders.

28 Article XIII. Miscellaneous; Repeals; Effective Date

29 Section 1301. False Statement in Documents Constitute
30 Perjury; Fines and Penalties Therefor.

1 Section 1302. Failure to Obey Sinking Fund Directive
2 of Department Constitutes a Misdemeanor;
3 Fines and Penalties Therefor.

4 Section 1303. Exemption of Bonds and Notes from Taxation in
5 Pennsylvania.

6 Section 1304. Exclusive Method of Borrowing on Bonds or
7 Notes, Including Tax Anticipation Notes.

8 Section 1305. Repeals.

9 Section 1306. Effective Date.

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

12 ARTICLE I

13 Short Title, Definitions and Preliminary Matters

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

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

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

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

28 (ii) obligations under contracts for supplies, services and
29 pensions, allocable to current operating expenses of future
30 years in which the supplies are to be furnished, the services

1 rendered or the pensions paid;

2 (iii) rentals payable in future years under leases not
3 evidencing the acquisition of capital assets; and

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

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

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

14 (4) "Lease rental debt" means the principal amount of
15 authority bonds or notes or bonds or notes of another local
16 government unit to be repaid from payments of the local
17 government unit made pursuant to leases, subsidy contracts or
18 other forms of guarantee where such payments are or may be made
19 out of the tax and other general revenues of a local government
20 unit under leases or other agreements which evidence the
21 acquisition of capital assets.

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

25 (1) "Self-liquidating debt" means debt payable solely from
26 rents, rates or other charges to the ultimate users of the
27 project, to be financed in whole or in part by such debt, or
28 payable solely from special levies or assessments of benefits
29 lawfully earmarked exclusively for the purpose, and includes
30 lease rental debt, whether or not the leases evidence the

1 acquisition of capital assets, where the rentals are payable
2 solely from one or more of such sources. The term also includes
3 debt or any portion thereof at the time qualified as self-
4 liquidating pursuant to this act, whether or not solely payable
5 from such sources. The term "ultimate users" includes the local
6 government unit itself only where its use of the project is
7 incidental to the use of the project by other users.

8 (2) "Subsidized debt" means that amount of debt which is
9 self-liquidating to the local government unit because the annual
10 debt service on such amount for the fiscal year next following
11 the time of determination (i) will be covered by payments of
12 subsidies on account of cost of the project or on account of
13 operations, but measured by the cost of the project, or which
14 will be covered by capital account reimbursements, which
15 subsidies or reimbursements will be paid by either the
16 Commonwealth of Pennsylvania or the United States of America, or
17 both, where such payments under the legislation in force at the
18 time of determination are stated to be of a recurring nature, if
19 the Commonwealth or the United States shall have qualified the
20 project being financed for such subsidy or reimbursement,
21 preliminarily or finally, all as determined pursuant to section
22 204 of this act or (ii) will be covered by payments under a
23 subsidy contract with another local government unit and such
24 amount is lawful lease rental debt as to such other local
25 government unit all as determined under section 204 of this act.

26 (c) As used in this act unless the context clearly otherwise
27 requires:

28 (1) "Authority" means an authority or nonprofit corporation
29 organized under any law of the Commonwealth by the Commonwealth,
30 any local government unit or jointly by any one or more of the

1 foregoing.

2 (2) "Bond or note" means any instrument issued by a local
3 government unit imposing an obligation for the repayment of
4 money borrowed, but does not include a guaranty endorsed on an
5 instrument issued by an authority. "Bond" shall mean an
6 instrument in form qualifying as an investment security under
7 Article 8 of the Uniform Commercial Code. "Note" shall mean a
8 negotiable promissory note in form conforming to the
9 requirements of Article 3 of the Uniform Commercial Code
10 applicable to municipal obligations, except in each case as
11 otherwise provided herein.

12 (3) "Borrowing base" means the annual arithmetic average of
13 the total revenues for the three full fiscal years ended next
14 preceding the date of the incurring of nonelectoral debt or
15 lease rental debt as set forth in a certificate stating the
16 total revenues in each of such years and stating such average,
17 executed by the officials of the local government unit regularly
18 auditing its financial affairs or by the independent certified
19 public accountants regularly auditing the books of account of
20 such local government unit.

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

26 (5) "General obligation" in the title of a bond or note,
27 means a bond or note for the payment of which the full faith and
28 credit of the local government unit is pledged, for the payment
29 of which the local government unit has entered into the required
30 covenant under section 404, and for the payment of which no

1 specific revenues are pledged.

2 (6) "Governing body" means the authorities in each local
3 government unit authorized by law to levy taxes or fix the tax
4 rate of the local government unit and the term also includes the
5 school board of a school district and the board or officers
6 authorized to make binding commitments for joint local
7 government units, even though such body has no power to levy
8 taxes.

9 (7) "Guaranteed revenue" in the title of a bond or note,
10 means a bond or note payable in whole or in part from pledged
11 revenues, but which becomes wholly or partly a general
12 obligation of the guarantor in the event of deficiency in the
13 pledged revenues.

14 (8) "Incur" or "incurred," when used with respect to debt,
15 means the point in time when (i) in the case of debt assented to
16 by the electors, the assent shall have been given, and (ii) in
17 the case of nonelectoral or other debt the first ordinance
18 authorizing the debt shall have been adopted, unless the
19 authority for such debt shall have been cancelled or terminated
20 as provided in this act.

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

24 (10) "Local government unit" means a county, county
25 institution district, city, borough, incorporated town,
26 township, school district or any similar, general or limited
27 purpose unit of local government or any unit created by joint
28 action of two or more local government units which is now or
29 shall hereafter be authorized to be created by the General
30 Assembly; but the term does not include an authority as herein

1 defined, or any political subdivision now, or former local
2 government unit hereafter, operating under a home rule charter.

3 (11) "Ordinance" means an ordinance in the case of a local
4 government unit having the power to adopt ordinances and a
5 resolution in the case of all other local government units.

6 (12) "Project" means (i) any item of construction,
7 acquisition, extraordinary maintenance or repair which has been
8 undertaken by a local government unit, (ii) any preliminary
9 studies, surveying, planning, testing or design work for any
10 such, (iii) any lands or rights in land to be acquired, (iv) any
11 furnishings, machinery, apparatus or equipment normally
12 classified as capital items, but such items must have a useful
13 life of five years or more if financed separately and not as a
14 part of a construction project, (v) the local government unit's
15 share of the cost of a project undertaken jointly with one or
16 more other units or the Commonwealth or one of its agencies; or
17 (vi) any combination of any or all of the foregoing, as any or
18 all of the above may be designated as a project by the governing
19 body for the financing of which it desires to incur debt. The
20 term shall also include any deficit to be funded by bonds or
21 notes as provided herein, or the creation of a revolving fund
22 for specific improvements. Where a local government unit has
23 adopted a capital budget, the term project shall mean any
24 unfunded portion of the capital budget selected by ordinance for
25 current funding.

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

30 (14) "Series" means all the bonds or notes to be sold and

1 delivered at one time in respect of one project or of any two or
2 more projects which have been combined for purposes of financing
3 or where such bonds or notes have been combined for sale as
4 provided in this act.

5 (15) "Sinking fund" means a special fund created for the
6 accumulation and holding of moneys for the payment of bonds or
7 notes at a subsequent date and may also include funds or
8 accounts created for the accumulation and holding of moneys
9 required to be held in respect of specific issues of revenue or
10 guaranteed revenue bonds or notes for use in times of falling
11 revenues or for the costs of maintenance or repair.

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

15 (i) subsidies or reimbursements from the United States of
16 America or from the Commonwealth of Pennsylvania measured by the
17 cost of, or given or paid on account of, a particular project
18 financed by debt;

19 (ii) revenues, rates, receipts, user charges, special
20 assessments and special levies which are or will be pledged or
21 budgeted for specific self-liquidating debt, but such portion
22 thereof as may be returned to the local government unit by the
23 pledgee for any general operating purpose shall not be excluded;

24 (iii) interest on moneys in sinking funds, reserves, and
25 other funds pledged or budgeted for the payment or security of
26 outstanding debt, and interest on bond or note proceeds;

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

29 (v) proceeds from the disposition of capital assets, and
30 other nonrecurring items including bond or note proceeds not

1 considered income under generally accepted municipal accounting
2 principles.

3 Section 103. Effectiveness and Required Notice of
4 Ordinances.--Notwithstanding any other law to the contrary, an
5 ordinance required to be adopted by this act shall be advertised
6 not less than seven nor more than thirty days prior to its
7 enactment. The advertisement shall appear once in a newspaper of
8 general circulation, published or circulating in the area of the
9 local government unit, shall set forth a summary of the contents
10 of the ordinance and shall state that a copy of the full
11 proposed text thereof may be examined by any citizen in the
12 office of the secretary of the local government unit at the
13 address and during the reasonable hours stated in such
14 advertisement. Not later than the seventh day after the final
15 enactment of such ordinance, a notice of such enactment shall be
16 advertised once in a newspaper of general circulation published
17 or circulating in the local government unit. This notice shall
18 state:

19 (1) Briefly, the substance of any amendments made during
20 final passage, and the price bid for bonds or notes, the range
21 of interest rates named in the successful bid, and the average
22 annual debt service; and

23 (2) That a copy of such notice has been conspicuously posted
24 and will remain so posted for the next twenty-three days in a
25 designated position, readily viewable by the public, at the
26 public meeting place of the governing body of such local
27 government unit.

28 The ordinance shall be valid and effective for all purposes
29 on the later of such twenty-third day or the thirtieth day after
30 the final enactment of such ordinance. The second advertisement

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

10 Section 104. When Lease or Other Agreement Evidences
11 Acquisition of Capital Asset.--A lease guaranty, subsidy
12 contract or other agreement entered into by a local government
13 unit shall evidence the acquisition of a capital asset where:

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

19 (2) The payments, or any portion thereof, are payable or may
20 be payable from the tax or general revenues of the local
21 government unit; and

22 (3) Upon termination of such lease guaranty, subsidy
23 contract or other agreement or upon dissolution of such lessor
24 or obligee, whether before or after the termination of the
25 lease, title to the subject project or premises or a given part
26 thereof or undivided interest therein, shall, or at the option
27 of the local government unit may, vest by agreement or operation
28 of law in such local government unit, or in the Commonwealth of
29 Pennsylvania; or

30 (4) In any case where clause (2) of this section 104 applies

1 and the term of the lease guaranty, subsidy contract or other
2 agreement is equal to or exceeds the useful life of the asset,
3 regardless of the nature of the lessor or obligee.

4 Section 105. Designation of Bonds and Notes; Authority to
5 Issue.--(a) Bonds or notes prior to the authorization thereof
6 shall be classified by the issuing local government unit as one
7 of the following four types of obligation: general obligation
8 bonds or notes; guaranteed revenue bonds or notes; revenue bonds
9 or notes; or tax anticipation notes.

10 (b) Guaranteed revenue bonds or notes may have either a
11 general or a limited guaranty as the governing body of the local
12 government unit may determine, but if the guaranty shall be less
13 than a full unconditional guaranty, the title of the bond or
14 note shall contain the word "limited" before the word
15 "guaranteed." The guaranty of the local government may be of its
16 own revenue bonds or of the revenue bonds of an authority or
17 nonprofit corporation subject, however, to the provisions of
18 subsection (c) of this section.

19 (c) Every local government unit shall have full power and
20 authority to issue bonds or notes, and make guaranties as
21 provided in this act, to provide funds for and towards the cost
22 of or the cost of completing any project or combination of
23 projects which such local government unit is authorized to own,
24 acquire, subsidize, operate or lease, or to participate in
25 owning, acquiring, subsidizing, operating or leasing with others
26 and shall also have full power and authority to issue tax
27 anticipation notes and funding bonds or notes as herein
28 provided.

29 Section 106. Preliminary Cost Estimates.--Prior to the
30 initial authorization of bonds or notes or the issuance of any

1 guaranty to finance any project involving construction or
2 acquisition, the governing body shall obtain realistic cost
3 estimates through actual bids, option agreements, or
4 professional estimates from registered architects or
5 professional engineers. Any local government unit may retain the
6 services of a financial advisor. Costs of preliminary estimates
7 and the fees of financial advisors may, if initially paid by the
8 local government unit, be reimbursed out of the net proceeds of
9 the issue of bonds or notes as a cost of the project.

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

24 Section 108. Local Government Units Hereafter Obtaining Home
25 Rule Charters.--Every local government unit hereafter obtaining
26 a home rule charter shall be subject to the substantive
27 provisions of this act applicable to it as if it were a local
28 government unit, and may adopt the procedural provisions of this
29 act, by incorporation thereof by reference, in its home rule
30 charter.

ARTICLE II

Limitations on Debt of Local Government Units

Section 201. No Limitation on Debt Approved by Electors.--

All debt of any classification, whenever incurred, which has been or shall hereafter be approved, either before or after such debt is incurred, by majority of the votes cast upon the question of incurring such debt at a general or special election held as provided in this act, is excluded from the nonelectoral debt or the lease rental debt, as the case may be, of a local government unit and the limitations imposed by this act upon debt of such classification shall not apply thereto.

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

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

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

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

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

(b) Except as provided in subsections (c), (d) and (e) of this section or as otherwise specifically provided in this act, in the exercise of legislative control over the budgets and expenditures of local government units and of the purposes for which tax moneys and general revenues of local government units

1 may be expended, the General Assembly determines that no local
2 government unit shall incur any new debt, if the aggregate net
3 principal amount of such new debt together with any other net
4 nonelectoral debt and net lease rental debt then outstanding
5 would cause the outstanding total of net nonelectoral debt plus
6 net lease rental debt of such local government unit to exceed:

7 (i) one hundred fifty per cent of the borrowing base in the
8 case of a school district of the first class;

9 (ii) three hundred fifty per cent of its borrowing base in
10 the case of a county; or

11 (iii) three hundred per cent of its borrowing base in the
12 case of all other local government units.

13 (c) The limitations and prohibitions of the preceding
14 subsections (hereinafter called the "regular debt limits") shall
15 not apply to electoral debt, nor to debt excluded in computing
16 net amounts of nonelectoral debt or of lease rental debt, as
17 self-liquidating or because subsidized, when such exclusion is
18 made pursuant to sections 204, 205 and 206 of this act.

