

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1148 Session of 2003

INTRODUCED BY NICKOL, BROWNE, CAPPELLI, CIVERA, DALLY, FRANKEL, GEIST, GILLESPIE, HARPER, HERMAN, LEH, LEWIS, MAITLAND, McILHATTAN, R. MILLER, PRESTON, ROSS, RUBLEY, SATHER, SCHRODER, SOLOBAY, STEIL, TIGUE, WILT, YOUNGBLOOD AND WHEATLEY, APRIL 11, 2003

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 17, 2003

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions, for
3 ~~exclusion of other self liquidating debt, for limitations on~~ <—
4 ~~stated maturity dates and for number of interest rates.~~ SCOPE <—
5 OF UNFUNDED DEBT, FOR NUMBER OF INTEREST RATES, FOR TREATMENT
6 OF DEBT COSTS UPON REFUNDING; AND PROVIDING FOR INTEREST RATE
7 RISK AND INTEREST COST MANAGEMENT.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 ~~Section 1. The definitions of "debt" and "project" in~~ <—
11 ~~section 8002(a) and (c) of Title 53 of the Pennsylvania~~
12 ~~Consolidated Statutes are amended and the subsections are~~
13 ~~amended by adding definitions to read:~~

14 SECTION 1. THE DEFINITION OF "DEBT" IN SECTION 8002(A) OF <—
15 TITLE 53 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED
16 AND SUBSECTION (C) IS AMENDED BY ADDING DEFINITIONS TO READ:
17 § 8002. Definitions.

18 (a) Classification of debt.--With respect to classifications

1 of debt and subject to additional definitions contained in
2 subsequent provisions of this subpart which are applicable to
3 specific provisions of this subpart, the following words and
4 phrases when used in this subpart shall have the meanings given
5 to them in this section unless the context clearly indicates
6 otherwise:

7 "Debt." The amount of all obligations for the payment of
8 money incurred by the local government unit, whether due and
9 payable in all events, or only upon the performances of work,
10 possession of property as lessee, rendering of services by
11 others or other contingency, ~~including the total amount due~~ <—
12 ~~under a qualified prepayment agreement,~~ except the following:

13 (1) Current obligations for the full payment of which
14 current revenues have been appropriated, including tax
15 anticipation notes ~~and current obligations under a qualified~~ <—
16 ~~prepayment agreement,~~ and current payments for the funding of
17 pension plans.

18 (2) Obligations under contracts for supplies, services
19 and pensions allocable to current operating expenses of
20 future years in which the supplies, ~~services, utilities,~~ <—
21 ~~insurance premiums, reserves for self insurance, including~~
22 ~~those established under 42 Pa.C.S. § 8564 (relating to~~
23 ~~liability insurance and self insurance) or other benefits~~ are
24 to be expended or furnished, the services rendered, ~~the~~ <—
25 ~~utilities used, the insurance premiums, reserves for self-~~
26 ~~insurance or the pensions paid or the benefits under~~
27 ~~qualified prepayment agreements received.~~ OR THE PENSIONS <—
28 PAID.

29 (3) Rentals or payments payable in future years under
30 leases, guaranties, subsidy contracts or other forms of

1 agreement not evidencing the acquisition of capital assets.
2 This exception shall not apply to rentals or payments under
3 any instruments which would constitute lease rental debt but
4 for the fact that the lessor or obligee is not an entity
5 described in section 8004(a)(1) (relating to when lease or
6 other agreement evidences acquisition of capital asset).

7 (4) Interest or assumed taxes payable on bonds or notes
8 which interest or taxes [is] are not yet overdue.

9 (5) Obligations incurred and payments, including
10 periodic scheduled payments and termination payments, payable
11 pursuant to a qualified interest rate management agreement.
12 which payments are not yet overdue. ←

13 "Debt management plan."—A written debt management plan of
14 the local government unit that includes a plain English analysis
15 of the following:

16 (1) The benefits and costs of entering into a qualified
17 prepayment agreement.

18 (2) The early termination, involuntary termination,
19 default and cost considerations associated with a qualified
20 prepayment agreement.

21 "Department."—The Department of Community and Economic
22 Development of the Commonwealth.

23 * * *

24 "Interest rate management plan."—A written plan prepared or
25 reviewed by an independent financial advisor which is not
26 affiliated with any of the parties to a qualified interest rate
27 management agreement, that includes:

28 (1) A schedule listing the amount of debt outstanding
29 for each outstanding debt issue of the local government unit
30 and the expected annual debt service thereon.

1 ~~(2) Preliminary studies, surveying, planning, testing or~~
2 ~~design work for any undertaking described in paragraph (1).~~

3 ~~(3) Lands or rights in land to be acquired.~~

4 ~~(4) Furnishings, machinery, apparatus or equipment~~
5 ~~normally classified as capital items, but these items must~~
6 ~~have a useful life of five years or more if financed~~
7 ~~separately and not as a part of a construction or acquisition~~
8 ~~project.~~

9 ~~(5) The local government unit's share of the cost of a~~
10 ~~project undertaken jointly with one or more other local~~
11 ~~government units or the Commonwealth or one of its agencies.~~

12 ~~(6) Countywide revision of assessment of real property.~~

13 ~~(7) Funding of all or any portion of a reserve, or a~~
14 ~~contribution toward a combined reserve, pool or other~~
15 ~~arrangement, relating to self insurance, which has been~~
16 ~~established by one or more local government units pursuant to~~
17 ~~42 Pa.C.S. § 8564 (relating to liability insurance and self-~~
18 ~~insurance) up to, but not exceeding, the amount provided in~~
19 ~~section 8007 (relating to cost of project).~~

20 ~~(8) Funding of an unfunded actuarial accrued liability~~
21 ~~or a portion of an unfunded actuarial accrued liability.~~

22 ~~(9) Funding or refunding of debt incurred for any or all~~
23 ~~of the foregoing purposes.~~

24 ~~(9.1) Funding of the amounts due in current and future~~
25 ~~years under a qualified prepayment agreement.~~

26 ~~(10) Any combination of any or all of the foregoing as~~
27 ~~any or all of the above may be designated as a project by the~~
28 ~~governing body for the financing of which it desires to incur~~
29 ~~debt.~~

