

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1044 Session of
2015

INTRODUCED BY HARKINS, KOTIK, COHEN, MOUL, D. COSTA AND MAHONEY,
APRIL 27, 2015

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, APRIL 27, 2015

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, in indebtedness and borrowing, further
3 providing for definitions, for classification and authority
4 to issue bonds and notes, for cost of project and for
5 exclusion of other self-liquidating debt to determine net
6 nonelectoral debt or net lease rental debt; providing for
7 preliminary approval by the department of the issuance of
8 certain debt; further providing for small borrowing for
9 capital purposes, for debt statement and for submission to
10 department; in miscellaneous provisions, further providing
11 for fees for filing, for certificate of approval of
12 transcript, for effect of failure of timely action by
13 department and for records of department; providing for
14 duties of participants in transactions relating to incurring
15 debt and issuing bonds and notes; and repealing provisions of
16 the Administrative Code of 1929 relating to fees of the
17 Department of Community Affairs.

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

20 Section 1. The definition of "self-liquidating debt" in
21 section 8002(b) of Title 53 of the Pennsylvania Consolidated
22 Statutes is amended and subsection (c) is amended by adding
23 definitions to read:

24 § 8002. Definitions.

25 * * *

1 (b) Exclusions from debt.--With respect to exclusions from
2 any particular category of debt and subject to additional
3 definitions contained in subsequent provisions of this subpart
4 which are applicable to specific provisions of this subpart, the
5 following words and phrases when used in this subpart shall have
6 the meanings given to them in this section unless the context
7 clearly indicates otherwise:

8 "Self-liquidating debt." Debt payable solely from rents,
9 rates or other charges to the ultimate users of the project, to
10 be financed in whole or in part by that debt, or payable solely
11 from special levies or assessments of benefits lawfully
12 earmarked exclusively for that purpose. The term also includes
13 debt or any portion thereof at the time qualified as self-
14 liquidating pursuant to this subpart, whether or not solely
15 payable from those sources. The term "ultimate users" includes
16 the local government unit itself only where its use of the
17 project is incidental to the use of the project by other users.
18 A debt with respect to which debt service payments have been
19 made under a guaranty of the debt shall not be considered self-
20 liquidating.

21 * * *

22 (c) Other definitions.--Subject to additional definitions
23 contained in subsequent provisions of this subpart which are
24 applicable to specific provisions of this subpart, the following
25 words and phrases when used in this subpart shall have the
26 meanings given to them in this section unless the context
27 clearly indicates otherwise:

28 * * *

29 "Financial advisor." A person who for compensation engages
30 in the business of advising a local government unit, either

1 directly or in writing, as to the value of securities, bonds or
2 notes or as to the advisability of investing in, purchasing or
3 selling securities, bonds or notes. The term does not include an
4 attorney, accountant or engineer whose performance of such
5 services is solely incidental to the practice of his profession.
6 The term does not include a lender, underwriter or other entity
7 purchasing the bonds or notes of a local government unit.

8 * * *

9 "Working capital." An amount which constitutes, under
10 generally accepted accounting principles, the cost of the day-
11 to-day operations of the project as well as a proper allowance
12 for contingencies. Reimbursements under a guaranty or amounts to
13 be used to address budgetary deficits of a local government unit
14 or for other purposes not related to the construction or
15 operation of the project do not constitute reasonable working
16 capital in connection with the incurring of debt under this
17 subpart.

18 Section 2. Sections 8005(c) and (d), 8007 and 8026(a)(5) of
19 Title 53 are amended to read:

20 § 8005. Classification and authority to issue bonds and notes.

21 * * *

22 (c) Authority to issue bonds and notes and lease rental
23 debt.--Notwithstanding any other law to the contrary, every
24 local government unit shall have full power and authority to
25 issue bonds or notes, and make guaranties, leases, subsidy
26 contracts or other agreements evidencing the acquisition of
27 capital assets payable out of taxes and other general revenues,
28 to provide funds for and towards the cost of or the cost of
29 completing any project or combination of projects which the
30 local government unit is authorized to own, acquire, subsidize,

1 operate or lease or to participate in owning, acquiring,
2 subsidizing, operating or leasing with others, to issue tax
3 anticipation notes and funding bonds or notes as provided in
4 this subpart and to contract for insurance covering the risks of
5 nonpayment of principal, interest and premium of bonds, notes,
6 tax anticipation notes and guaranties.