19 (d) An additional debt limit of one hundred per cent of the
20 borrowing base may be utilized for additional nonelectoral or
21 additional lease rental debt or both:

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

25 (ii) where the county has not assumed county-wide
26 responsibility, by a local government unit which has not assumed
27 heretofore responsibility for its and its adjacent areas for
28 hospitals and other public health services, air and water
29 pollution control, flood control, environmental protection,
30 water distribution and supply systems, sewage and refuse

1 collection and disposal systems, education at any level,
2 highways, public transportation or port operations, but such
3 additional debt limit may be so utilized only to provide funds
4 for and towards the cost of capital facilities for any or all of
5 the foregoing purposes combined. Debt, other than electoral
6 debt, at any time incurred for such purposes or any of them, may
7 be assigned by ordinance to this additional debt limit, if the
8 remaining borrowing capacity within the regular limits is
9 insufficient to finance other projects deemed necessary by the
10 governing body of the local government unit.

11 (e) If replacement of assets is required as a result of
12 fire, flood, storm, war, riot, civil commotion or other
13 catastrophe, or such replacement or any improvements are
14 required for the prevention of dangers to health or safety, or
15 if funds are required for the payment of tort liability not
16 covered by insurance, or if funds are required to be used for
17 and towards the costs of mandated installations of health,
18 safety, anti-pollution, environmental protection and control
19 facilities or of complying with other mandated Federal or
20 Commonwealth programs, a local government unit not having
21 sufficient remaining borrowing capacity as nonelectoral or lease
22 rental debt or being otherwise prohibited by section 305 from
23 incurring debt for the purpose, upon petition to the
24 Commonwealth Court alleging the catastrophe, or the danger to
25 health and safety, or the mandated nature of the program and the
26 estimated costs of the proposed facilities, and upon proof
27 thereof to the satisfaction of the court, shall be authorized,
28 notwithstanding section 305 or the insufficiency of nonelectoral
29 or lease rental borrowing capacity, to incur debt, as either
30 lease rental or nonelectoral debt, up to an additional fifty per

1 cent of its borrowing base, if such increase is found by the
2 court to have been made necessary under this subsection by
3 reason of the causes set forth in the petition. The increase
4 together with all outstanding other additional emergency net
5 debt and all outstanding net nonelectoral and net lease rental
6 debt (excluding any allocated to the additional debt limit under
7 subsection (d) of this section) shall not exceed the sum of the
8 applicable regular and additional emergency debt limits. Public
9 notice of the intention to file such a petition and of the
10 purpose for which the additional emergency debt is to be
11 incurred shall be given by advertisement in at least one and not
12 more than two papers of general circulation and in the legal
13 journal not less than five nor more than twenty days before the
14 filing thereof. Such additional emergency debt may be incurred
15 only for the purposes and upon the terms approved by the court.
16 The amount of such debt initially in excess of the regular debt
17 limits shall not thereafter be included in computing net amounts
18 of nonelectoral or lease rental debt. Appeals from the order of
19 the court may be taken by any interested party in accordance
20 with the Appellate Court Jurisdiction Act of 1970.

21 Section 203. Transfer of Nonelectoral Debt to Electoral
22 Debt.-- The governing body of any local government unit may, by
23 ordinance, signify a desire to have any nonelectoral debt
24 theretofore incurred established as electoral debt. The
25 ordinance shall direct the holding of an election to be held at
26 the proper places within such local government unit for the
27 purpose of obtaining the approval of the electors to such debt
28 in the same manner as provided for securing the approval of the
29 incurring of electoral debt. The question shall be whether the
30 remaining unpaid nonelectoral debt incurred for the project

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

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

21 (1) A copy, certified by the secretary of the board of the
22 local government unit, of the permanent or preliminary approval
23 from the Commonwealth of Pennsylvania or from the United States
24 of America of the project, the related bonds or notes, or the
25 interest thereon, for subsidization or for reimbursement of all
26 or part of debt service or a certified copy of the subsidy
27 contract with another local government unit;

28 (2) Evidence satisfactory to the department from the
29 subsidizing agency as to the indicated annual amount of the
30 subsidy;

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

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

18 Such proportion of the bonds or of lease rental debt shall be
19 excluded as subsidized debt. Such filing may be made
20 simultaneously with the filing for the approval of the balance
21 of the bonds then being issued, or may be made or corrected at a
22 later date.

23 (b) Each time any new debt is to be incurred, a new
24 certification shall be made to the department stating (i) that
25 there has been no decrease in the subsidy or, (ii) there has
26 been no increase or decrease or, (iii) there has been an
27 increase and the local government unit desires an increased
28 exclusion certifying all matters so changed and recomputing the
29 principal amount to be excluded.

30 (c) If the department shall approve the exclusion of such

1 principal amount of bonds or lease rental debt as being
2 subsidized debt in accordance with this act, originally or upon
3 any recertification it shall return a duplicate original of the
4 filing to the local government unit with its approval endorsed
5 thereon. Upon the filing of such approval and duplicate
6 original in the office for the recording of deeds in the county
7 in which such local government unit is located, such principal
8 amount of bonds shall be excluded from nonelectoral debt or
9 lease rental debt for the purpose of determining net debt in
10 each category.

11 Section 205. Procedure for Exclusion To Find Net
12 Nonelectoral Debt of Self-liquidating Debt Evidenced by Revenue
13 Bonds or Notes.--(a) Self-liquidating debt evidenced by revenue
14 bonds shall not be excluded from nonelectoral debt for the
15 purpose of establishing net nonelectoral debt until there has
16 been filed with, the recorder of deeds of the county in which
17 such local government unit is located.

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

22 (2) A certificate from a qualified professional engineer or
23 architect, as may be appropriate to the project estimating the
24 revenues and operating expenses of the project, and showing that
25 the net revenues so estimated will be sufficient to pay the
26 annual debt service as it falls due.

27 (3) An opinion of the bond counsel approving the issue, to
28 the effect that the holders of the bonds have no claim upon the
29 taxing power or tax revenues of the local government unit
30 issuing the bonds, but only claims upon the specific revenues

pledged and rights to the enforcement of any covenants as to the levying or collection of rates and charges for the use of the project being financed or any covenants as to the assessment of benefits upon properties serviceable by the project as provided in such covenants with the holders of the revenue bonds.

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

Section 206. Procedure for the Exclusion To Find Net Nonelectoral Debt or Net Lease Rental Debt of Self-liquidating Debt Evidenced by Other Bonds or Notes or a Guaranty.--(a) Self-liquidating debt shall not be excluded in finding net nonelectoral debt, or net lease rental debt for the purposes of establishing net debt of either category where such debt is evidenced by general obligation bonds or notes, guaranteed revenue bonds or notes or a guaranty of obligations of an authority until there has been filed with, and approved by the department:

(1) A report to the local government unit from qualified registered engineers or architects as may be appropriate to the project involved, setting forth:

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

(ii) the principal amount of the bonds or notes, guaranteed revenue bonds or notes or of bonds or notes obligations of an

1 authority guaranteed by the local government unit evidencing
2 lease rental debt, to be issued, the dates, interest rate and
3 amounts of each stated maturity thereof and, set forth
4 separately, the same information with respect to so much of such
5 bonds, notes or obligations as may be outstanding;

6 (iii) the amount and the estimated amount of the annual debt
7 service for each year during the life of all bonds, notes or
8 obligations issued and intended to be issued to finance the
9 project;

10 (iv) the date or estimated date of the completion of the
11 project;

12 (v) the estimated net revenues of the project for each year
13 of the remaining life of the bonds, notes or obligations with a
14 computation showing, in reasonable detail, that such net
15 revenues will be sufficient in each such year to pay the annual
16 debt service on such bonds, notes or obligations or a specified
17 aggregate principal amount thereof;

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

1 and

2 (vii) such engineer's or architect's further certificate
3 that such registered engineer or architect is qualified to act
4 with regard to the type of project then being financed.

5 (2) A certified copy of an ordinance of the governing body
6 of such local government unit approving the report.

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

25 Section 207. Effect of Debt Limitations on Outstanding
26 Debt.--Notwithstanding anything in any other law or elsewhere in
27 this act, nothing herein contained shall be construed to
28 invalidate any debt which was lawful when incurred, or which
29 could have been lawfully incurred if the act had been in effect,
30 whether incurred before or after the passage of this act, and

1 the percentage limitations set forth in section 202 shall be
2 deemed increased to the extent necessary to cover such incurred
3 debt. Nothing herein contained shall be construed to subject any
4 debt incurred and voted upon prior to the effective date of this
5 act as electoral debt to any of the limitations herein imposed
6 on nonelectoral debt.

7 Section 208. Determination of Existing Net Nonelectoral Debt
8 and Net Nonelectoral Plus Net Lease Rental Debt.--(a) Gross
9 nonelectoral debt shall first be established by subtracting from
10 the gross principal amount of all incurred debt the sum of gross
11 incurred electoral debt plus gross incurred lease rental debt of
12 the local governmental unit.

13 (b) Net nonelectoral and net lease rental debt shall then be
14 determined by subtracting separately from each, as may be
15 applicable, and as the local government unit may desire to
16 claim:

17 (1) All funds in the applicable sinking funds, including
18 reserve accounts therein, except maintenance and replacement
19 reserve accounts, and net bond proceeds, including interest
20 thereon, held for the payment of the cost of a project financed
21 by such debt;

22 (2) The current appropriation for the payment of the
23 principal of and interest on such nonelectoral debt or of the
24 payment of the net lease rental in the case of lease rental
25 debt, except to the extent that the same shall already have been
26 deposited in sinking funds;

27 (3) The uncollected amount of the benefits or costs or the
28 estimates thereof which have been or are authorized to be
29 assessed against owners of property and for which liens may be
30 legally filed, to the extent that such assessments are

1 applicable to the payment of such debt;

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

7 (5) The amount of self-liquidating debt and subsidized debt
8 properly excluded and concurrently excludable from each
9 respective category being computed;

10 (6) The amount of surplus cash not specifically appropriated
11 to any purpose and available for the payment of debt; but if
12 such deduction is claimed the amount so claimed may not
13 thereafter be appropriated to any purpose except the payment of
14 debt;

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

19 (8) The amount of any insurance coverage indemnifying the
20 local government unit against any outstanding liability to the
21 extent such liability is debt; and

22 (9) To the sum determined above there should be added the
23 interest payable thereon for the current year and a like
24 addition should be made to net lease rental debt.

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

30 (d) In computing the value of any funds, all legal

1 investments therein shall be computed at current market values.

2 Section 209. Determination of Debt Limits.--Whenever it
3 shall be necessary to determine the limitations on the amount of
4 nonelectoral debt, or nonelectoral debt plus lease rental debt
5 that may be incurred by any local government unit, the
6 appropriate percentage limitations of section 202 shall be
7 applied to the borrowing base of such local government unit. The
8 certificate as to the borrowing base shall be made a part of all
9 proceedings for the sale of bonds or notes, for the guaranty of
10 authority obligations or the incurring of lease rental debt and
11 a copy shall be filed with the department as a part of all
12 proceedings filed for its approval. The borrowing base set forth
13 in such certificate and a similar certificate as to net
14 nonelectoral debt or net lease rental debt outstanding shall be
15 conclusive as to the respective figures for the purposes of this
16 act, upon the approval of the proceedings by the department,
17 unless contested within the specified time limits as herein
18 provided.

19 ARTICLE III

20 Procedure for Securing Approval of Electors

21 Section 301. Desire Ordinance; Expense of Certain
22 Elections.--(a) Whenever the governing body of any local
23 government unit shall determine that it is advisable to make an
24 increase in the debt of such local government unit with the
25 assent of the electors, or to obtain the assent of the electors
26 to any nonelectoral debt previously incurred, it shall adopt an
27 ordinance signifying such determination, calling an election for
28 the purpose of obtaining such assent, and approving the content
29 and substantial form of notice of election.

30 (b) The date fixed shall be that of a municipal, general,

1 primary, or special election for other purposes, but if the date
2 of the nearest of such elections shall be more than ninety or
3 less than thirty days from the effective date of the desire
4 ordinance the governing body may fix a date for a special
5 election.

6 (c) In the case of a special election to increase debt not
7 held concurrently with an election for other purposes, the
8 expense of holding such election shall be paid by the local
9 government unit for whose benefit it is held.

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

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

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

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

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

1 (4) The estimated cost of the project;

2 (5) The question to be submitted to the voters at the

3 election which shall be substantially in the following

4 appropriate form:

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

6 dollars for the purpose of financing.....

7 (insert brief description of project) be Yes

8 (authorized to be incurred as) (transferred

9 from nonelectoral debt to) debt approved by the No

10 electors?"

11 Section 303. Conduct of Election.--(a) The governing body,

12 at least forty-five days before any election upon an increase in

13 debt, shall cause to be certified to the county board of

14 elections of each county in which such election is to be held a

15 copy of the desire ordinance and the form of the question to be

16 submitted to the electors.

17 (b) Elections to authorize an increase of debt shall be held

18 at the place, during the hours, and under the same regulations

19 as provided by law for the holding of municipal elections. In

20 receiving, counting, and making returns of the votes cast, the

21 inspectors, judges, and clerks of such election shall be

22 governed by the act of June 3, 1937 (P.L.1333), known as the

23 "Pennsylvania Election Code."

24 (c) At such elections ballots shall only be furnished to, or

25 provision for voting on the question shall only be made for,

26 such voters as are resident in the local government unit the

27 debt of which is to be increased or approved by the electors.

28 (d) The election officers and clerks shall make return on

29 forms provided by the county board of elections of the votes

30 cast on such question to the county board of elections, which

1 shall compute the same and transmit a certified return thereof
2 to the governing body of the local government unit which shall
3 enter the same on its minutes. If it appears that a majority of
4 those voting on such question have voted in favor of the
5 increase of debt, irrespective of any other law requiring a
6 greater percentage, the county board of elections shall also
7 file a certified copy of such return together with the copy of
8 the ordinance certified to the county board of elections by the
9 local government unit, in the office for the recording of deeds
10 in and for such county, where the recorder of deeds or similar
11 officer shall enter the same in the debt records of the local
12 government unit. The local government unit shall also file in
13 the same place proofs of the advertisement of the notice of
14 election.

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

1 appeal provided by this section shall be such party's, or such
2 taxpayer's, sole and exclusive remedy.