30 ~~(11) Any deficit to be funded by bonds or notes as~~

1 ~~provided in this subpart or the creation of a revolving fund~~
2 ~~for specific improvements.~~

3 ~~(12) Where a local government unit has adopted a capital~~
4 ~~budget, any unfunded portion of the capital budget selected~~
5 ~~by ordinance for current funding.~~

6 "INDEPENDENT FINANCIAL ADVISOR." A PERSON OR ENTITY ←
7 EXPERIENCED IN THE FINANCIAL ASPECTS AND RISKS OF INTEREST RATE
8 MANAGEMENT AGREEMENTS WHO IS RETAINED BY A LOCAL GOVERNMENT UNIT
9 TO ADVISE THE LOCAL GOVERNMENT UNIT WITH RESPECT TO A QUALIFIED
10 INTEREST RATE MANAGEMENT AGREEMENT. THE INDEPENDENT FINANCIAL
11 ADVISOR MAY NOT BE THE OTHER PARTY OR AN AFFILIATE OR AGENT OF
12 THE OTHER PARTY ON A QUALIFIED INTEREST RATE MANAGEMENT
13 AGREEMENT WITH RESPECT TO WHICH THE INDEPENDENT FINANCIAL
14 ADVISOR IS ADVISING A LOCAL GOVERNMENT UNIT. FOR PURPOSES OF
15 SECTIONS 8281(B)(2) AND (E)(5) (RELATING TO QUALIFIED INTEREST
16 RATE MANAGEMENT AGREEMENTS), THE INDEPENDENT FINANCIAL ADVISOR
17 MAY BE RETAINED BY A PUBLIC AUTHORITY.

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

21 (1) A SCHEDULE LISTING THE AMOUNT OF DEBT OUTSTANDING
22 FOR EACH OUTSTANDING DEBT ISSUE OF THE LOCAL GOVERNMENT UNIT
23 AND THE EXPECTED ANNUAL DEBT SERVICE ON THAT DEBT. IN THE
24 CASE OF VARIABLE RATE DEBT, THE SCHEDULE SHALL SET FORTH THE
25 ESTIMATED ANNUAL DEBT SERVICE THEREON AND ANNUAL DEBT SERVICE
26 ON THE DEBT CALCULATED AT THE MAXIMUM RATE SPECIFIED FOR THE
27 VARIABLE RATE DEBT.

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

1 (3) A SCHEDULE LISTING ALL CONSULTING, ADVISORY,
2 BROKERAGE OR SIMILAR FEES, PAID OR PAYABLE BY THE LOCAL
3 GOVERNMENT UNIT IN CONNECTION WITH THE QUALIFIED INTEREST
4 RATE MANAGEMENT AGREEMENT, AND A SCHEDULE OF ANY FINDER'S
5 FEES, CONSULTING FEES, OR BROKERAGE FEES, PAID OR PAYABLE BY
6 THE OTHER PARTY IN CONNECTION WITH THE QUALIFIED INTEREST
7 RATE MANAGEMENT AGREEMENT.

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

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

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

28 (7) THE LOCAL GOVERNMENT UNIT'S PLAN TO MONITOR INTEREST
29 RATE RISK, BASIS RISK, TERMINATION RISK, CREDIT RISK, MARKET-
30 ACCESS RISK AND OTHER RISKS. THIS PARAGRAPH INCLUDES THE

1 VALUATION OF THE MARKET OR TERMINATION VALUE OF ALL
2 OUTSTANDING QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS.

3 * * *

4 "Qualified interest rate management agreement." An
5 agreement, INCLUDING A CONFIRMATION EVIDENCING A TRANSACTION <—
6 EFFECTED UNDER A MASTER AGREEMENT, entered into by a local
7 government unit in accordance with, and fulfilling the
8 requirements of section ~~8201.1~~ 8281 (relating to qualified <—
9 interest rate management agreements), which agreement in the
10 judgment of the local government unit is designed to manage
11 interest rate risk or interest cost of the local government unit
12 on any debt a local government unit is authorized to incur under
13 this subpart, including, but not limited to, swaps, interest
14 rate caps, collars, corridors, ceiling and floor agreements,
15 forward agreements, float agreements and other similar
16 arrangements which, in the judgment of the local government
17 unit, will assist the local government unit in managing the
18 interest rate risk or interest cost of the local government
19 unit.

20 * * *

21 ~~"Qualified prepayment agreement." Any agreement entered into~~ <—
22 ~~by a local government unit in accordance with, and fulfilling~~
23 ~~the requirements of section 8201.2 (relating to qualified~~
24 ~~prepayment agreements), the term of which is more than one year~~
25 ~~but not more than five years entered into by a local government~~
26 ~~unit for supplies, services, utilities, insurance premiums,~~
27 ~~reserves for self insurance, including those established~~
28 ~~pursuant to 42 Pa.C.S. § 8564 (relating to liability insurance~~
29 ~~and self insurance) or any other obligation not evidencing the~~
30 ~~acquisition of capital assets.~~

1 * * *

2 Section 2. ~~The heading of section 8005 of Title 53 is~~
3 ~~amended and the section is amended by adding subsections to~~
4 ~~read:~~

5 ~~§ 8005. Classification and authority to [issue bonds and~~
6 ~~notes.] enter into qualified prepayment agreements~~
7 ~~and to enter into and perform qualified interest rate~~
8 ~~management agreements.~~

9 * * *

10 ~~(c) Authority to enter into qualified prepayment~~
11 ~~agreements. Notwithstanding any other law, a local government~~
12 ~~unit may enter into a qualified prepayment agreement by~~
13 ~~ordinance advertised under section 8003(a) (relating to~~
14 ~~advertisement and effectiveness of ordinances). The obligations~~
15 ~~of the local government unit under the qualified prepayment~~
16 ~~agreement shall be enforceable against the local government unit~~
17 ~~in accordance with the terms of the qualified prepayment~~
18 ~~agreement.~~

19 ~~(f) Authority to enter into and perform qualified interest~~
20 ~~rate management agreements. Notwithstanding any other law, a~~
21 ~~local government unit may enter into a qualified interest rate~~
22 ~~management agreement in accordance with this subpart and the~~
23 ~~obligations of the local government unit under the qualified~~
24 ~~interest rate management agreement shall be enforceable against~~
25 ~~it in accordance with the terms thereof.~~