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

15 Section 306. Issue of Bonds or Notes to Evidence Electoral
16 Debt.--If at the election the question is approved, the
17 governing body shall issue bonds or notes as electoral debt
18 either as obligations of the local government unit or through an
19 authority at such times and in such amounts, not exceeding in
20 the aggregate the estimated amount approved by the electors,
21 subject to the provisions of Article VI of this act. The bonds
22 shall be for such term as may have been stated in the notice of
23 election, or if none were stated for such term as the governing
24 body shall determine. The initial series may be of bond
25 anticipation notes or of notes to be refunded by a bond issue.
26 If the governing body determines it advisable, the initial
27 series of bonds or notes constituting a part of the issue may be
28 for a shorter term of years, with the maturity or maturities of
29 subsequent series stated to mature later than the last stated
30 maturity of the preceding series for the same project: Provided,

1 That nothing in Article III shall preclude the issue of
2 additional nonelectoral debt or lease rental debt, to complete
3 the project, or the issue of additional electoral debt for the
4 purpose if authorized by a subsequent election.

5 Section 307. Cancellation or Termination of Approval of
6 Electors.--(a) On the seventh anniversary of the date on which
7 an assent of the electors became final, the authority to issue
8 any or any further bonds or notes, other than as nonelectoral
9 debt or lease rental debt subject to the limitations imposed by
10 this act, shall cease and terminate. Any terminations of
11 authorization to issue bonds or notes with the assent of the
12 electors shall be reflected in any annual debt statement
13 subsequently filed and recorded pursuant to this act.

14 (b) The governing body of any local government unit may by
15 ordinance, without the assent of the electors, rescind or
16 cancel, in whole or in part, the authorization to incur
17 electoral debt for any reason stated in such ordinance, and
18 thereupon such assent of the electors shall be rescinded and of
19 no further effect. A certified copy of such ordinance with proof
20 of the due publication thereof shall be filed with the
21 department and with the office for the recording of deeds of the
22 county in which such local government unit is located.

23 Section 308. Limitation on Use of Proceeds of Electoral
24 Debt.--Where bonds or notes have been issued pursuant to an
25 assent of the electors given under this act, the proceeds
26 thereof shall be kept in a separate account and shall be
27 invested and used only for the cost (including the retirement of
28 notes previously issued for the same project with the proceeds
29 of bonds) of the project for which such assent was obtained
30 unless such purpose be changed as provided in this act;

1 otherwise such proceeds shall be kept invested and used for the
2 retirement at maturity, or earlier call date, of the fifth or
3 any subsequent stated maturity of the relevant series of bonds
4 or notes, unless such proceeds were previously used to purchase
5 such bonds or notes in the open market or upon tenders at prices
6 not exceeding the principal amount thereof plus accrued and
7 unpaid interest to the date of purchase.

8 Section 309. Manner of Effecting Change of Purpose of
9 Electoral Debt.--If the governing body shall determine it to be
10 advisable either before or after the issue of bonds or notes to
11 use the proceeds, or any part thereof, of bonds or notes
12 evidencing electoral debt, for any purpose other than the
13 project approved by the electors or the payment or prior
14 redemption or purchase of bonds or notes evidencing debt
15 incurred for such project, the governing body shall by ordinance
16 express its desire to do so, specifying the project for which
17 the funds are proposed to be used, and shall provide for an
18 election to be held in like manner, time, and place as provided
19 in this article for elections to secure the assent of the
20 electors to the increase of debt, except that the notice of the
21 election shall state:

- 22 (1) The date on which such election is to be held;
- 23 (2) The date and amount of money theretofore borrowed and
24 the project for which borrowed;
- 25 (3) The amount of money remaining unused;
- 26 (4) The new purpose for which the local government unit
27 desires to make use of the money;
- 28 (5) The reason why the money is not being used for the
29 purpose for which it was borrowed; and
- 30 (6) The question to be submitted to the electors, which

1 shall be substantially in the following form:

2 "Shall the sum of.....dollars Yes
3 heretofore borrowed or authorized to be borrowed
4 by this local government unit for
5 the purpose of..... No
6be used for the purpose of.....
7?"

8 The election shall be conducted, return made thereon, notices of
9 election published and certificates filed and recorded as
10 provided in section 303 above. If it appears that a majority of
11 those voting on the question have voted in favor of using the
12 funds for the changed purpose (irrespective of any other law
13 requiring a greater percentage) the funds specified may be used
14 for such changed purpose.

15 ARTICLE IV

16 Actions of Governing Body with Respect
17 to Incurring Debt, and Issuing Bonds, Notes, and
18 Bond Anticipation Notes

19 Section 401. Combining Projects for Financing.--The
20 governing body of a local government unit may by ordinance
21 combine any two or more projects for financing purposes,
22 including combining all rates, rentals, receipts, tolls and
23 charges, creating common reserve funds, and the like, and it may
24 also, combine by ordinance any one or more series of general
25 obligation bonds or notes for purposes of simultaneous sale;
26 subject, in each case, to the provisions of section 710 of this
27 act.

28 Section 402. Ordinance Authorizing Issuance of Debt.--The
29 governing body of a local government unit, when it is determined
30 to incur debt, whether as electoral debt, nonelectoral debt, or

1 lease rental debt may determine by ordinance to evidence such
2 debt by an issue of bonds or notes of the local government unit,
3 or by the incurring of lease rental debt. Such an ordinance
4 shall not take effect unless adopted by the affirmative vote of
5 a majority of the members of the governing body then holding
6 office, and the vote of each member thereon shall be recorded
7 upon the minutes of such governing body.

8 Section 403. Contents of Ordinance Authorizing Debt.--The
9 ordinance or ordinances authorizing the incurring of debt by a
10 local government unit shall contain, in substance:

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

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

15 (ii) A statement of the aggregate principal amount of bonds
16 or notes proposed to be issued pursuant to the ordinance or, as
17 the case may be, to be secured by the lease rentals;

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

20 (iv) An authorization and direction to a specified officer
21 or specified officers and their successors to prepare, certify
22 and file the debt statement required by section 410 of this act,
23 to execute and deliver the bonds or notes or the lease and to
24 take other necessary action, and such designation may be changed
25 from time to time thereafter; and

26 (v) An authorization, in the case of nonelectoral or lease
27 rental debt which is subject to exclusion as subsidized debt or
28 self-liquidating debt if such exclusion is presently desired to
29 the proper officers of the local government unit to prepare and
30 file originally, and annually thereafter as required, any

1 statements required by Article II of this act which are
2 necessary to qualify all or any portion of the debt for
3 exclusion from the appropriate debt limit as self-liquidating
4 debt or subsidized debt.

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

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

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

17 (iii) The substantial form of the bond or note to be issued,
18 including the substantial form of any coupon or authentication
19 certificate;

20 (iv) A schedule of stated principal maturity amounts and
21 dates, the rate or rates of interest and interest payment dates,
22 places of payment, sinking fund provisions, and provisions for
23 prior redemption, including call dates and call prices; all of
24 which shall conform with the provisions of Article VI of this
25 act;

26 (v) A statement of the manner in which the bonds or notes
27 are to be or have been sold and if to be sold at public sale,
28 the matters required or permitted by Article VII of this act;

29 (vi) A covenant creating the sinking fund required by
30 Article X of this act and such accounts in the sinking fund as

1 may be necessary or desirable;

2 (vii) A statement of any tax or taxes the payment of which
3 is assumed by the local government unit in consideration of the
4 purchase of the bonds or notes; and

5 (viii) The authorization to the proper officials of the
6 local government unit to contract with a bank or bank and trust
7 company for its services as trustee, fiscal agent or sinking
8 fund depositary, and paying agent, and to contract with such
9 additional co-paying agents as may be desired.

10 (3) In the case of lease rental debt the authorization to
11 the proper officials of the local government unit to execute and
12 deliver a lease, as lessee, of the project, and the annual or
13 semi-annual rental to be paid thereunder, and source or sources
14 of payment.

15 (4) In the case of nonelectoral general obligation debt the
16 purpose may be changed by ordinance at any time.

17 Section 404. Covenant to Pay General Obligation or
18 Guaranteed Revenue Bonds or Notes.--The local government unit
19 shall, in the ordinance authorizing the issue of general
20 obligation bonds or notes or guaranteed revenue bonds or notes,
21 covenant with the holders from time to time of the bonds and
22 coupons outstanding pursuant to the ordinance, that the local
23 government unit shall include the amount of the debt service and
24 the amounts payable in respect of its guaranty or guaranteed
25 revenue bonds for each fiscal year in which such sums are
26 payable in its budget for that year, shall appropriate such
27 amounts to the payment of such debt service, and shall duly and
28 punctually pay or cause to be paid the principal of every bond
29 and the interest thereon at the dates and places and in the
30 manner stated in the bonds and the coupons thereto appertaining,

1 according to the true intent and meaning thereof, and for such
2 budgeting, appropriation and payment, the local government unit
3 shall pledge its full faith, credit and taxing power; but
4 nothing in this covenant contained shall in any way oblige the
5 local government unit to make any payments on limited guaranteed
6 revenue bonds beyond the stated terms of its guaranty, as set
7 forth in the bonds. The covenant shall be specifically
8 enforceable.

9 Section 405. Additional Provisions in Ordinance Authorizing
10 Issuance of Revenue or Guaranteed Revenue Bonds.--In addition to
11 the provisions required or permitted by section 403, the
12 ordinance authorizing the issuance of revenue bonds or
13 guaranteed revenue bonds may also contain:

14 (1) Such covenants or provisions with respect to the
15 collection, custody, investment and disbursement of rents,
16 revenues, rates and charges for the use of the project as may be
17 desired;

18 (2) Such covenants as to the fixing and collection of rents,
19 rates and charges for the use of the project, as may be desired,
20 and deemed necessary for the lawful security of the holders of
21 the bonds or notes, except that no such covenant, and no
22 agreement with the holders of bonds or notes shall require an
23 increase in such rents, rates, tolls and charges to a level
24 which, in the opinion of the registered professional engineer
25 advising the local government unit, will result in a decrease in
26 gross revenues over what would have been received at a somewhat
27 lower rate level;

28 (3) Provisions creating a perfected security interest in the
29 rents, revenues, rates, tolls and charges for the security and
30 benefit of the holders of the notes, bonds and coupons;

1 (4) Provisions creating such reserve funds or accounts as
2 may be deemed desirable for the further security of the notes,
3 bonds and coupons and requiring the observance of such covenants
4 on the part of the local government unit as may be deemed
5 necessary or desirable for the protection of the holders of the
6 notes, bonds and coupons or for the maintenance and preservation
7 of the project;

8 (5) The authorization to the proper officers of the local
9 government unit to execute and deliver any trust indenture
10 containing such other, further and lawful provisions as may be
11 desired.

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

27 (b) If the ordinance authorizing the issuance of the bonds
28 or notes provides for a fiscal agent, or authorizes the
29 execution of a trust indenture appointing a trustee, the fiscal
30 agent or trustee shall also be the sinking fund depositary.

1 (c) If the local government unit shall fail or refuse to
2 make any required deposit in the sinking fund, the sinking fund
3 depository, the fiscal agent, or the trustee, as the case may
4 be, may, and upon request of the holders of twenty-five per cent
5 in principal amount of the outstanding notes and bonds and upon
6 being indemnified against cost and expense, shall exercise any
7 remedy, provided in this act or at law or in equity, for the
8 equal and ratable benefit of the holders of the outstanding
9 notes, bonds and coupons, and shall disburse all funds so
10 collected equally and ratably to the holders of the notes, bonds
11 and coupons as provided in the ordinance authorizing the bonds,
12 subject to any limitations contained in Article XII of this act.

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

1 Section 408. Bond Anticipation Notes.--(a) If deemed
2 desirable, the governing body may evidence all or part of any
3 electoral or nonelectoral debt by the issue of a series of bond
4 anticipation notes. Such notes shall be payable by exchange for,
5 or out of the proceeds of, the sale of a designated series of
6 bonds referred to in the bond anticipation notes. The reference
7 to the bonds shall specify a maximum rate of interest to be
8 borne by the series of bonds and provide that the series shall
9 be offered for sale but if no proposals shall be received, the
10 sole remedy of the holders of the bond anticipation notes shall
11 be either to accept the bonds at the specified maximum interest
12 rate, or to extend the maturity of the bond anticipation notes
13 for one or more specified additional periods of not less than
14 six months each during which additional offers of the bonds may
15 be made.

16 (b) Bond anticipation notes may be authorized, issued and
17 sold in the same manner as the bonds in anticipation whereof the
18 notes are being issued and principal amounts thereof shall be
19 retired in accordance with the specified stated maturity dates
20 of the said bonds.

21 Section 409. Borrowing by Notes.--(a) Even though no bond
22 issue has been previously authorized, a local government unit,
23 by ordinance of its governing body, may borrow money on notes
24 for all or any part of the cost of a project other than one
25 involving funding debt. The debt incurred shall be evidenced by
26 general obligation notes, guaranteed revenue notes or revenue
27 notes, as the case may be, and shall be subject to the
28 limitations and restrictions provided in Article II of this act.
29 All general obligation notes or guaranteed revenue notes shall
30 contain the covenant required by section 404 of this act.

1 (b) Such notes shall be stated to mature in five years or
2 less from the date of issue and, unless previously refunded by
3 subsequently authorized bonds, not less than seventeen and one-
4 half per cent in principal amount of the series shall be repaid
5 on or before the end of the first year; an additional nineteen
6 per cent on or before the end of the second year; an additional
7 twenty per cent on or before the end of the third year; an
8 additional twenty-one per cent on or before the end of the
9 fourth year; and the balance on or before the end of the fifth
10 year.

11 (c) Such notes may be issued and sold as provided in Article
12 VII of this act.

13 (d) Prior to any delivery of notes to a lender the local
14 government shall file a debt statement and a transcript of the
15 proceedings with the department, in accordance with sections 410
16 and 411 of this act and no notes shall be delivered to a lender
17 until the department shall have issued its approval, or its
18 approval shall be deemed to have been given pursuant to section
19 806 of this act.

20 (e) Notes may be excluded from nonelectoral debt as
21 subsidized debt or self-liquidating debt in the manner provided
22 in Article II.

23 Section 410. Debt Statement.--(a) Before delivering any
24 bonds or notes, or executing a lease evidencing the acquisition
25 of a capital asset, the officer or officers authorized by
26 ordinance of the local government unit shall prepare and verify
27 under oath or affirmation a debt statement as of a date not more
28 than sixty days before the filing with the department showing:

- 29 (1) The gross indebtedness of the local government unit;
30 (2) By items, the claimed credits and exclusions from such

1 gross indebtedness permitted by this act in determining net
2 debt;

3 (3) The remaining electoral debt, net nonelectoral debt and
4 net lease rental debt of the local government unit totaled
5 separately for each applicable debt limitation specified in this
6 act;

7 (4) The aggregate principal amount of the bonds or notes
8 being issued or to be supported by a lease;

9 (5) The amount thereof constituting new net nonelectoral
10 debt or new net lease rental debt;

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

14 (7) The borrowing base of the local government unit as shown
15 by an appended borrowing base certificate;

16 (8) The applicable nonelectoral debt limit and the limit for
17 nonelectoral plus lease rental debt computed as provided in this
18 act.

19 (b) Where debt has previously been excluded as self-
20 liquidating or subsidized debt, the debt statement shall be
21 accompanied by a certification that no decrease in the amounts
22 to be excluded is required by any change of circumstances, or if
23 there has been a change so that less debt is to be excluded or
24 if it has become possible to exclude a greater amount of debt,
25 and the local government unit desires to do so, the debt
26 statement shall be accompanied by appropriate certificates
27 supporting the revised amount to be excluded and a revised
28 approval shall be obtained from the department and filed in the
29 office for the recording of deeds in the county in which such
30 local government unit is located to effectuate such exclusion.

Section 411. Submission to Department.--(a) Before

delivering any bonds or notes the local government unit shall apply for the approval of the department. The application, in such form as the department shall prescribe shall be accompanied by a transcript of the proceedings consisting of certified copies of any of the following which are applicable:

(1) The ordinance calling the election in the case of electoral debt with proofs of all proper advertisements;

(2) The return of election;

(3) The ordinance or ordinances authorizing the bonds or notes and prescribing the manner of sale with proofs of proper publication;

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

(5) The ordinance or ordinances awarding the bonds or notes with proofs of proper publication;

(6) The debt statement prepared pursuant to section 410;

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

(b) Before becoming bound on any lease evidencing the acquisition of a capital asset, a local government unit shall apply for and receive the approval of the department. The application, in such form as the department shall prescribe, shall be accompanied by certified copies of the following:

(1) The ordinance authorizing the execution of the lease;

and

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

(c) No lease executed and delivered after the effective date

1 of the act and prior to the approval or the presumed approval
2 pursuant to section 806 of the department shall be valid or
3 obligatory. Except as reference is made in this act to lease
4 rental debt, this act shall have no application to the
5 authorization, issue or sale of its obligations by any
6 authority.

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

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

26 Section 413. Lost, Stolen, Destroyed or Mutilated Bonds or
27 Notes.--If any temporary or definitive bond or note issued under
28 this act shall become mutilated or be destroyed, stolen or lost,
29 the local government unit shall execute and any sinking fund
30 depositary, fiscal agent or trustee for bondholders shall, if

1 required, authenticate and deliver a new bond or note, with
2 appropriate coupons attached in the case of a bond or note in
3 coupon form, of like series and principal amount as the bond or
4 note and attached coupons, if any, so mutilated, destroyed,
5 stolen or lost, upon surrender and cancellation of such
6 mutilated bond or note and attached coupons, if any, or in lieu
7 of and in substitution for the bond or note and coupons, if any,
8 destroyed, stolen or lost, upon filing with the local government
9 unit, or if so provided in the bond ordinance, with the sinking
10 fund depositary, fiscal agent or trustee, evidence satisfactory
11 to it, that such bond or note and attached coupons, if any, have
12 been destroyed, stolen or lost and proof of ownership thereof
13 and upon furnishing of satisfactory indemnity and complying with
14 such other reasonable regulations as the local government unit
15 shall prescribe, and paying any reasonable expenses, including
16 counsel fees, as the local government unit or the sinking fund
17 depositary, fiscal agent or trustee may incur. Mutilated bonds
18 or notes and appurtenant coupons, if any, surrendered shall be
19 cancelled. The new bonds or notes and coupons, if any, so issued
20 shall be independent obligations and all limitations and debt
21 limits shall be deemed increased to the extent necessary to
22 validate such new bonds or notes and any appurtenant coupons.

23 Section 414. Evidence of Signatures of Holders of Bonds or
24 Notes and of Ownership of Bonds or Notes.--Any request, consent
25 or other instrument which may be required or permitted to be
26 executed by the holders of bonds or notes may be in one or more
27 instruments of similar tenor, and shall be signed or executed by
28 such holders in person or by their attorneys appointed in
29 writing. Proof of (i) the execution of any such instrument, or
30 of an instrument appointing any such attorney, or (ii) the

1 holding by any person of bonds or notes or coupons appertaining
2 thereto, shall be sufficient for the purposes of this act and
3 any proceeding thereunder if made in the following manner:

4 (1) The certificate shall state that the person or persons
5 signing such instrument were known to be such persons by the
6 individual certifying and that such person or persons
7 acknowledged the execution of the instrument as his or their
8 act. The authority of an attorney or agent may be proven by like
9 statement of the principal acknowledged in a like manner, but a
10 certificate as to authority shall not be necessary if an
11 instrument is executed on behalf of a corporate holder of bonds,
12 notes or coupons by a person purporting to be the president or a
13 vice-president of such corporation with the corporate seal
14 affixed and attested by a person purporting to be its secretary
15 or an assistant secretary.

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

20 (i) an officer of any bank or bank and trust company which
21 is in Pennsylvania, or which has a correspondent in Pennsylvania
22 certifying to the authenticity of its certificate;

23 (ii) an authorized signer for any broker or dealer in
24 securities doing business in Pennsylvania, or having a
25 correspondent in Pennsylvania certifying to the authenticity of
26 its certificate;

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

30 (iv) any other witness to such execution, whose certificate,

1 however, must be verified before a notary public or other
2 officer authorized to take acknowledgments of deeds in the state
3 in which he purports to act.

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

9 (3) The amount of bonds or notes transferable by delivery
10 held by any person executing any instrument as the holder of a
11 bond note or coupon, the number thereof and the date of holding
12 such bond, note or coupon may be proved by a like certificate of
13 any person mentioned in subclauses (i) or (ii) of clause (1) of
14 this section 414, stating that such holder exhibited to the
15 person executing the certificate, or had on deposit with him the
16 bonds or notes described in the certificate. For purposes of
17 action to be taken by the holders of bonds, notes or coupons,
18 the holder shall be deemed to continue as such if he acts as
19 such, for a period of nine months after the date of the proof of
20 holding. Continued ownership after such period shall require a
21 new certificate or shall be taken as continuing if the original
22 certificate contains a statement that the bonds, notes or
23 coupons are on deposit with the signer and an undertaking not to
24 release the same, and not to attorn to any new owner, unless the
25 certificate is presented to such depository.

26 (4) Any request, consent or vote of the owner of any bond,
27 note, or coupon shall bind all future holders thereof if a
28 notation of such action is placed on the bond, note or coupon,
29 and also even if not so noted, if notice thereof is given once
30 by publication in a newspaper of general circulation in the

1 county in which the local government unit is located, and in a
2 journal of general circulation among dealers in investment
3 securities.

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

8 Section 415. Ordinances Are Contracts with Holders of Bonds
9 or Notes.--Except as otherwise provided in any ordinance
10 authorizing or awarding bonds or notes, the terms thereof and of
11 this act as in effect when such bonds or notes were authorized
12 shall constitute a contract between the local government unit
13 and the holders from time to time of such bonds and notes
14 subject to modification by the vote of a majority of the holders
15 or such larger portion thereof as may be provided in the bond or
16 note.

17 ARTICLE V

18 Tax Anticipation Notes and Funding Debt

19 Section 501. Power to Issue Tax Anticipation Notes.--A local
20 government unit shall have power and authority, by ordinance of
21 its governing body, to borrow money from time to time in any
22 fiscal year in anticipation of the receipt of current taxes and
23 current revenues, to evidence the indebtedness by notes,
24 denominated tax anticipation notes, and to authorize, issue and
25 sell such tax anticipation notes in the manner, and subject to
26 the limitations provided therefor in this article. Limitations
27 imposed by this act on the incurring of nonelectoral debt shall
28 not apply to the indebtedness evidenced by tax anticipation
29 notes.

30 Section 502. Limitation on Amount of Tax Anticipation

1 Notes.--No local government unit shall authorize or issue tax
2 anticipation notes in any one fiscal year in an amount exceeding
3 eighty-five per cent of the sum of the taxes levied for the
4 current fiscal year and the current revenues for such year, not
5 yet received, which are certified, pursuant to section 506, as
6 remaining to be collected or received in such fiscal year during
7 the period between the first day of the month next following the
8 date of the delivery of the tax anticipation notes to the first
9 purchasers thereof and the stated maturity date thereof. The
10 certificate shall be as of a date not more than thirty days
11 prior to the date of the vote on the ordinance authorizing the
12 issue and sale of the tax anticipation notes.

13 Section 503. Limitation on Stated Maturity Date of Tax
14 Anticipation Notes; Time of Payment of Interest.--No tax
15 anticipation notes shall be stated to mature beyond the last day
16 of the fiscal year in which such tax anticipation notes are
17 issued. Interest on tax anticipation notes from the date thereof
18 shall be payable at the maturity of such notes or payable in
19 installments at such earlier dates and at such annual rate or
20 rates as the governing body of the local government unit may
21 determine.

22 Section 504. Other Terms of Tax Anticipation Notes.--Tax
23 anticipation notes shall be issued in such denominations, shall
24 be subject to such rights of prior redemption, shall have such
25 privileges of interchange and registration, shall be dated,
26 shall be stated to mature (subject to the provisions of section
27 503) on such dates and in such amounts, shall be in registered
28 or bearer form with or without coupons, shall be payable in such
29 coin or currency as at the place and at the time of payment
30 shall be legal tender for the payment of public and private

1 debts, and shall be payable at such place or places, one of
2 which shall be within the Commonwealth of Pennsylvania as the
3 governing body of the issuing local government unit may
4 determine by ordinance.

5 Section 505. Security for Tax Anticipation Notes; Sinking
6 Fund.--All tax anticipation notes shall be secured by the pledge
7 of, and a first lien and charge on, the taxes and revenues of
8 the local government unit to be received between the first day
9 of the month next following the date of the delivery of such tax
10 anticipation notes to the first purchasers thereof and the last
11 stated maturity date of such notes. Such pledge, lien and charge
12 shall be fully perfected as against the local government unit,
13 all creditors thereof, and all third parties in accordance with
14 the terms of such ordinance from and after the filing thereof in
15 the office for the recording of deeds in and for the county in
16 which such local government unit is located notwithstanding the
17 provisions of any other law. Unless otherwise provided in the
18 tax anticipation notes, eighty-five per cent or such lesser
19 percentage of anticipated revenues as was borrowed of all moneys
20 collected after such first day of the month shall be paid into a
21 separate sinking fund for the tax anticipation notes to be held
22 by a bank or bank and trust company authorized to do business in
23 the Commonwealth of Pennsylvania as sinking fund depository,
24 until the amount held in the sinking fund including any interest
25 to be earned thereon shall equal the principal of and the
26 interest remaining to be paid upon the outstanding tax
27 anticipation notes. The terms of the tax anticipation notes may
28 provide for the payment of specific sums into the separate
29 sinking fund for the tax anticipation notes on specified dates
30 in amounts sufficient to provide moneys for the payment of the

1 principal of and the interest on such tax anticipation notes as
2 the same shall fall due; but no such specified payment shall be
3 in an amount larger than eighty-five per cent of the taxes
4 estimated to be collected in such fiscal year on and after the
5 date for such payment. Such specified amounts shall on such
6 dates be paid into the separate sinking fund by the treasurer of
7 the local government unit. In default of such payment, all tax
8 moneys and revenue thereafter received by the local government
9 unit shall be paid into such separate sinking fund, until such
10 sum shall have been paid in full. Such obligation shall be
11 specifically enforceable by the sinking fund depository for the
12 benefit of the holders of the tax anticipation notes.

13 Section 506. Certification as to Taxes and Revenues to be
14 Collected.--Prior to each issuance of tax anticipation notes,
15 the officers of the local government unit shall make a careful
16 monthly estimate of the moneys to be received in each remaining
17 months of the fiscal year from taxes then levied and assessed
18 and revenues including subsidies or reimbursements to be
19 received. Such estimate shall take due account of the past and
20 anticipated collection experience of the local government unit
21 and of current economic conditions. The estimate shall be
22 certified by such officers and their written certificate dated
23 as of a date not more than thirty days prior to the date of the
24 notes shall be filed of record with the proceedings authorizing
25 the tax anticipation notes in the office for the recording of
26 deeds in and for the county in which such local government is
27 located.

28 Section 507. Sale of Tax Anticipation Notes.--Tax
29 anticipation notes may be sold at public or private sale as the
30 governing body of the local government unit may determine. Any

1 public sale shall be advertised and conducted in the manner and
2 subject to the conditions provided for a public sale of bonds in
3 Article VII of this act, except as modified by this Article V.
4 The governing body of the local government unit shall award the
5 notes by ordinance to specified purchasers at a specified price,
6 not less than the principal amount thereof.

7 Section 508. Condition Precedent to Validity of Tax
8 Anticipation Notes.--No tax anticipation note shall be valid or
9 obligatory in the hands of an original purchaser thereof until
10 certified copies of the authorizing and awarding ordinances, due
11 proofs of publication, the certificate as to the taxes and
12 revenues remaining to be collected, and a true copy of the
13 accepted proposal for the purchase of the tax anticipation notes
14 shall have been filed for record in the office for the recording
15 of deeds in and for the county in which the local government
16 unit is located and with the department. No approval of the
17 department shall be required in the case of tax anticipation
18 notes.

19 Section 509. Unfunded Debt.--Unfunded debt shall mean
20 obligations of the same or a prior year properly contracted for
21 current expenses (including tax anticipation notes) due and
22 owing, which the taxes and other revenues remaining to be
23 collected in the fiscal year and funds on hand will not be
24 sufficient to pay without a curtailment of municipal services to
25 an extent endangering the health or safety of the public or
26 proper education of school children, and the local government
27 unit either may not legally levy a sufficient tax for the
28 balance of the fiscal year, or a sufficient tax, if legally
29 leviable, would be seriously regressive and not in the public
30 interest.