26 Section 3. ~~Title 53 is amended by adding sections to read:~~
27 ~~§ 8102.1. Qualified interest rate management agreements.~~

28 ~~(a) General rule. Notwithstanding any other law to the~~
29 ~~contrary, a local government unit may negotiate and enter into~~
30 ~~qualified interest rate management agreements consistent with~~

1 ~~the provisions of this section. The local government unit shall~~
2 ~~authorize and award each qualified interest rate management~~
3 ~~agreement by ordinance advertised under section 8003(a)~~
4 ~~(relating to advertisement and effectiveness of ordinances).~~

5 ~~(b) Contents of ordinance.—~~

6 ~~(1) Notwithstanding any other provision of this subpart~~
7 ~~to the contrary, an ordinance under subsection (a) shall be~~
8 ~~sufficient if it specifies all of the following:~~

9 ~~(i) The principal amount of each identified note,~~
10 ~~including a tax anticipation note, or bond, or the~~
11 ~~portion thereof, issued under this subpart to which the~~
12 ~~agreement relates.~~

13 ~~(ii) The anticipated term of the agreement.~~

14 ~~(iii) The maximum annual interest rate that the~~
15 ~~local government unit will pay under the agreement.~~

16 ~~(2) The ordinance must contain all of the following:~~

17 ~~(i) A covenant to:~~

18 ~~(A) Include in its budget for each fiscal year~~
19 ~~the net annual amounts anticipated for that fiscal~~
20 ~~year to be paid under the agreement, including a~~
21 ~~covenant to include any termination payment or~~
22 ~~similar payment for a qualified interest rate~~
23 ~~management agreement in its current budget at any~~
24 ~~time during a fiscal year or in a budget adopted in~~
25 ~~any future fiscal year.~~

26 ~~(B) Appropriate in each fiscal year, from its~~
27 ~~general or, if applicable, specially pledged~~
28 ~~revenues, money for the payment of the net amounts~~
29 ~~under clause (A) anticipated to be due in that fiscal~~
30 ~~year.~~

1 ~~(ii) A covenant to pledge its full faith, credit and~~
2 ~~taxing power or special revenues.~~

3 ~~(iii) An interest rate management plan.~~

4 ~~(c) Private sale. The local government unit shall establish~~
5 ~~a process for qualifying contracting parties before entering~~
6 ~~into a qualified interest rate management agreement. A qualified~~
7 ~~interest rate management agreement may be entered into a private~~
8 ~~sale by negotiation, if the local government unit shall have~~
9 ~~obtained an independent finding that its financial terms and~~
10 ~~conditions are fair and reasonable to the local government unit~~
11 ~~as of the date of its execution.~~

12 ~~(d) Remedies for default under a qualified interest rate~~
13 ~~management agreement.~~

14 ~~(1) If a local government unit fails or refuses to~~
15 ~~budget for any fiscal year amounts due in that year pursuant~~
16 ~~to the provisions of a qualified interest rate management~~
17 ~~agreement under subsection (b)(2)(i)(A), then at the suit of~~
18 ~~the counterparty to the agreement, the court of common pleas~~
19 ~~shall, after a hearing held upon such notice to the local~~
20 ~~government unit as the court may direct and upon a finding of~~
21 ~~such failure or neglect, by order of mandamus, require the~~
22 ~~treasurer of the local government unit to pay such amounts~~
23 ~~due to the other party to the agreement out of the first tax~~
24 ~~moneys or other available revenues or moneys thereafter~~
25 ~~received in the fiscal year by the local governmental unit.~~
26 ~~Any priority on available revenues or moneys accorded to a~~
27 ~~separate sinking fund for tax anticipation notes under the~~
28 ~~authority of section 8125 (relating to security for tax~~
29 ~~anticipation notes and sinking fund) or for any bonds issued~~
30 ~~under this chapter shall not be affected by this provision~~

1 ~~until the sum on deposit in each sinking fund equals the~~
2 ~~moneys that should have been budgeted or appropriated for~~
3 ~~each series.~~

4 ~~(2) If a local unit fails or neglects to pay any amount~~
5 ~~due under a qualified interest rate management agreement as~~
6 ~~the same becomes due and payable, and the failure continues~~
7 ~~for 30 days, the counterparty to the qualified interest rate~~
8 ~~management agreement may, subject to the priorities under~~
9 ~~section 8125 and to any limitations upon individual rights of~~
10 ~~action, obtain a judgment in the court of common pleas. The~~
11 ~~judgment recovered shall have an appropriate priority upon~~
12 ~~the moneys next coming into the treasury of the local~~
13 ~~government unit and shall be a judgment upon which funding~~
14 ~~bonds may be issued pursuant to Subchapter B (relating to tax~~
15 ~~anticipation notes and funding debt).~~

16 ~~(3) In all cases where the board of directors of any~~
17 ~~school district fails to pay or to provide for the payment of~~
18 ~~periodic scheduled amounts and, at the time due, any~~
19 ~~termination payment, pursuant to the provisions of a~~
20 ~~qualified interest rate management agreement, and upon notice~~
21 ~~to the Secretary of Education by any party to a qualified~~
22 ~~interest rate management agreement, the Secretary of~~
23 ~~Education shall notify the department and such board of~~
24 ~~school directors and, if the secretary finds that such~~
25 ~~amounts payable by the school district have not been paid as~~
26 ~~and when due, the Secretary of Education shall withhold out~~
27 ~~of any State appropriation due such school district an amount~~
28 ~~equal to such amounts due pursuant to the provisions of the~~
29 ~~qualified interest rate management agreement and shall pay~~
30 ~~over the amount so withheld to the party to the qualified~~

1 ~~interest rate management agreement to whom such amounts are~~
2 ~~due and owing.~~

3 ~~§ 8102.2. Qualified prepayment agreements.~~

4 ~~(a) General rule. Notwithstanding any other law to the~~
5 ~~contrary, a local government unit may negotiate and enter into~~
6 ~~qualified prepayment agreements consistent with the provisions~~
7 ~~of this section. The local government unit shall authorize and~~
8 ~~award each qualified prepayment agreement by ordinance~~
9 ~~advertised under section 8003(a) (relating to advertisement and~~
10 ~~effectiveness of ordinances).~~

11 ~~(b) Contents of ordinance. Notwithstanding any other~~
12 ~~provision of this subpart to the contrary, an ordinance under~~
13 ~~subsection (a) shall be sufficient if it contains all of the~~
14 ~~following:~~

15 ~~(1) The terms of the qualified prepayment agreement.~~

16 ~~(2) The debt management plan.~~

17 ~~Section 4. Section 8129 of Title 53 is amended to read:~~

18 SECTION 2. SECTIONS 8129 AND 8144 OF TITLE 53 ARE AMENDED TO <—
19 READ:

20 § 8129. Scope of unfunded debt.