1 Section 510. Procedure to Fund Unfunded Debt.--Whenever the
2 governing body of a local government unit shall be of opinion
3 that it has outstanding unfunded debt, it may, with the approval
4 of the department, in the cases covered by section 511 of this
5 act, fund such unfunded debt by electoral or by nonelectoral
6 debt within the limits prescribed by Article II of this act, or
7 it may, in the cases covered by section 512 of this act,
8 petition the Commonwealth Court for leave to fund such unfunded
9 debt pursuant to the provisions of this Article V.

10 Section 511. Approval by Department.--(a) The department
11 shall approve an application for approval of the funding of
12 unfunded debt if, on the facts submitted to it, the department
13 shall determine that the debt meets the requirements for
14 unfunded debt and shall also determine either that the debt
15 arises from floating indebtedness incurred in the acquisition,
16 construction, or improvement of capital assets or that the debt
17 is evidenced by a judgment or judgments against the local
18 government unit entered by a court of competent jurisdiction
19 after adversary proceedings upon a claim for other than ordinary
20 current expenses. Bonds or notes authorized pursuant to the
21 provisions of this section shall be stated to mature in twenty
22 years or less as determined by the department in the light of
23 the burden of the annual debt service.

24 (b) Applications to the department shall be upon such notice
25 to the taxpayers of the local government unit as the department
26 shall, by regulation, prescribe. The regulations shall also
27 provide opportunity to any interested taxpayers to submit
28 relevant facts to the department. Appeals from action of the
29 department shall be taken as provided in Article IX of this act.

30 Section 512. Approval by Court.--(a) In all cases not

1 covered in section 511, including cases covered thereby in which
2 the funding debt would exceed applicable debt limitations, the
3 local government unit shall, by petition to the Commonwealth
4 Court, setting forth the facts, request approval for the
5 issuance of notes to fund the unfunded debt. After hearing, on
6 such notice to the local government unit and its taxpayers as
7 the court may prescribe, the court shall make an order granting
8 authority to fund all or a part of such unfunded debt if the
9 court shall find that such unfunded debt was lawfully incurred,
10 that there has been an unforeseeable decline in revenues, or
11 that taxes levied have not produced the revenues anticipated or
12 that it was not reasonable to foresee such obligation; that
13 paying such debt by curtailing municipal services will be
14 dangerous to the public health, safety or education, and that it
15 is not feasible to levy additional taxes in the current fiscal
16 year. The funding debt so approved shall be stated to mature in
17 such amounts and over such number of years, not exceeding ten,
18 as the court shall find will accomplish the payment of the debt
19 without endangering the rendering of municipal services or
20 requiring the levying of excessive taxes. The provisions of
21 section 409 of this act shall not be applicable to such notes.
22 If the funding of the unfunded debt has not been approved by a
23 vote of the people, the order of the court shall fix the portion
24 thereof, if any, which shall not be charged against the
25 nonelectoral debt limitations of the local government unit under
26 section 202 of this act, during the time such funding debt is
27 outstanding, so as to leave some available borrowing capacity
28 for other situations. The percentages fixed by section 202 of
29 this act shall be deemed increased to the extent required for
30 such funding debt.

1 (b) The funding debt so authorized by the court shall be
2 issued and sold by the governing body as provided by this act,
3 except that no approval of the department shall be required, but
4 the local government unit shall file a certified copy of the
5 proceeding together with a certified copy of the order of the
6 court in the office for the recording of deeds in and for the
7 county in which such local government unit is located prior to
8 the delivery of any bonds or notes evidencing such debt.

9 ARTICLE VI

10 Limitations on Provisions of Bonds or Notes;

11 Required Terms and Stated Maturities

12 Section 601. Form of Bonds or Notes.--Bonds or notes may be
13 issued in such denominations, in coupon form payable to bearer
14 or registrable as to principal, or in fully registered form,
15 with such provisions for exchangeability and interchangeability;
16 shall bear such identifying designation or title, including
17 words indicating whether the bonds or notes are general
18 obligation, revenue guaranteed revenue or limited guaranty
19 revenue bonds or notes; shall be dated; shall bear such rate or
20 rates of interest, including supplemental, contingent, or
21 variable interest, shall be payable on such dates; may be
22 subject to such provisions for prior redemption in whole or in
23 part or both, at such price or prices and at such times; and
24 shall be stated to mature on such date or dates and in such
25 amounts; may provide for the payment by the issuer of such tax
26 or taxes on the bonds or notes, either absolutely or out of
27 pledged revenues; and may provide for such pledge of revenues,
28 the establishment of such reserves and other terms; all as the
29 governing body of the issuing local government unit may, by
30 ordinance or ordinances, determine adopted prior to the delivery

1 of the bonds or notes, subject to the limitations and
2 restrictions specified in this act.

3 Section 602. Limitations on Stated Maturity Dates.--(a)
4 Except as provided in subsection (b) of section 710 on combining
5 for purposes of sale, or in Articles V or XI hereof, no bonds or
6 notes shall be issued with a stated maturity date exceeding the
7 sooner to occur of:

8 (1) Forty years from the date of the first incurring of any
9 debt for the purpose of financing the cost of actually
10 constructing a project or a separately financed portion of a
11 project; or

12 (2) The useful life of the project being financed as stated
13 in the ordinance of the local government unit enacted in
14 connection with the first series of notes or bonds to be issued
15 for such project after the effective date of this act, which
16 statement in such first ordinance shall be conclusive for all
17 purposes, including any subsequent financing.

18 Where capital budgeting is practiced, and bonds are issued to
19 fund the current portion of a capital budget involving projects
20 of varying useful lives a uniform term of thirty years may be
21 used.

22 (b) The bonds or notes of an issue may be authorized to be
23 sold in one or more consecutively maturing series, the first to
24 be issued having the first stated maturity dates, and so on in
25 sequence. Such bonds or notes may be serial bonds, or term bonds
26 or any combination thereof that may be selected by the governing
27 body of the issuing local government unit. If term bonds or
28 notes, other than as required by section 610, are issued, such
29 bonds or notes must be subject to a mandatory sinking fund
30 designed, and, if serial bonds, the amounts of the stated

1 maturities shall be fixed, (1) so as to amortize the issue on
2 at least an approximately level annual debt service plan during
3 the period specified for the payment of principal in subsection
4 (c) of this section 602; or (2) so that only one-quarter of the
5 principal amount of the issue is amortized on the level annual
6 debt service plan, and the balance is stated to mature or be
7 subject to a mandatory sinking fund in such a manner as to bring
8 debt service on outstanding debt of the same classification (and
9 for this purpose lease rental debt not excluded as subsidized or
10 self-sustaining may be considered as the same classification as
11 general obligation debt) more nearly into an over-all level
12 annual debt service plan provided that no bond or note in such
13 balance of the issue shall be stated to mature at a date later
14 than the shorter of (i) three-quarters of the remaining
15 estimated useful life of the project as stated in the first
16 ordinance incurring debt for the project enacted after the
17 effective date of this act, or (ii) thirty years from date of
18 issue.

19 (c) Stated maturities of principal in any issue or the
20 operation of a mandatory call for debt retirement may not be
21 deferred beyond the later of:

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

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

24 In the case of revenue or guaranteed revenue bonds this
25 provision will be satisfied by a covenant for the mandatory
26 application to term bonds or such revenues as may remain after
27 payment of interest and operating expenses up to such fixed
28 amount conforming to subsection (b) above as shall be specified
29 in the ordinance pursuant to which the bonds or notes are
30 issued. Where an issue is sold in two or more consecutive

1 series, the first stated maturity of a later series shall be
2 stated to mature not later than fifteen months after the last
3 stated maturity date of the next preceding series.

4 (d) Nothing in this section shall prevent the fixing of the
5 amount of stated maturity dates so that a greater percentage of
6 a series will mature on earlier dates than those allowable by
7 this act.

8 Section 603. Number of Interest Rates; Variation.--A series
9 of bonds or notes may have any number of interest rates, subject
10 to any limitation on such number fixed by the governing body of
11 the issuing local government unit, but, unless further limited
12 by the issuing local government unit in the official notice of
13 sale, the rate of interest fixed at the time of original issue,
14 for any stated maturity date in the last two-thirds of the
15 period of the series may not be at a lower rate than the
16 interest rate stated for an earlier year in such last two-
17 thirds.

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

28 Section 605. Execution of Bonds or Notes.--Bonds or notes
29 shall be signed by such officers as the governing body shall
30 determine, and coupon bonds shall have attached thereto interest

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

21 Section 606. Pledge of Revenues.--The governing body of any
22 local government unit which has determined to issue any revenue
23 bonds or notes, or any guaranteed revenue bonds or notes, may
24 provide, by ordinance, for such pledges of or priorities in such
25 rentals, revenues, receipts, rates and charges to be received
26 from projects of the issuing local government unit as may be
27 desirable. Such pledge or priority shall be perfected as against
28 the local government unit, all creditors thereof, and all third
29 parties, in accordance with the terms of such ordinance, from
30 and after the filing of such ordinance in the office for the

1 recording of deeds in the county in which such local government
2 unit is located, notwithstanding the provisions of any other
3 law.

4 Section 607. Deeds of Trust and Other Agreements with
5 Bondholders and Noteholders.--(a) A local government unit shall
6 have the power to enter into any deed of trust, trust indenture
7 or other agreement with any bank, bank and trust company, trust
8 company or other person or persons in the United States having
9 power to enter into such agreements or accept such trusts,
10 including any Federal agency, as security for any notes or bonds
11 of the local government unit providing for the following:

12 (1) The payment of the interest on and principal of such
13 notes or bonds; the authentication of the original issue
14 thereof; the custody of sinking funds or other funds held or to
15 be held pending presentation of coupons, notes or bonds for
16 payment; the custody of debt service reserve funds or other
17 funds to be held as reserves; the disbursement of interest to
18 holders of fully registered bonds or notes; the cremation or
19 other destruction of coupons, bonds or notes which have been
20 paid; the maintenance of records as to registration, exchanges
21 and transfers and the effecting of the same;

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

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

28 (4) The rights and remedies of such trustee or other person
29 and the holder of the bonds or notes (which may include
30 reasonable restrictions upon the individual right of action of

1 such holders); and

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

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

11 (1) The rate of rents, charges, rates, or tolls to be
12 imposed for the use of the project being financed or the
13 rendering of services through the use of the project or both, to
14 ensure a sufficiency of revenues to cover operating expenses,
15 debt service and an appropriate surplus;

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

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

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

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

30 (d) No such deed of trust shall delegate the performance of

1 essential governmental functions to a trustee, fiscal agent or
2 receiver. The matters enumerated herein are hereby determined
3 not to be essential governmental functions.

4 Section 608. Negotiable Qualities of Bonds and Notes.--(a)
5 Bonds issued pursuant to this act shall have all the qualities
6 and incidents of securities under Article 8 of the Uniform
7 Commercial Code and shall be negotiable instruments.

8 (b) Notes issued pursuant to this act shall have all the
9 qualities and incidents of commercial paper under Article 3 of
10 the Uniform Commercial Code and shall be negotiable instruments
11 notwithstanding any references therein to the terms of the
12 authorizing bond ordinance or any trust indenture, deed of trust
13 or other agreement, or any variations in the rate of interest
14 provided in such note, or any limitations upon the funds from
15 which or limitations as to the bonds with which the notes may be
16 paid, or any restriction upon the remedies of the holders.

17 Section 609. Temporary Bonds or Notes or Interim Receipts.--
18 Pending the preparation of definitive bonds or notes, temporary
19 bonds or notes or interim receipts may be issued in such form
20 and containing such terms and such provisions for exchange for
21 definitive bonds or notes as the local government unit may
22 determine.

23 Section 610. Term-bonds of the Denomination of One Hundred
24 Dollars Each.--(a) Whenever the interest rate to the local
25 government unit shall exceed six per cent, on any stated
26 maturity not subject to call for optional prior redemption, the
27 governing body shall, and in other cases may, also concurrently
28 provide for the due public advertisement and issue and sale over
29 the counter by the issuer, local banks, savings and loan
30 associations, or savings banks, of term-bonds in the

1 denomination of one hundred dollars (\$100) each, payable in not
2 more than ten years from the date of issue. The principal amount
3 of the term-bonds shall be a reasonable amount, not less than
4 one-half of one per cent and not more than one and one-half per
5 cent of the principal amount of the bonds with which such term-
6 bonds are being concurrently authorized. The rate of interest on
7 such term-bonds shall be not less than that on the bonds of the
8 same stated maturity being concurrently authorized. A separate
9 sinking fund for the redemption of such term-bonds, upon tender
10 by the holders on a first come, first served basis, shall be
11 provided in an equal amount each year, sufficient to provide for
12 the separate amortization of the term-bonds by their stated
13 maturity date. Except as stated in this section the term-bonds
14 shall be subject to all the terms and conditions of the bonds
15 authorized concurrently therewith.

16 (b) No term-notes or term-bonds in the denomination of one
17 hundred dollars (\$100) each need be authorized, issued or sold
18 in connection with any series of notes or bonds having a latest
19 stated maturity date of ten years or less at the time of issue.

20 ARTICLE VII

21 Sale of Bonds

22 Section 701. Manner of Sale of Bonds or Notes.--(a) Except
23 as otherwise specifically provided in this act and subject to
24 the following subsection, bonds or notes may be sold at public
25 or private sale and at such price all as the governing body of
26 the issuing local government unit shall determine by ordinance
27 effective prior to the sale. Bonds or notes may be conditionally
28 sold before or after the adoption of the bond ordinance fixing
29 the final details of the series.

30 (b) Except for the sale of tax anticipation notes or of

1 term-bonds authorized pursuant to section 610 of this act, bonds
2 or notes, if sold at public sale, shall be sold to the highest
3 responsible bidder or bidders after one public notice by
4 advertisement of either the official notice of sale, or of the
5 availability of the official notice of sale, in at least one and
6 not more than two newspapers of general circulation in the
7 county in which the local government unit is located and in the
8 legal journal, if any, designated by the rules of court for the
9 publication of legal notices and advertisements, and may be
10 combined with the advertisement of the adoption of the ordinance
11 authorizing the sale. The advertisement shall also be published
12 once in a financial journal circulating among the underwriters
13 of securities. Advertisements shall be published not less than
14 ten nor more than thirty days prior to the date fixed for
15 opening proposals, and need not appear on the same date nor
16 successively in each newspaper journal.