21 For the purpose of this subchapter, "unfunded debt" means
22 obligations of the same or one or more prior years incurred for
23 current expenses, including tax anticipation notes and payments,
24 including termination payments, required to be made under
25 qualified interest rate management agreements, due and owing or
26 judgments against the local government unit entered by a court
27 after adversary proceedings, including a judgment under section
28 8102.1(b)(2)(i) (relating to qualified interest rate management <—
29 agreements), 8283(B)(2)(I) (RELATING TO REMEDIES), for the <—
30 payment of either of which category the taxes and other revenues

1 remaining to be collected in the fiscal year and funds on hand
2 will not be sufficient without a curtailment of municipal
3 services to an extent endangering the health or safety of the
4 public or proper public education, and the local government unit
5 either may not legally levy a sufficient tax for the balance of
6 the fiscal year, or a sufficient tax, if legally leviable, would
7 not be in the public interest. Unfunded debt does not, however,
8 include debt incurred under this subpart or obligations in
9 respect of a project or part of a project as incurred in respect
10 of the cost of a project.

11 ~~Section 5. Section 8142(a)(2) of Title 53 is amended by~~ <—
12 ~~adding a subparagraph to read:~~

13 ~~§ 8142. Limitations on stated maturity dates.~~

14 ~~(a) General rule. No bonds or notes shall be issued with a~~
15 ~~stated maturity date exceeding the sooner to occur of:~~

16 ~~* * *~~

17 ~~(2) * * *~~

18 ~~(v) Where a project consists of the funding of all~~
19 ~~or a portion of the amounts due under a qualified~~
20 ~~prepayment agreement, the useful life shall be deemed to~~
21 ~~be no longer than five years.~~

22 ~~* * *~~

23 ~~Section 6. Section 8144 of Title 53 is amended to read:~~

24 § 8144. Number of interest rates.

25 A series of bonds or notes may have any number of interest
26 rates or yields, subject to any limitation on such number fixed
27 by the governing body of the issuing local government unit, but,
28 unless further limited by the issuing local government unit in
29 the official notice of sale, no [fixed interest rate] or yield <—
30 for any stated maturity date in the last two-thirds of the

1 period of the series may be less than that stated for the
2 immediately preceding year which falls within the last two-
3 thirds period.

4 Section 7 3. Section 8242(a) of Title 53 is amended by
5 adding a paragraph to read:

6 § 8242. Treatment of costs upon refunding.

7 (a) General rule.--In any refunding, a principal amount of
8 refunding bonds or notes or obligations evidencing lease rental
9 debt equal to the sum of the following:

10 * * *

11 (2.1) any funds borrowed in order to pay any termination
12 payment required to be paid under a qualified interest rate
13 management agreement IN WHICH the notional amount of which
14 was IS identified as corresponding to all or any portion of
15 any note or bond THE BOND OR NOTE being refunded;

16 * * *

17 ~~Section 8. Title 53 is amended by adding a section to read:~~

18 ~~§ 8272. Notice to the department; retention of record by the~~
19 ~~department.~~

20 ~~(a) Notice to the department. The local government unit~~
21 ~~shall file with the department certified copies of any ordinance~~
22 ~~authorizing a qualified interest rate management agreement,~~
23 ~~including any appendices to the resolution, 15 days following~~
24 ~~adoption. No approval by the department shall be required of any~~
25 ~~filing under this section.~~

26 ~~(b) Records of the department. The department shall keep~~
27 ~~copies of all documents filed with the department pursuant to~~
28 ~~this section so long as a qualified interest rate management~~
29 ~~agreement shall be in effect. All documents filed with the~~
30 ~~department pursuant to this section shall be public records~~

1 ~~available for examination by any citizen of this Commonwealth,~~
2 ~~any party to the qualified interest rate management agreement or~~
3 ~~any bondholders or noteholders, including holders of tax~~
4 ~~anticipation notes, of the local government unit filing any~~
5 ~~document pursuant to this section.~~

6 ~~Section 9. This act shall take effect immediately.~~

7 SECTION 4. CHAPTER 82 OF TITLE 53 IS AMENDED BY ADDING A <—
8 SUBCHAPTER TO READ:

9 SUBCHAPTER F

10 INTEREST RATE RISK AND INTEREST

11 COST MANAGEMENT

12 SEC.

13 8281. QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS.

14 8282. COVENANT TO PAY AMOUNTS DUE UNDER QUALIFIED INTEREST
15 RATE MANAGEMENT AGREEMENTS.

16 8283. REMEDIES.

17 8284. NOTICE AND RETENTION OF RECORDS.

18 8285. FINANCIAL REPORTING.

19 § 8281. QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS.

20 (A) GENERAL RULE.--

21 (1) EXCEPT AS SET FORTH IN PARAGRAPH (4),
22 NOTWITHSTANDING ANY OTHER LAW TO THE CONTRARY, A LOCAL
23 GOVERNMENT UNIT MAY NEGOTIATE AND ENTER INTO QUALIFIED
24 INTEREST RATE MANAGEMENT AGREEMENTS CONSISTENT WITH THE
25 PROVISIONS OF THIS SUBCHAPTER.

26 (2) THE LOCAL GOVERNMENT UNIT MUST AUTHORIZE AND AWARD
27 BY RESOLUTION EACH QUALIFIED INTEREST RATE MANAGEMENT
28 AGREEMENT OR ANY CONFIRMATION OF A TRANSACTION. THE
29 RESOLUTION IS SUBJECT TO SECTION 8003(A) AND (B) (RELATING TO
30 ADVERTISEMENT AND EFFECTIVENESS OF ORDINANCES) BUT MAY BE

1 VALID AND EFFECTIVE FOR ALL PURPOSES IMMEDIATELY UPON
2 ADOPTION OR AS OTHERWISE PROVIDED IN THE RESOLUTION.

3 (3) A LOCAL GOVERNMENT UNIT HAS THE POWER TO CONTRACT
4 FOR INSURANCE COVERING THE RISKS OF NONPAYMENT OF AMOUNTS DUE
5 UNDER QUALIFIED INTEREST RATE MANAGEMENT AGREEMENTS.

6 (4) THE AUTHORITY GRANTED IN THIS SUBCHAPTER SHALL NOT
7 APPLY TO ANY LOCAL GOVERNMENT UNIT WHICH HAS BEEN DECLARED
8 DISTRESSED BY THE DEPARTMENT OF COMMUNITY AND ECONOMIC
9 DEVELOPMENT.

10 (B) REQUIREMENTS FOR RESOLUTION.--THE RESOLUTION AUTHORIZING
11 AND AWARDED A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT, OR
12 AUTHORIZING A TRANSACTION UNDER THE AGREEMENT MUST INCLUDE IN
13 THE RESOLUTION OR AS AN APPENDIX TO THE RESOLUTION ALL OF THE
14 FOLLOWING:

15 (1) A COPY OF THE QUALIFIED INTEREST RATE MANAGEMENT
16 AGREEMENT OR CONFIRMATION OF THE TRANSACTION UNDER THE
17 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT IN SUBSTANTIALLY
18 THE FORM TO BE EXECUTED PURSUANT TO THE RESOLUTION.

19 (2) THE INTEREST RATE MANAGEMENT PLAN MEETING THE
20 REQUIREMENTS UNDER THIS SUBPART:

21 (I) ADOPTED BY THE LOCAL GOVERNMENT UNIT; OR

22 (II) IF THE LOCAL GOVERNMENT UNIT IS INCURRING
23 INDEBTEDNESS UNDER THIS CHAPTER WHICH HAS OR WILL BE
24 ISSUED TO A PUBLIC AUTHORITY THAT HAS ENTERED INTO OR
25 WILL ENTER INTO AN INTEREST RATE MANAGEMENT AGREEMENT
26 MEETING THE REQUIREMENTS OF A QUALIFIED INTEREST RATE
27 MANAGEMENT AGREEMENT UNDER THIS SUBPART, ADOPTED BY THAT
28 PUBLIC AUTHORITY.

29 (3) A STATEMENT OF THE MANNER OF THE AWARD OF THE
30 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT UNDER SUBSECTION

1 (E).

2 (C) CONTENTS OF QUALIFIED INTEREST RATE MANAGEMENT
3 AGREEMENTS.--IN ADDITION TO OTHER PROVISIONS APPROVED BY THE
4 LOCAL GOVERNMENT UNIT, A QUALIFIED INTEREST RATE MANAGEMENT
5 AGREEMENT MUST CONTAIN ALL OF THE FOLLOWING:

6 (1) THE COVENANT OF THE LOCAL GOVERNMENT UNIT TO MAKE
7 PAYMENTS REQUIRED BY THE QUALIFIED INTEREST RATE MANAGEMENT
8 AGREEMENT AND THE COVENANTS AUTHORIZED BY SECTION 8282
9 (RELATING TO COVENANT TO PAY AMOUNTS DUE UNDER QUALIFIED
10 INTEREST RATE MANAGEMENT AGREEMENTS).

11 (2) THE NOTIONAL AMOUNT OF THE QUALIFIED INTEREST RATE
12 MANAGEMENT AGREEMENT AND THE PRINCIPAL AMOUNT OF BONDS OR
13 NOTES OR LEASE RENTAL DEBT, OR PORTIONS OF THE NOTIONAL OR
14 PRINCIPAL AMOUNTS, ISSUED OR TO BE ISSUED BY THE LOCAL
15 GOVERNMENT UNIT UNDER THIS SUBPART OR GUARANTEED BY THE LOCAL
16 GOVERNMENT UNIT UNDER THIS SUBPART, TO WHICH THE AGREEMENT
17 RELATES.

18 (3) THE TERM OF ANY QUALIFIED INTEREST RATE MANAGEMENT
19 AGREEMENT, WHICH MUST NOT EXCEED THE LATEST MATURITY DATE OF
20 THE BONDS OR NOTES REFERENCED IN THE QUALIFIED INTEREST RATE
21 MANAGEMENT AGREEMENT.

22 (4) A PROVISION REQUIRING THE TERMINATION OF THE
23 AGREEMENT IF ALL DEBT TO WHICH THE QUALIFIED INTEREST RATE
24 MANAGEMENT AGREEMENT RELATES IS NO LONGER OUTSTANDING.

25 (5) THE MAXIMUM ANNUAL INTEREST RATE WHICH THE LOCAL
26 GOVERNMENT UNIT MAY PAY THEREUNDER.

27 (6) A PROVISION THAT THE MAXIMUM NET PAYMENTS BY FISCAL
28 YEAR OF A LOCAL GOVERNMENT UNIT SHALL NOT EXCEED THE MAXIMUM
29 INTEREST RATE SPECIFIED IN THE QUALIFIED INTEREST RATE
30 MANAGEMENT AGREEMENT FOR:

1 (I) PERIODIC SCHEDULED PAYMENTS, NOT INCLUDING ANY
2 TERMINATION PAYMENTS, DUE UNDER THE QUALIFIED INTEREST
3 RATE MANAGEMENT AGREEMENT; AND

4 (II) THE INTEREST ON THE BONDS OR NOTES TO WHICH THE
5 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT RELATES.

6 (7) THE SOURCE OF PAYMENT OF THE PAYMENT OBLIGATIONS OF
7 THE LOCAL GOVERNMENT UNIT, WHICH MUST BE EITHER GENERAL
8 REVENUES OR REVENUES SPECIFICALLY IDENTIFIED IN THE
9 AGREEMENT.

10 (8) A PROVISION ADDRESSING THE ACTIONS TO BE TAKEN IF
11 THE CREDIT RATING OF THE OTHER PARTY CHANGES.