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

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

23 (2) A general statement of the term of the issue and whether
24 it will consist of term bonds or notes, serial bonds or notes,
25 or both;

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

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

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

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

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

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

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

28 (3) A statement of the terms of the bidding, including, but,
29 without limitation: the method for determining net interest
30 cost, whether bids must be for all but not less than all; or, if

1 separate bids for separate lots may be submitted, a description
2 of each lot; the limitation on the number and variation between
3 high and low interest rates to be permitted; the required bid
4 security; the permitted discount from par, if any, the funds in
5 which the balance of the purchase price shall be paid; the place
6 at which the balance may be paid or the method of determining
7 such place; the effect on the obligation to purchase the notes
8 or bonds of litigation pending or change in tax or other
9 applicable laws occurring before the settlement for the bonds or
10 notes; the terms of the opinion of bond counsel to be delivered
11 at the time of payment for the bonds or notes; the effect of any
12 failure to deliver such opinion; and other relevant terms; and

13 (4) Any additional provisions as to the furnishing of copies
14 of documents, including an official statement of essential
15 facts, the estimated date for delivery of bonds or notes and
16 whether such bonds or notes will be delivered in definitive or
17 temporary form, and if temporary, the time and manner of
18 exchange for definitive bonds or notes.

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

26 Section 704. Opening of Bids.--At the time and place fixed
27 in the notice, or at a subsequent hour on the same date to which
28 the time may have been adjourned prior to the opening of any
29 proposals pursuant to any right of adjournment reserved in the
30 official notice of sale, the bids or proposals received shall be

1 publicly opened by the designated officer, or his or her
2 authorized delegate, and publicly read aloud.

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

21 Section 706. Required Bid Security.--The bid security to be
22 given by each bidder shall be by certified or official bank
23 check payable to the local government unit, and shall be not
24 less than two per cent of the principal amount of the bonds or
25 notes to be purchased. The bid security of the unsuccessful
26 bidder or bidders shall be returned to each unsuccessful bidder,
27 without interest in accordance with written instructions of the
28 bidder conforming to the official notice of sale, promptly upon
29 an award of the bonds or notes or upon the rejection of all
30 bids. The bid security of the successful bidder shall be

1 retained by the treasurer of the local government unit and (with
2 or without allowance for interest as the official notice of sale
3 may specify) shall be, on the purchase price when the bonds or
4 notes are actually delivered and paid for, retained as
5 liquidated damages if the bidder defaults, or returned to the
6 bidder with interest at the judgment rate if, after an
7 acceptance of the proposal, the bonds or notes are not issued
8 for any reason not constituting a default by the bidder.

9 Section 707. Reserved Right to Reject Bids; Effect of
10 Rejection.-- Every official notice of sale of bonds or notes
11 shall provide that the right is reserved to the governing body
12 of the local government unit to reject all bids or proposals,
13 but in a case where conforming bids have been received and
14 rejected any subsequent sale of bonds or notes in the amount of
15 such series for the same project must be a public sale to be
16 held at such later time as the governing body may determine to
17 be advantageous.

18 Section 708. Public Sale; Failure to Receive Conforming
19 Bid.--If bonds or notes are advertised for sale and no
20 conforming bid is received, then the local government unit may
21 cancel the sale, devise a new series for sale, or may sell such
22 series bonds or notes, or any part or parts thereof, from time
23 to time, during the ensuing six months at private sale in
24 accordance with the terms originally advertised with any changes
25 in call price or dates of call for prior redemption or both as
26 may be deemed desirable. After such six-month period the local
27 government unit may sell any unsold portion of the series in any
28 manner permitted by this act, with such appropriate changes in
29 the call prices or dates of call for prior redemption or both or
30 in other terms as may be deemed advisable, provided that as so

1 changed, the two portions of the series when combined and any
2 issue of which such series is a part are in conformity with the
3 requirements of this act as to term, interest rate and stated
4 maturities.

5 Section 709. Determination of Net Interest Cost and Net
6 Interest Rate.--(a) Net interest cost may be determined by using
7 either the street method or the present worth method whichever
8 method shall be specified in the official notice of sale.

9 (b) Under the street method a dollar amount shall be
10 determined by computing the total amount of interest payable
11 over the life of the series to stated maturity dates or earlier
12 mandatory call dates and subtracting therefrom the amount of any
13 premium paid above the aggregate principal amount of the bonds
14 or notes, or adding thereto the amount of any discount lawfully
15 allowed in the sale.

16 (c) Under the present worth method there shall be
17 ascertained the semiannual rate, compounded semiannually,
18 necessary to discount to present worth as of the date of the
19 bonds or notes the amounts payable on each interest payment date
20 and on each stated maturity or earlier mandatory redemption date
21 so that the aggregate of such amounts will equal the purchase
22 price offered therefor exclusive of interest accrued to the date
23 of delivery. The net interest cost shall be stated in terms of
24 an annual percentage rate and shall be that rate of interest
25 which is twice the semiannual rate so ascertained.

26 (d) The net interest rate for a series sold under the
27 present worth method shall be the rate of the net interest cost.
28 For a series sold under the street method the net interest rate
29 shall be determined by dividing the net interest cost by the
30 product of: (i) one thousand dollars (\$1,000) multiplied by (ii)

1 the number of bond years from the date of the bonds or notes to
2 the stated maturity or earlier mandatory call dates. A bond year
3 shall be one full year that one thousand dollars (\$1,000) of
4 principal amount shall be outstanding and less than full years
5 shall be fractionalized on a three hundred and sixty-five-day
6 year basis.

7 Section 710. Combining for Purposes of Financing or Sale.--

8 (a) Any local government unit financing two or more projects by
9 revenue or guaranteed revenue bonds or notes may, by ordinance,
10 combine one or more projects for financing purposes prior to the
11 incurring of debt with respect to the last authorized project.
12 Such combining shall be effective upon the effective date of the
13 ordinance enacting such combination; but no project designed and
14 limited to serving the citizens of one separate and distinct
15 area of a local government unit shall be combined with a project
16 designed and limited to rendering a different service to the
17 citizens of another separate and distinct area of such local
18 government unit.

19 (b) A local government unit may by ordinance combine any two
20 or more series of general obligation bonds for purposes of sale.
21 If the projects being financed by such general obligation bonds
22 have different useful lives, it shall be sufficient for the
23 purposes of section 602 if an aggregate principal amount of
24 bonds equal to the separate cost of each project having a
25 shorter useful life shall have been stated to mature prior to
26 the end of each such useful life, and the balance prior to the
27 end of the longest useful life. The combined series may be
28 stated to mature, otherwise, in conformity with the provisions
29 of section 602.

ARTICLE VIII

Filing with and Duties of the Department

Section 801. Certification of Bond or Note Transcript to Department.--The governing body of each local government unit shall, before any bonds or notes (except funding bonds issued with court approval) are actually delivered to the initial purchasers, or before becoming bound on any lease evidencing the acquisition of a capital asset cause to be certified to the department, under the signature of the clerk or secretary of the governing body and its corporate seal, a complete and accurate copy of the proceedings had for the incurring of debt, as provided in section 411 of this act.

Section 802. Filing of Statements of Completion of Sale with Department; Penalty.--If a bond or note settlement shall fail of completion, in whole or in part the local government unit shall file with the department within twenty days a notification of noncompletion of sale, stating what part, if any, of the issue shall have been delivered. From and after the prescribed filing date required by this section no certificate of approval of any debt shall be issued by the department if any filing required to be made by this section, with the required fee, shall not have been made prior to the issuance of such certificate. The provisions of this section are not subject to waiver by the department.

Section 803. Fees for Filing; Extra Fees for Late Filings.--Every timely filing with the department shall be accompanied by a filing fee of fifteen dollars (\$15), and every late filing shall be accompanied by an additional late filing fee of one hundred dollars (\$100) a day up to a maximum of eight hundred eighty-five dollars (\$885). In the case of filings for new

1 series of bonds or notes or with respect to lease rental debt
2 the filing shall be accompanied by an additional fee of one mill
3 on each dollar of aggregate principal amount of the debt to be
4 incurred by such series or under such lease or other agreement
5 by the local government unit up to the first one million dollars
6 (\$1,000,000) of aggregate principal amount, three-quarters of a
7 mill on each dollar of aggregate principal amount in excess of
8 the first one million dollars (\$1,000,000), up to ten million
9 dollars (\$10,000,000) and one-quarter of a mill on the excess
10 over ten million dollars (\$10,000,000). No submission shall
11 constitute a filing until the proper fee is paid. All fees
12 received hereunder shall be paid by the department into the
13 State Treasury through the Department of Revenue.

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

29 Section 805. Certificate of Disapproval; Correction of
30 Proceedings.--If the department, upon completion of its

1 examination finds it cannot issue a certificate of approval, it
2 shall notify the local government unit of the reasons why it
3 cannot do so. If the proceedings or any prior filings are
4 subject to correction for demonstrated typographical or
5 computational error, or otherwise or for failure to include a
6 necessary document or certification and such correction is
7 approved by the department, the error shall be corrected in all
8 places, or the additional document or certification shall be
9 furnished to the department, within ten days, and upon such
10 other terms as the department may specify, and thereupon the
11 department shall certify its approval. If the deficiency shall
12 not be subject to correction, the department shall certify its
13 disapproval to the local government unit.

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

29 Section 807. Records of Department.--(a) The department
30 shall keep all proceedings on file for a period of four months

1 after issuance of its certificate of approval or disapproval and
2 thereafter, as long as any appeal respecting such proceedings
3 shall be pending and not finally determined.

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

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

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

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

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

16 (5) The dates and designations of each issue of bonds or
17 notes or lease to be executed with the approval number assigned
18 to each series or lease 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) The records of the department shall be public records,
29 available for examination by any citizen of the Commonwealth or
30 any bondholders or noteholders, and copies thereof, certified as

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

4 Section 808. Invalidity of Bonds or Notes Required to Be
5 Approved By the Department Which Are Delivered Prior to Approval
6 by the Department.--Bonds or notes sold and delivered to the
7 initial purchasers prior to an approval of the series by the
8 department under section 804 or section 806 of this act shall be
9 invalid and of no effect in the hands of the initial purchasers
10 except to the extent provided in this section 808. In the hands
11 of a bona fide purchaser (other than an initial purchaser or
12 member of an underwriting or selling group) for value without
13 actual notice of the lack of a prior approval by the department,
14 any bonds or notes containing a recital that the series had been
15 approved by the department shall be valid and subsisting
16 instruments enforceable in accordance with their terms, and any
17 applicable borrowing base shall be deemed increased to the
18 extent necessary to validate and keep such bonds valid, but not
19 for the purpose of reducing the liability of any person under
20 the next sentences. The local government unit shall be entitled
21 to recover all interest and principal payable thereon from the
22 initial purchasers and the individuals, including the officers
23 of the local government unit, responsible for making the
24 unapproved delivery. Notwithstanding the invalidity of the
25 instruments as to them, the initial purchasers shall be entitled
26 to credit, in any action determining such invalidity or for the
27 recovery provided by the preceding sentence for the amount of:

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

30 (2) The lesser of either: (i) the cost or fair market value,

1 whichever is the lesser, of any capital project or part thereof
2 or interest therein acquired by the local government unit by an
3 expenditure of a portion or all of the proceeds of the bonds or
4 notes; or (ii) the remaining nonelectoral borrowing capacity of
5 the local government unit.

6 Section 809. Finality of Proceedings; Validity of Bonds or
7 Notes.--(a) Where a certificate of approval has been issued by
8 the department or has been deemed issued under section 806, and
9 no appeal has been taken, or when after appeal, the proceedings
10 have been approved finally by the court, the validity of the
11 proceedings, the right of the local government unit to issue its
12 bonds or notes lawfully pursuant to those proceedings, and the
13 validity and due enforceability of the bonds or notes in
14 accordance with their terms shall not thereafter be inquired
15 into judicially, in equity, at law, or by civil or criminal
16 proceedings, or otherwise, either directly or collaterally
17 except where a constitutional question is involved. The effect
18 of the approval by the department, or by the court on appeal,
19 shall be to ratify, validate and confirm, so far as good faith
20 purchasers of the bonds or notes are concerned, such proceedings
21 absolutely, including the lawful nature of the project,
22 notwithstanding any defect or error in such proceedings, except
23 as specifically provided hereinafter in this section, and any
24 debt limit imposed by this act shall be deemed increased to the
25 extent necessary to validate such debt. Nothing herein contained
26 shall, however, free an initial purchaser of bonds or notes from
27 liability to a local government unit for the payment of the
28 consideration agreed in the contract of sale, or make all such
29 bonds or notes valid and enforceable in the hands of an initial
30 purchaser unless the issuer shall have received a substantial

1 consideration for the series as a whole.

2 (b) Nothing herein contained shall, however, relieve any
3 person participating in such proceedings from liability for
4 knowingly participating in an ultra vires act of a local
5 government unit, or from any civil or criminal liability for
6 false statements in any certificates filed or delivered in such
7 proceedings.

8 Section 810. Power of Department to Define Terms, Issue
9 Rules and Regulations and Prescribe Forms.--The department shall
10 have power to prescribe rules and regulations regarding, and to
11 prescribe forms for, reports and filings to be submitted to the
12 department pursuant to this act. Such definitions, rules and
13 regulations when published and made available to the public
14 shall have the force of law.

15 ARTICLE IX

16 Appeals Concerning Debt

17 Section 901. Appeals by Interested Parties and Taxpayers.--

18 (a) Where proceedings for the incurring of debt and sale of
19 bonds or notes or the exclusion of debt as self-liquidating or
20 subsidized have been taken by a local government unit and the
21 department shall have certified or shall have been deemed to
22 have certified its approval or disapproval of the series or the
23 exclusion of any debt from net nonelectoral and net lease rental
24 and the fact of final adoption of the ordinance approving the
25 sale or the exclusion shall have been advertised one time in a
26 newspaper of general circulation in the area of the local
27 government unit, such local government unit or any other
28 interested party, or any taxpayer of the local government unit
29 may appeal within thirty days from the earlier of:

30 (1) The date of advertisement of the fact of the final

1 passage of the ordinance approving the sale of the bonds; or
2 (2) The date of the department's certificate of approval,
3 the date it is deemed to have been approved, or the date of its
4 disapproval. The appeal shall be by petition to the Commonwealth
5 Court. The petition shall allege the error or errors in the
6 proceedings in the manner required of bills in equity, and the
7 burden of persuading the trier of fact as to all matters of fact
8 shall be upon the appellant.