12 (9) A PROVISION THAT PERIODIC SCHEDULED PAYMENTS DUE
13 UNDER THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT AND
14 DEBT SERVICE DUE ON THE RELATED BONDS OR NOTES OR PAYMENTS
15 DUE UNDER THE RELATED INSTRUMENT EVIDENCING LEASE RENTAL DEBT
16 OR GUARANTY OF THE LOCAL GOVERNMENT UNIT SHALL BE SENIOR IN
17 RIGHT AND PRIORITY OF PAYMENT TO TERMINATION PAYMENTS DUE
18 UNDER THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT.

19 (D) OTHER PROVISIONS OF THE QUALIFIED INTEREST RATE
20 MANAGEMENT AGREEMENT.--THE QUALIFIED INTEREST RATE MANAGEMENT
21 AGREEMENT MAY INCLUDE:

22 (1) A COVENANT TO INCLUDE ANY TERMINATION PAYMENT OR
23 SIMILAR PAYMENT FOR A QUALIFIED INTEREST RATE MANAGEMENT
24 AGREEMENT IN ITS CURRENT BUDGET AT ANY TIME DURING A FISCAL
25 YEAR OR IN A BUDGET ADOPTED IN A FUTURE FISCAL YEAR.

26 (2) A PROVISION THAT THE FOLLOWING SHALL BE EQUALLY AND
27 RATABLY PAYABLE AND SECURED UNDER THE APPLICABLE COVENANTS
28 AUTHORIZED IN SECTION 8282:

29 (I) PERIODIC SCHEDULED PAYMENTS DUE UNDER THE
30 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT; AND

1 (II) ANY OF THE FOLLOWING TO WHICH THE AGREEMENT
2 RELATES:

3 (A) THE DEBT SERVICE DUE ON THE BONDS OR NOTES;

4 (B) PAYMENT UNDER AN INSTRUMENT EVIDENCING LEASE
5 RENTAL DEBT; OR

6 (C) PAYMENT UNDER A GUARANTY OF THE LOCAL
7 GOVERNMENT UNIT.

8 (3) A PROVISION THAT THE QUALIFIED INTEREST RATE
9 MANAGEMENT AGREEMENT MAY BE TERMINATED AT THE OPTION OF THE
10 LOCAL GOVERNMENT UNIT WITHOUT CAUSE BUT THAT THE QUALIFIED
11 INTEREST RATE MANAGEMENT AGREEMENT MAY NOT BE TERMINATED AT
12 THE OPTION OF THE OTHER PARTY TO THE QUALIFIED INTEREST RATE
13 MANAGEMENT AGREEMENT WITHOUT CAUSE.

14 (E) AWARD OF QUALIFIED INTEREST RATE MANAGEMENT
15 AGREEMENTS.--

16 (1) THE LOCAL GOVERNMENT UNIT SHALL ESTABLISH A PROCESS
17 FOR SELECTING OTHER PARTIES BEFORE ENTERING INTO A QUALIFIED
18 INTEREST RATE MANAGEMENT AGREEMENT.

19 (2) THE LOCAL GOVERNMENT UNIT SHALL ESTABLISH
20 QUALIFICATIONS FOR OTHER PARTIES BEFORE ENTERING INTO A
21 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT. THE
22 QUALIFICATIONS SHALL INCLUDE A RATING FOR THE OTHER PARTY OF
23 AT LEAST THE THIRD HIGHEST RATING CATEGORY FROM A NATIONALLY
24 RECOGNIZED RATING AGENCY.

25 (3) A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT MUST
26 BE AWARDED BY PUBLIC SALE, PRIVATE SALE BY NEGOTIATION OR
27 PRIVATE SALE BY INVITATION.

28 (4) THE LOCAL GOVERNMENT UNIT SHALL SELECT THE QUALIFIED
29 INTEREST RATE MANAGEMENT AGREEMENT WHICH THE LOCAL GOVERNMENT
30 UNIT DETERMINES IS IN ITS BEST FINANCIAL INTEREST. THE

1 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT SELECTED MUST
2 CONTAIN FINANCIAL TERMS AND CONDITIONS WHICH IN THE OPINION
3 OF THE INDEPENDENT FINANCIAL ADVISOR TO THE LOCAL GOVERNMENT
4 UNIT ARE FAIR AND REASONABLE TO THE LOCAL GOVERNMENT UNIT AS
5 OF THE DATE OF AWARD.

6 (5) THE LOCAL GOVERNMENT UNIT MAY SATISFY THE
7 REQUIREMENTS OF PARAGRAPH (4) BY OBTAINING A FINDING FROM AN
8 INDEPENDENT FINANCIAL ADVISOR TO THE PUBLIC AUTHORITY THAT
9 THE FINANCIAL TERMS AND CONDITIONS OF THE AGREEMENT ARE FAIR
10 AND REASONABLE TO THE PUBLIC AUTHORITY AS OF THE DATE OF THE
11 AWARD IF ALL OF THE FOLLOWING APPLY:

12 (I) THE LOCAL GOVERNMENT UNIT IS INCURRING
13 INDEBTEDNESS UNDER THIS CHAPTER WHICH HAS OR WILL BE
14 ISSUED TO A PUBLIC AUTHORITY.

15 (II) IN CONNECTION WITH THE INCURRING OF DEBT UNDER
16 SUBPARAGRAPH (I), THE LOCAL GOVERNMENT UNIT WILL BECOME
17 OBLIGATED FOR ALL OR A PORTION OF THE PUBLIC AUTHORITY'S
18 COSTS UNDER AN INTEREST RATE MANAGEMENT AGREEMENT.

19 § 8282. COVENANT TO PAY AMOUNTS DUE UNDER QUALIFIED INTEREST
20 RATE MANAGEMENT AGREEMENTS.

21 (A) CONTENTS.--THE LOCAL GOVERNMENT UNIT SHALL INCLUDE IN A
22 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT A COVENANT THAT THE
23 LOCAL GOVERNMENT UNIT SHALL DO THE FOLLOWING:

24 (1) INCLUDE THE PERIODIC SCHEDULED AMOUNTS PAYABLE IN
25 RESPECT OF THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT
26 FOR EACH FISCAL YEAR IN ITS BUDGET FOR THAT FISCAL YEAR.

27 (2) APPROPRIATE THOSE AMOUNTS FROM ITS GENERAL OR
28 SPECIALLY PLEDGED REVENUES FOR THE PAYMENT OF AMOUNTS DUE
29 UNDER THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT.

30 (B) PLEDGE.--

1 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), THE LOCAL
2 GOVERNMENT UNIT MAY PLEDGE ITS FULL FAITH, CREDIT AND TAXING
3 POWER FOR THE BUDGETING, APPROPRIATION AND PAYMENT OF
4 PERIODIC SCHEDULED PAYMENTS DUE UNDER A QUALIFIED INTEREST
5 RATE MANAGEMENT AGREEMENT.

6 (2) A LOCAL GOVERNMENT UNIT MAY NOT MAKE A PLEDGE UNDER
7 PARAGRAPH (1) IF THE PAYMENT OBLIGATIONS OF THE LOCAL
8 GOVERNMENT UNIT UNDER THE QUALIFIED INTEREST RATE MANAGEMENT
9 AGREEMENT ARE LIMITED AS TO PAYMENT TO SPECIFIED REVENUES OF
10 THE LOCAL GOVERNMENT UNIT.

11 (C) SECURITY INTEREST.--IF THE PERIODIC SCHEDULED PAYMENT
12 OBLIGATIONS OF THE LOCAL GOVERNMENT UNIT ARE SPECIFIED IN THE
13 QUALIFIED INTEREST RATE TO BE MADE FROM SPECIFIED REVENUES OF
14 THE LOCAL GOVERNMENT UNIT, THE LOCAL GOVERNMENT UNIT MAY INCLUDE
15 IN THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT A COVENANT
16 GRANTING A SECURITY INTEREST IN THOSE REVENUES TO SECURE ITS
17 PERIODIC SCHEDULED PAYMENT OBLIGATIONS UNDER THE AGREEMENT. THE
18 SECURITY INTEREST SHALL BE PERFECTED UNDER SECTION 8147
19 (RELATING TO PLEDGE OF REVENUES).

20 § 8283. REMEDIES.

21 (A) FAILURE TO BUDGET AMOUNTS DUE UNDER A QUALIFIED INTEREST
22 RATE MANAGEMENT AGREEMENT.--

23 (1) THIS SUBSECTION APPLIES IF A LOCAL GOVERNMENT UNIT
24 FAILS OR REFUSES TO BUDGET FOR ANY FISCAL YEAR A PERIODIC
25 SCHEDULED PAYMENT:

26 (I) DUE IN THAT YEAR PURSUANT TO THE PROVISIONS OF A
27 QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT; AND

28 (II) PAYABLE FROM THE GENERAL REVENUES OF THE LOCAL
29 GOVERNMENT UNIT.

30 (2) IF A LOCAL GOVERNMENT UNIT COMMITS A FAILURE OR

1 REFUSAL UNDER PARAGRAPH (1), THE FOLLOWING APPLY:

2 (I) THE OTHER PARTY TO THE INTEREST RATE MANAGEMENT
3 AGREEMENT MAY BRING AN ENFORCEMENT ACTION IN A COURT OF
4 COMMON PLEAS.

5 (II) AFTER A HEARING HELD UPON NOTICE TO THE LOCAL
6 GOVERNMENT UNIT AS THE COURT MAY DIRECT, IF THE COURT
7 FINDS A FAILURE OR REFUSAL UNDER PARAGRAPH (1), THE COURT
8 MAY, BY ORDER OF MANDAMUS, REQUIRE THE TREASURER OF THE
9 LOCAL GOVERNMENT UNIT TO PAY TO THE OTHER PARTY OUT OF
10 THE FIRST TAX MONEY OR OTHER AVAILABLE REVENUE OR MONEY
11 THEREAFTER RECEIVED IN THE FISCAL YEAR BY THE TREASURER
12 THE PERIODIC SCHEDULED PAYMENTS DUE PURSUANT TO THE
13 PROVISIONS OF THE QUALIFIED INTEREST RATE MANAGEMENT
14 AGREEMENT. THE ORDER SHALL BE SUBJECT TO SECTION
15 8281(C)(8) (RELATING QUALIFIED INTEREST RATE MANAGEMENT
16 AGREEMENTS).

17 (III) ANY PRIORITY ON INCOMING TAX MONEY ACCORDED TO
18 A SEPARATE SINKING FUND FOR TAX ANTICIPATION NOTES UNDER
19 THE AUTHORITY OF SECTION 8125 (RELATING TO SECURITY FOR
20 TAX ANTICIPATION NOTES AND SINKING FUND) SHALL NOT BE
21 AFFECTED BY AN ORDER UNDER SUBPARAGRAPH (II) UNTIL THE
22 SUM ON DEPOSIT IN EACH SINKING FUND EQUALS THE MONEY
23 WHICH SHOULD HAVE BEEN BUDGETED OR APPROPRIATED FOR EACH
24 SERIES.

25 (B) FAILURE TO PAY AMOUNTS DUE UNDER A QUALIFIED INTEREST
26 RATE MANAGEMENT AGREEMENT.--

27 (1) THIS SUBSECTION APPLIES IF:

28 (I) A LOCAL GOVERNMENT UNIT FAILS TO PAY ANY AMOUNT
29 DUE UNDER A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT
30 WHEN IT BECOMES DUE AND PAYABLE; AND

1 (II) THE FAILURE CONTINUES FOR 30 DAYS.

2 (2) IF THERE IS A FAILURE UNDER PARAGRAPH (1), THE OTHER
3 PARTY TO THE QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT MAY
4 BRING AN ACTION IN A COURT OF COMMON PLEAS TO RECOVER THE
5 AMOUNT DUE. THIS PARAGRAPH IS SUBJECT TO:

6 (I) THE PRIORITIES UNDER SECTIONS 8125 AND
7 8281(C)(8); AND

8 (II) ANY LIMITATIONS UPON RIGHTS OF ACTION PROPERLY
9 PROVIDED IN THE QUALIFIED INTEREST RATE MANAGEMENT
10 AGREEMENT.