9 (b) Jurisdiction is hereby conferred upon the Commonwealth
10 Court to hear and determine such appeals, and all other appeals
11 and actions provided for in this act.

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

21 Section 903. Notice of Appeal or Commencement of Action;
22 Record; Service of Notice.--Notice of any such appeal or the
23 start of any action shall be given by the petitioner, together
24 with a copy of the petition to the clerk or secretary of the
25 local government unit if it is not the petitioner, and to the
26 department at Harrisburg, Pennsylvania by mailing the same
27 certified mail, return receipt requested, postage and fees
28 prepaid. The return receipt shall be accepted as proof of
29 service. Notice shall be served upon taxpayers by publication in
30 such manner as the court shall direct. Forthwith upon the

1 receipt of such service, or the filing of a petition by it, the
2 local government unit shall transmit to the prothonotary of the
3 Commonwealth Court duly certified copies of all documents
4 required to be filed with the department and the department to
5 the extent that it has taken action shall certify to the
6 prothonotary any action thereon taken by it. Such proceedings so
7 certified shall become a part of the record and shall be
8 admitted in evidence, together with any other evidence offered
9 by the parties.

10 Section 904. Filing of Answer.--The local government unit,
11 the department, any person interested and any taxpayer of the
12 local government unit desiring to answer the petition, must file
13 their answer within ten days after the service of the notice of
14 appeal and the petition, or by such earlier date as the court
15 may fix.

16 Section 905. Hearings; Pleadings.--After the expiration of
17 the time for filing answers, the court shall fix a day for
18 hearing, of which notice to all parties to the proceeding shall
19 be given as the court may direct. At the hearing the court may
20 hear evidence, but the proceedings shall be limited to the
21 questions raised by petition and answer. New matter in an answer
22 shall be deemed denied and no demurrer or other pleading shall
23 be required to bring the matter to issue.

24 Section 906. Order; Further Proceedings Subject to Approval
25 of Department.--(a) After a hearing, the court shall have power
26 to affirm or to order stricken from the proceedings in
27 possession of the local government unit, or in any filing in any
28 office for the recording of deeds, the approval of the
29 department of any series, or any exclusion of any debt from net
30 nonelectoral debt or net lease rental debt or any proceedings

1 erroneously taken by the local government unit, or, if in the
2 opinion of the court the proceedings had by the local government
3 unit are subject to correction or amendment, it may refer the
4 matter back to the local government unit for such action.

5 (b) Any further proceedings by the local government unit
6 shall be again filed with and shall again be subject to approval
7 by the department if the original proceedings were required to
8 be so filed and approved.

9 Section 907. Appeals from Commonwealth Court.--From any
10 final decision or order of the Commonwealth Court, appeals may
11 be taken as from other final decisions or orders in accordance
12 with the Appellate Court Jurisdiction Act of 1970, but the party
13 appealing must give all other parties notice of his intent to
14 appeal within ten days of the entry of the order of the
15 Commonwealth Court.

16 ARTICLE X

17 Sinking Funds; Reserves and Pledged Revenues

18 Section 1001. Creation of Sinking Fund and Accounts
19 Therein.--(a) Every local government unit having outstanding any
20 bonds or notes shall create forthwith, subject to the terms of
21 any existing contracts with the holders of such bonds or notes,
22 and every local government unit hereafter issuing any bonds or
23 notes shall create simultaneously with or prior to the delivery
24 of the bonds or notes, and thereafter maintain until such bonds
25 or notes are paid in full a sinking fund for the aggregate or
26 for one or more series of its general obligation bonds and
27 notes, and separately for each project or combination of
28 projects financed by revenue or guaranteed revenue bonds or
29 notes. The sinking fund shall be maintained with the
30 Pennsylvania bank or bank and trust company appointed from time

1 to time as sinking fund depositary and all moneys deposited
2 therein and the investments thereof shall without further action
3 or filing be subject to a perfected security interest for the
4 bonds and notes for which such sinking fund is operated until
5 such moneys or funds shall have been properly disbursed.

6 (b) Moneys for the payment of taxes assumed, and principal
7 and interest on outstanding bonds or notes shall be deposited in
8 a separate debt service account in the sinking fund for each
9 series at the times and in the amounts provided in any contract
10 with the holders of the bonds and notes.

11 (c) A local government unit pledging the rates, rentals,
12 receipts, charges and tolls from the use of a capital project,
13 for the security of revenue or guaranteed revenue bonds or
14 notes, shall, by ordinance, provide for the deposit thereof as
15 and when received in the sinking fund for the project.

16 (d) A local government unit may provide, by ordinance, for
17 the creation and maintenance of other accounts in the sinking
18 fund for revenue or guaranteed revenue bonds or notes, including
19 operating accounts for financed projects, reserve accounts for
20 various purposes, a bond or note redemption account and a
21 surplus account, may prescribe the purposes for which the funds
22 in each such account may be withdrawn and the amounts, times and
23 sources of deposits therein, but every such ordinance shall
24 provide that moneys in the surplus fund may be used by the local
25 government unit for any lawful purpose of such local government
26 unit, and no contract with the holders of bonds or notes shall
27 provide to the contrary.

28 (e) Deposits in the surplus account of the sinking fund for
29 revenue or guaranteed revenue bonds or notes shall be made in
30 each year of all pledged revenues in excess of the sum of the

1 operating expenses plus one hundred and forty per cent of the
2 annual debt service (which term shall include funds set aside
3 for the amortization of term bonds) for such year but this
4 provision shall not apply to receipts from contracts for
5 construction for additions or betterments which are held for
6 application to such purpose.

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

30 Section 1003. Duty of Treasurer with Respect to Sinking

1 Fund.--It shall be the duty of the treasurer of each local
2 government unit to deposit into the sinking fund the moneys to
3 be deposited therein pursuant to the covenant entered into by
4 the local government unit with the holders of its bonds and
5 notes, at the times and in the amounts provided in the pledges
6 made by the local government unit or, if no pledge has been
7 made, as provided in the appropriations made by the governing
8 body. If no appropriation of moneys shall have been made, or if
9 it shall appear that, as a result of other expenditures, the
10 appropriated revenues will not be received in sufficient amounts
11 in time to make the deposits required to be made for the payment
12 of the taxes assumed and the interest on and principal of
13 general obligation bonds and notes, or the amount due on a
14 guaranty of guaranteed revenue bonds or notes or on a guaranty
15 of any authority obligation, it shall be the duty of the
16 treasurer to pay into the sinking fund that portion of each
17 receipt of tax moneys and other available revenues as will
18 result in the timely accumulation of sufficient moneys in the
19 sinking fund to pay the taxes assumed and the principal of and
20 interest on the bonds or notes, or to meet the guaranty
21 obligation of the local government unit. The governing body of a
22 local government unit may issue its tax anticipation notes under
23 Article V of this act to provide all or any part of any moneys
24 needed for deposit in the sinking funds of the local government
25 unit.

26 Section 1004. Deposit of and Investment of Moneys in Sinking
27 Funds.--(a) Any moneys in sinking funds not required for prompt
28 expenditure may be deposited at interest in time accounts or
29 certificates of deposits of any bank or bank and trust company
30 or in shares of building and loan associations or Federal

1 savings and loan associations. Moneys required for prompt
2 expenditure shall be held in demand deposits. To the extent that
3 such deposits are insured by the Federal Deposit Insurance
4 Corporation or the Federal Savings and Loan Insurance
5 Corporation, they need not be secured; otherwise such deposits
6 shall be secured as public deposits whether or not title shall,
7 by virtue of the deposit with a fiscal agent or trustee for
8 bondholders, be in such fiscal agent or trustee, except that
9 moneys held by the fiscal agent, trustee or sinking fund
10 depositary itself may be secured as trust funds.

11 (b) Any moneys in sinking funds not required for prompt
12 expenditure and not deposited at interest shall, to the extent
13 practicable and reasonable be invested in any securities in
14 which the Commonwealth may at the time of investment, invest
15 moneys of the Commonwealth not required for the time being for
16 expenditure, subject to any stricter requirements in any
17 contract with the holders of bonds or notes for which the
18 particular sinking fund was created or maintained.

19 (c) All such deposits and investments shall be in the name
20 of the local government unit but shall be subject to withdrawal
21 or collection only by the sinking fund depositary for proper
22 purposes in accordance with this act.

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

27 (e) For the purposes of investment or deposit at interest,
28 all accounts in a sinking fund may be combined and each such
29 combined account shall be entitled to its pro rata share of each
30 deposit or investment.

1 (f) The sinking fund depositary shall return to the local
2 government unit all moneys deposited in a sinking fund for the
3 payment of bonds, notes or coupons which have not been claimed
4 by the holders thereof after two years from the date when
5 payment is due, except where such funds are held for the payment
6 of outstanding checks, drafts or other instruments of the
7 sinking fund depositary. Nothing in this subsection or in any
8 action taken hereunder shall relieve the local government unit
9 of its liability to the holders of unrepresented bonds, notes, or
10 coupons.

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

18 Section 1005. Management of Sinking Fund.--The management
19 and control of sinking funds, and investments thereof, subject
20 to the provisions of this act shall be vested in the governing
21 body of the local government unit except:

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

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

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

30 Section 1006. Inspection of Sinking Funds; Orders to

1 Comply.--(a) The department shall from time to time, not less
2 frequently than triennially, audit the sinking funds and all
3 records pertaining thereto of local government units which have
4 any outstanding debt, except those annually submitting to the
5 department reports of their sinking funds audited by an
6 independent certified public accountant and except for school
7 districts of the first class or cities of the second class and
8 second class A.

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

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

27 ARTICLE XI

28 Refunding of Debt

29 Section 1101. Power to Refund.--Subject to the provisions of
30 the outstanding bonds or notes and subject to the provisions of

1 this article, a local government unit shall have the right and
2 power to refund any outstanding debt in whole, or in part, at
3 any time by the issue of bonds or notes of the same type as the
4 bonds or notes being refunded or by adjustments of lease rentals
5 in connection with any refunding of lease rental debt, and shall
6 have the right and power to refund any outstanding notes with
7 bonds of the same type. The refunding may be for any one or more
8 of the following purposes:

9 (1) Reducing total interest payable over the life of the
10 series, by issuing bonds or notes of a shorter term or at a
11 lower interest rate or rates;

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

15 (3) Eliminating any covenant or restriction in, or
16 applicable to, any outstanding series or issue of bonds or notes
17 determined by the local government unit to be unduly burdensome
18 or restrictive;

19 (4) Refunding any maturity or maturities or any portions
20 thereof to a later date subject to the limitations imposed by
21 section 1107; or

22 (5) Substituting a bond issue for notes or bond anticipation
23 notes.

24 It is immaterial whether or not any such refunding under clauses
25 (2), (3), (4), or (5) increases the total interest payable over
26 the life of the series.

27 Section 1102. Treatment of Refunding Premium and Costs of
28 Issue on Refunding Bonds.--In any refunding, a principal amount
29 of refunding bonds or notes equal to the sum of the following:

30 (1) The call premium payable on the bonds being refunded;

1 (2) The discount allowed on the sale of the refunding bonds;
2 (3) Any funds needed to cover interest payable on bonds
3 being refunded not otherwise made available; and
4 (4) The costs of issue and sale of the refunding bonds;
5 may be considered as interest on the refunding bonds, may be
6 separately stated in all reporting of debt, and in all
7 computation of debt limits and if so considered and reported by
8 the local government unit shall not be considered as electoral
9 or nonelectoral debt. In subsequent debt statements, any such
10 separately stated principal amount of bonds or notes shall be
11 reported as being amortized in the same proportion as the series
12 of which they are a part. In computing whether savings are being
13 effected by a refunding, the interest on the bonds or notes
14 being refunded and the interest on all refunding bonds or notes
15 being issued shall be calculated to stated maturity dates or
16 earlier mandatory call dates on both series except as provided
17 in the last sentence of this section. The amounts computed from
18 clauses (1) to (4) above shall be added to the interest computed
19 on the refunding bonds or notes to determine the total interest
20 on such bonds or notes. In computing interest on the bonds or
21 notes being refunded, surplus revenues pledged to the series
22 shall, subject to subsection (e) of section 1001 be applied to
23 reduce outstanding bonds or notes at the earliest optional call
24 dates covered by available funds.

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

26 Section 1104. Effect of Debt Limits on Refunding
27 Nonelectoral Bonds or Notes.--If any debt originally incurred
28 was lawfully incurred and issued, and, at the time such debt was
29 incurred, the portion constituting nonelectoral debt was within
30 every limitation imposed thereon by law, the issue of refunding

1 bonds or notes in respect of such debt shall be lawful and
2 valid, notwithstanding that the aggregate of outstanding debt
3 shall thereby exceed the then applicable limitations set by
4 section 202 of this act, which limitations shall be deemed
5 increased but only to the extent necessary to effectuate and
6 amortize the refunding lawfully. Any portion of such refunding
7 bonds or notes may be excluded from nonelectoral debt, either as
8 subsidized debt or self-liquidating debt, in accordance with the
9 procedure provided in Article II of this act.

10 Section 1105. Refunding of Electoral Debt.--A local
11 government unit may, by action of its governing body, and in
12 accordance with the limitations of this Article XI, refund any
13 debt originally incurred as electoral debt. The refunding bonds
14 or notes so issued shall not thereby be considered nonelectoral
15 debt for any purpose.

16 Section 1106. Procedure for Authorization, Sale, Issue, and
17 Approval of Refunding Bonds or Notes.--Bonds or notes issued for
18 refunding purposes shall be authorized, issued, sold, approved
19 and settled and refunding of lease rental debt shall be
20 authorized and approved in the manner provided in this act for
21 the authorization, issue, sale and approval of the original
22 debt, subject to any additional limitations provided in this
23 Article XI. No refunding bonds or notes shall be delivered to
24 the purchasers thereof unless, simultaneously therewith, the
25 notes or bonds being refunded become no longer outstanding in
26 accordance with section 1110 and no adjustment in lease rentals
27 shall be made unless appropriate provision for the retirement of
28 the outstanding lease rental debt shall have been made.