11 (3) THE JUDGMENT RECOVERED UNDER PARAGRAPH (2) SHALL:

12 (I) HAVE AN APPROPRIATE PRIORITY UPON THE MONEY NEXT
13 COMING INTO THE TREASURY OF THE LOCAL GOVERNMENT UNIT;
14 AND

15 (II) BE A JUDGMENT UPON WHICH FUNDING BONDS MAY BE
16 ISSUED PURSUANT TO CH. 81 SUBCH. B (RELATING TO TAX
17 ANTICIPATION NOTES AND FUNDING DEBT).

18 (C) FAILURE TO PAY BY SCHOOL DISTRICTS.--

19 (1) THIS SUBSECTION APPLIES IF A BOARD OF DIRECTORS OF A
20 SCHOOL DISTRICT FAILS TO PAY OR TO PROVIDE FOR THE PAYMENT OF
21 PERIODIC SCHEDULED PAYMENTS, NOT INCLUDING ANY TERMINATION
22 PAYMENTS, DUE PURSUANT TO THE PROVISIONS OF A QUALIFIED
23 INTEREST RATE MANAGEMENT AGREEMENT.

24 (2) A PARTY TO A QUALIFIED INTEREST RATE MANAGEMENT
25 AGREEMENT MUST NOTIFY THE SECRETARY OF EDUCATION OF A FAILURE
26 UNDER PARAGRAPH (1).

27 (3) UPON NOTICE UNDER PARAGRAPH (2), THE FOLLOWING
28 APPLY:

29 (I) THE SECRETARY SHALL NOTIFY THE DEPARTMENT OF
30 COMMUNITY AND ECONOMIC DEVELOPMENT AND THE OFFENDING

1 BOARD OF SCHOOL DIRECTORS.

2 (II) IF THE SECRETARY FINDS THAT THE AMOUNT DUE AND
3 PAYABLE BY THE SCHOOL DISTRICT HAS NOT BEEN PAID, THE
4 SECRETARY SHALL WITHHOLD OUT OF ANY STATE APPROPRIATION
5 DUE THE SCHOOL DISTRICT AN AMOUNT EQUAL TO THE AMOUNT DUE
6 PURSUANT TO THE QUALIFIED INTEREST RATE MANAGEMENT
7 AGREEMENT AND SHALL PAY OVER THE AMOUNT SO WITHHELD TO
8 THE PARTY TO THE QUALIFIED INTEREST RATE MANAGEMENT
9 AGREEMENT TO WHOM THE AMOUNT IS DUE.

10 § 8284. NOTICE AND RETENTION OF RECORDS.

11 (A) NOTICE.--

12 (1) THE LOCAL GOVERNMENT UNIT SHALL FILE WITH THE
13 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT CERTIFIED
14 COPIES OF A RESOLUTION AUTHORIZING A QUALIFIED INTEREST RATE
15 MANAGEMENT AGREEMENT, INCLUDING ANY APPENDIX TO THE
16 RESOLUTION, 15 DAYS FOLLOWING ADOPTION.

17 (2) IF THE MAXIMUM NET PAYMENTS BY FISCAL YEAR FOR
18 PERIODIC SCHEDULED PAYMENTS OF THE LOCAL GOVERNMENT UNIT, NOT
19 INCLUDING ANY TERMINATION PAYMENTS, AND INTEREST ON THE BONDS
20 OR NOTES TO WHICH THE QUALIFIED INTEREST RATE MANAGEMENT
21 AGREEMENT RELATES, EXCEED THE AMOUNT OF INTEREST APPROVED IN
22 PROCEEDINGS OF THE LOCAL GOVERNMENT UNIT WITH RESPECT TO SUCH
23 BONDS OR NOTES FILED WITH AND APPROVED BY THE DEPARTMENT, THE
24 LOCAL GOVERNMENT UNIT SHALL ADOPT AN AMENDMENT TO THE
25 ORDINANCE OR RESOLUTION AUTHORIZING SUCH BONDS OR NOTES
26 REFLECTING SUCH INCREASE. THE AMENDMENT SHALL BE ADVERTISED
27 AND EFFECTIVE AS PROVIDED IN SECTION 8003 (RELATING TO
28 ADVERTISEMENT AND EFFECTIVENESS OF ORDINANCES), AND FILED
29 WITH THE DEPARTMENT. NO APPROVAL BY THE DEPARTMENT OR FILING
30 FEE BY THE LOCAL GOVERNMENT UNIT SHALL BE REQUIRED FOR ANY

1 FILING UNDER THIS SUBSECTION.

2 (B) RECORDS.--THE DEPARTMENT SHALL KEEP COPIES OF ALL
3 DOCUMENTS FILED WITH THE DEPARTMENT UNDER THIS SECTION AS LONG
4 AS A QUALIFIED INTEREST RATE MANAGEMENT AGREEMENT IS IN EFFECT.
5 DOCUMENTS FILED WITH THE DEPARTMENT UNDER THIS SECTION ARE
6 PUBLIC RECORDS AVAILABLE FOR EXAMINATION BY ANY CITIZEN OF THIS
7 COMMONWEALTH; ANY PARTY TO THE QUALIFIED INTEREST RATE
8 MANAGEMENT AGREEMENT; OR ANY BONDHOLDER OR NOTEHOLDER, INCLUDING
9 HOLDERS OF TAX ANTICIPATION NOTES, OF THE LOCAL GOVERNMENT UNIT
10 FILING ANY DOCUMENT PURSUANT TO THIS SECTION.

11 § 8285. FINANCIAL REPORTING.

12 A LOCAL GOVERNMENT UNIT WHICH HAS ENTERED INTO A QUALIFIED
13 INTEREST RATE MANAGEMENT AGREEMENT SHALL INCLUDE IN ITS ANNUAL
14 FINANCIAL STATEMENTS INFORMATION WITH RESPECT TO EACH QUALIFIED
15 INTEREST RATE MANAGEMENT AGREEMENT IT HAS AUTHORIZED OR ENTERED
16 INTO, INCLUDING ANY INFORMATION REQUIRED PURSUANT TO ANY
17 STATEMENT ISSUED BY THE GOVERNMENTAL ACCOUNTING STANDARDS BOARD.

18 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.