29 Section 1107. Special Limitation on Refunding of Funding
30 Debt.--No debt incurred for funding purposes shall be refunded

1 except pursuant to clause (1) of section 1101 until such
2 refunding shall have been approved as necessary by the
3 Commonwealth Court. Such approval shall be obtained by petition
4 to reopen the proceedings in which the funding debt was
5 originally incurred, and the court shall grant such petition,
6 if, after hearing, the court shall be satisfied that such
7 refunding is necessary and is in the public interest. Due public
8 notice of the filing of the petition, shall be given by
9 advertisement not less than five nor more than twenty days
10 before the filing thereof. All subsequent proceedings in respect
11 of the refunding of such funding debt shall be taken in
12 accordance with the provisions of this act applicable to the
13 incurring of the original debt. Bonds or notes issued to refund
14 funding debt shall be stated to mature at the dates and in the
15 amounts on each such date as may be approved by the court,
16 notwithstanding any limitation on the term of funding debt
17 imposed elsewhere in this act.

18 Section 1108. Approval of a Refunding by the Electors.--The
19 governing body of any local government unit may also obtain the
20 approval of the electors to any refunding of nonelectoral or
21 lease rental debt in the manner prescribed for an original issue
22 by Article III of this act, and may issue general obligation
23 bonds or guaranteed revenue bonds in such refunding if approved
24 by the electors regardless of the class of bonds originally
25 issued.

26 Section 1109. Refunding with Bonds of Another Type.--Subject
27 to the limitations of section 202 of this act, or after a
28 referendum held pursuant to section 1108, the governing body of
29 any local government unit may for any purpose specified in
30 section 1101, refund with its general obligation bonds or notes

1 or its guaranteed revenue bonds, or notes or any part of any
2 outstanding callable revenue bonds or notes or bonds or notes of
3 any authority formed by it or of which it is a member or may
4 refund any outstanding callable revenue bonds or guaranteed
5 revenue bonds or notes with like bonds or notes. It may also
6 refund any general obligation or guaranteed revenue bonds with
7 its revenue bonds, by the incurring of lease rental debt or by
8 guaranteeing the obligations of an authority.

9 Section 1110. Use of Proceeds of Refunding Bonds; When
10 Refunded Bonds Are No Longer Deemed Outstanding.--(a) The
11 proceeds of refunding bonds, together with any other moneys made
12 available for the purpose shall be used solely for the purpose
13 of retiring the bonds being refunded and for the purpose paying
14 the costs of the refunding.

15 (b) Any bonds or notes to be redeemed shall no longer be
16 deemed to be outstanding for the purpose of determining the net
17 debt of the local government unit or for the purposes of any
18 indenture limitations on repledging revenues when the local
19 government unit shall have irrevocably deposited with a bank or
20 bank and trust company in a sufficient amount:

21 (1) Moneys;

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

25 (3) Time deposits or certificates of deposit, with a firm
26 rate of interest issued by a bank or bank and trust company and
27 insured or adequately secured as public deposits; or

28 (4) Any combination of the foregoing.

29 The deposited amount shall be sufficient when it, together with
30 the interest to be earned thereon will equal the principal,

1 premium, and interest to become due on the bonds or notes being
2 refunded to the earlier of the date at which any such bonds or
3 notes are stated to mature, or have been called for prior
4 redemption: Provided, however, That the local government unit
5 shall simultaneously have given such bank or bank and trust
6 company instructions and authority, stated to be irrevocable, to
7 publish any notices of redemption remaining to be published.

8 When stated to be irrevocable, the instructions and authority
9 to call bonds or notes for redemption shall become irrevocable
10 upon the delivery thereof, or upon the deposit of the moneys or
11 securities in a sufficient amount to effect the redemption,
12 whichever shall occur the later. Until such irrevocability shall
13 have occurred, a call for redemption may be revoked by notice
14 given in like manner as the notice of redemption.

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

30 ARTICLE XII

Remedies

Section 1201. Failure to Budget Debt Service.--If a local government unit having outstanding any general obligation bonds or notes or guaranteed revenue bonds or notes, lease rental debt or guaranty of authority obligations fails or refuses to make adequate provision in its budget for any fiscal year for the sums payable in respect of such bonds or notes, lease rental or guaranty in such year or shall fail to appropriate or pay the moneys necessary in such year for the payment of the amount of the guaranty, or as the case may be, of the maturing principal of and the interest on such bonds or notes or any of them, or any sinking fund obligation for such bonds or notes or guaranty or the lease rental payment coming due in the fiscal year of such budget or for which such appropriations or payments should have been made, then at the suit of the holder of any bond, note, or coupon or guaranty, or the holder of any authority obligation secured by a lease evidencing the acquisition of a capital asset or of any taxpayer of the local government unit, the court of common pleas of the county in which such local government unit is located shall, after a hearing held upon such notice to the local government unit as the court may direct, and upon a finding of such failure or neglect, by writ of mandamus, require the treasurer of the local government unit and it shall be the duty of such treasurer to pay into the sinking fund for each series of bonds or notes then outstanding, or for each guaranty or lease rental payment, the first tax moneys or other available revenues or moneys thereafter received in such fiscal year by such treasurer, equally and ratably for each series for which provision has not been made in proportion to debt service for such year on each such series then outstanding, or the

1 amounts due upon guaranties or as rental under leases evidencing
2 the acquisition of capital assets, as the case may be, until the
3 sum on deposit in each sinking fund shall equal the moneys that
4 should have been budgeted or appropriated for each such series.

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

22 (b) If a local government unit fails or neglects to pay or
23 cause to be paid the principal of or the interest upon any
24 revenue bond or note as the same shall become due, whether at
25 the stated maturity or upon call for prior redemption, the
26 holder thereof shall, subject to section 1203 of this act and to
27 any reasonable limitations upon individual rights of action
28 properly provided in the bond ordinance or any indenture, have
29 the right to recover the amount due in an action in assumpsit in
30 the court of common pleas of the county in which such local

1 government unit is located, but the judgment shall be limited to
2 payment out of the assessments, revenues, rates, rents, tolls
3 and charges from the project which are pledged for the payment
4 of such bonds or notes.

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

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

30 (1) By mandamus or other suit, action or proceeding at law

1 or in equity enforce all rights of the holders of the bonds or
2 notes, including in the case of revenue or guaranteed revenue
3 obligations the right to require the local government unit to
4 impose and collect rents, rates, tolls and charges adequate to
5 carry out any agreement or covenant as to, or pledge of such
6 rents, rates, tolls or charges, for the use of the project or
7 projects financed by such bonds or notes, or to require the
8 local government unit to carry out any other agreements with the
9 holders of such bonds or notes;

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

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

17 (4) In the case of general obligation bonds or notes,
18 petition the court to levy, and the court is hereby empowered to
19 levy, after a hearing upon such notice to the owners of
20 assessable real estate, as the court may prescribe, the amount
21 due before or after the exercise of any right of acceleration on
22 the bonds or notes plus estimated costs of collection as an
23 assessment upon the properties benefited by the improvement
24 pursuant to the front foot rule if the project is an assessable
25 improvement, otherwise upon all taxable real estate and other
26 property subject to ad valorem taxation in the local government
27 unit, in proportion to the value thereof as assessed for tax
28 purposes, and the trustee may collect or cause the local
29 government unit to collect, such assessments as by foreclosure
30 of a mortgage or security interest on the realty or other

1 property if not paid on demand;

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

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

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

30 Any assessment levied pursuant to clauses (4) and (5) above

1 shall have the same priority and preference as to other liens or
2 mortgages on the real estate or security interests in fixtures
3 thereon or other property, as a lien for unpaid taxes.

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

13 (d) If a trustee or fiscal agent for the bondholders or
14 noteholders was appointed in connection with the original issue
15 of the bonds or notes, and is willing to serve and exercise the
16 powers confined upon a trustee appointed by this section, no
17 trustee appointed in the manner provided in this section shall
18 have the powers herein set forth unless the appointment under
19 this section was executed by or pursuant to the authority of the
20 holders of a principal amount of such bonds or notes sufficient
21 to remove such originally appointed trustee or fiscal agent.

22 Section 1204. Receiver for Revenue Projects.--A trustee for
23 the holders of defaulted bonds or notes, whether or not the
24 series of bonds presented by the trustee has been declared to be
25 and has become forthwith due and payable, shall be entitled as
26 of right to the appointment, by the court of common pleas of the
27 county in which such local government unit is located, of a
28 receiver of all or any part or parts of a project or the
29 projects, the rents, rates, revenues, tolls and charges of which
30 are pledged for the security of the bonds or notes of such

1 series. Such receiver shall have no power of sale but may enter
2 and take possession of the project or projects or part or parts
3 thereof, and, subject to the equal or prior rights of the
4 holders of any other series of bonds or notes, shall take
5 possession of all moneys and other property derived from or
6 applicable to the construction, operation, maintenance, repair
7 and reconstruction of such project or projects or parts thereof.
8 The receiver may thereafter proceed with any construction or
9 other work thereon which the local government unit is under
10 obligation to do. The receiver may operate, maintain, repair,
11 and reconstruct such project or projects, or parts thereof and
12 collect and receive all rents, rates, receipts, tolls, other
13 charges and revenues arising therefrom, subject to the equal or
14 prior rights of the holders of any other series of bonds or
15 notes therein. The receiver shall perform the public duties and
16 carry out the lawful agreements and obligations of the local
17 government unit with respect to the project or projects or parts
18 thereof, all under the direction of the court but shall not
19 perform any essential governmental functions.

20 Section 1205. Costs of Suits or Proceedings.--In any suit,
21 action or proceeding by or on behalf of the holders of defaulted
22 bonds or notes of a local government unit brought under this act
23 the fees and expenses of a trustee or receiver, including
24 operating costs of a project and reasonable counsel fees, shall
25 constitute taxable costs, and all such costs and disbursements
26 allowed by the court shall be deemed additional principal due on
27 the bonds or notes, and shall be paid in full from any recovery
28 prior to any distribution to the holders of the bonds or notes.

29 Section 1206. Distribution of Moneys Realized for
30 Bondholders.--Moneys or funds collected for the holders of

1 defaulted bonds or notes entitled to share equally and ratably
2 therein shall, after the payment of costs and fees as provided
3 in section 1205, be applied by the trustee or receiver, unless
4 the terms of the bonds or notes provide otherwise, as follows:

5 (1) Unless the principal of all of the bonds or notes
6 represented shall have become or have been declared due and
7 payable, (i) to the payment to the persons entitled thereto of
8 all installments of interest then due in the order of the stated
9 maturity dates of such installments of such interest and, if the
10 amount available shall not be sufficient to pay any installment
11 in full, then to the payment ratably, according to the amounts
12 due on such installment, to the persons entitled thereto,
13 without any discrimination or preference except as to any
14 difference in the respective rates of interest expressed in the
15 bonds or notes or coupons for interest; and (ii) to the payment
16 to the persons entitled thereto of the unpaid principal of any
17 bonds or notes which shall have become due, whether at stated
18 maturity dates or by call for redemption, in the order of their
19 respective due dates, and if the amount available shall not be
20 sufficient to pay in full all the bonds or notes due on any
21 date, then to the payment ratably, according to the amounts of
22 principal due on such dates, to the persons entitled thereto
23 without any discrimination or preference.

24 (2) If the principal of all of the bonds or notes entitled
25 to share equally in such moneys shall have become or shall have
26 been declared due and payable, to the payment of the principal
27 and interest then due and unpaid upon the bonds or notes without
28 preference or priority of principal over interest or interest
29 over principal, or of any installment of interest over any other
30 installment of interest, or of any bond or note over any other

1 bond or note, ratably according to the accounts due respectively
2 for principal and interest, to the persons entitled thereto
3 without any discrimination or preference except as to any
4 difference in the respective rates of interest specified in the
5 bonds, notes and coupons.

6 (3) If more than one series is involved and the principal of
7 all bonds or notes of one or more series has become or has been
8 declared due and payable, and that if one or more others has
9 not, the funds available shall be apportioned to each series
10 according to the respective amounts of principal of each series
11 then outstanding less, as to each series any amounts held
12 earmarked for such series, and distribution to the holders of
13 the bonds, notes and coupons of each series shall be made
14 according to whichever of clauses (1) and (2) above may be
15 applicable.

16 ARTICLE XIII

17 Miscellaneous; Repeals; Effective Date

18 Section 1301. False Statement in Documents Constitute
19 Perjury; Fines and Penalties Therefor.--Whoever wilfully and
20 corruptly makes false oral or written statements or any false
21 statement in any document required to be filed in the department
22 or in the office of the recorder of deeds of the appropriate
23 county is guilty of perjury, a felony, and whoever wilfully and
24 corruptly procures or suborns any other person to make any such
25 false statement, is guilty of subornation of perjury, a felony,
26 and on conviction of either offense, shall be sentenced to pay a
27 fine not exceeding ten thousand dollars (\$10,000), or undergo
28 imprisonment by separate or solitary confinement at labor not
29 exceeding seven years, or both.

30 Section 1302. Failure to Obey Sinking Fund Directive of

1 Department Constitutes a Misdemeanor; Fines and Penalties
2 Therefor.--Any officer or any member of the governing body of
3 any local government unit who shall refuse or neglect to obey
4 any order of the department made under the provisions of Article
5 X concerning sinking funds or who shall refuse to furnish
6 requested information required by the department, or refuse
7 agents of the department access to any books, records or
8 documents relating to sinking funds shall be guilty of a
9 misdemeanor, and upon conviction thereof, shall be each
10 sentenced to pay a fine not exceeding five hundred dollars
11 (\$500) for each day of violation.

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

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

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

7 Section 1305. Repeals.--(a) The following acts are repealed
8 absolutely:

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

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

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

16 (1) Section 1 of the act of June 23, 1931 (P.L.922),
17 entitled "A supplement to the act, approved the seventh day of
18 March, one thousand nine hundred and one (Pamphlet Laws,
19 twenty), entitled 'An act for the government of cities of the
20 second class,' as amended, authorizing the mayor, city
21 controller, and council to make emergency loans."

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

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

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

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

30 (6) Clause (3) of section 1005 of the act of February 1,

1 1966 (P.L.1656), known as "The Borough Code."

2 (c) All other acts and parts of acts are repealed in so far
3 as they are inconsistent herewith.

4 Section 1306. Effective Date.--This act shall take effect
5 thirty days after the passage of this act as to all series of
6 bonds or notes sold after that date. All series sold prior to
7 that date may nevertheless be settled and delivered under the
8 former applicable statutes, which for such purposes shall be
9 deemed to remain in effect, with a debt limit consisting of such
10 multiplier of the borrowing base as will equal the debt
11 limitation prevailing under prior law and in the case of lease
12 rental debt without limit.