7 (d) Nature of guaranty procedure for issuance and
8 prohibitions.--The following shall apply to a guaranty:

9 (1) For the purpose of this subpart, unless debt
10 evidenced by a guaranty has been approved as electoral debt
11 in accordance with Subchapter C (relating to procedure for
12 securing approval of electors), the guaranty shall be deemed
13 to be nonelectoral debt if the local government unit
14 guaranties its own bonds or notes and shall be deemed to be
15 lease rental debt if it guaranties the bonds or notes of an
16 authority or another local government unit. For the purpose
17 of all other statutes, the guaranty shall be deemed to create
18 debt or indebtedness of the local government unit making the
19 guaranty.

20 (2) (i) A local government unit may only issue a
21 guaranty of debt of another local government unit or an
22 authority after the local government unit has conducted
23 its own due diligence to determine the risks involved in
24 the transaction, including the impact of the guaranty on
25 the future financial condition of the local government
26 unit, the financial condition of the entity seeking the
27 guaranty, the sources and reliability of revenue to cover
28 the underlying obligation and the likelihood of default
29 of the entity seeking the guaranty. A guaranty may only
30 be made by vote of the governing body after a public

1 meeting at which the local government unit demonstrates
2 such due diligence. A local government unit may only
3 issue a guaranty to an authority or other local
4 government unit for projects which are expressly
5 authorized by statute, including projects under section
6 5607 (relating to purposes and powers).

7 (ii) Notwithstanding the provisions of subparagraph
8 (i), a local government unit may not issue a guaranty to
9 an authority or other local government unit for sums due
10 under a qualified interest rate management agreement, nor
11 may guaranties be issued for projects which involve
12 untested technology or experimentation.

13 (3) A local government unit is prohibited from
14 collecting a fee to guaranty the debt of an authority or
15 another local government unit.

16 § 8007. Cost of project.

17 The cost of a project includes the amount of all payments to
18 contractors or for the acquisition of a project or for lands,
19 easements, rights and other appurtenances deemed necessary for
20 the project, fees of architects, engineers, appraisers,
21 consultants, financial advisors and attorneys incurred in
22 connection with the project financing costs, costs of necessary
23 printing and advertising, costs of preliminary feasibility
24 studies and tests, cost estimates and interest on money borrowed
25 to finance the project, if capitalized, to the date of
26 completion of construction and, if deemed necessary, for one
27 year thereafter, amounts to be placed in reserve funds, if any,
28 a reasonable initial working capital for operating the project
29 and a proper allowance for contingencies and any amount which
30 constitutes, under generally accepted accounting principles, a

1 cost of, and which has been determined by an independent actuary
2 or other expert to be required for the purposes of, a reserve or
3 a contribution toward a combined reserve, pool or other
4 arrangement for losses or liabilities covered by a self-
5 insurance arrangement established by one or more local
6 government units. Costs paid, from sources other than the debt
7 that is to be refunded, more than two years before an issuance
8 of new debt to finance the costs may not be included in the
9 costs of a project financed by the new debt. Reimbursements
10 under a guaranty or amounts to be used by a local government
11 unit to address budgetary deficits or other purposes not related
12 to the project do not constitute a cost of a project in
13 connection with the incurring of debt under this subpart. Costs
14 that qualify for funding of unfunded debt under section 8130
15 (relating to approval by court to fund unfunded debt) may only
16 constitute a cost of a project if the local government unit
17 complies with the requirements of section 8130.

18 § 8026. Exclusion of other self-liquidating debt to determine
19 net nonelectoral debt or net lease rental debt.

20 (a) Filings with department.--Self-liquidating debt shall
21 not be excluded in determining net nonelectoral debt or net
22 lease rental debt for the purpose of establishing net debt of
23 either category where the debt is evidenced by general
24 obligation bonds or notes, by bonds, notes or other obligations
25 of an authority or of another local government unit or by a
26 guaranty until there has been filed with and approved by the
27 department a report to the local government unit from qualified
28 registered engineers or architects or other persons qualified by
29 experience appropriate to the project, setting forth:

30 * * *

(5) The estimated net revenues of the project for each year of the remaining life of the bonds, notes or obligations with an explanation for any assumed increase and a computation showing, in reasonable detail, that the net revenues, together with other available funds to be received in respect of the project, will be sufficient in each year to pay the annual debt service, other than capitalized debt service, on the bonds, notes or obligations or a specified aggregate principal amount thereof.

* * *

Section 3. Title 53 is amended by adding a section to read:
§ 8102.1. Preliminary approval by the department of the
issuance of certain debt.

(a) General rule.--Prior to the enactment of an ordinance
authorizing the sale or issuance of any general obligation bonds
or notes or guaranteed revenue bonds or notes constituting
nonelectoral debt or any agreement evidencing lease rental debt,
a local government unit shall obtain a preliminary authorization
to incur debt from the department.

(b) Authorization.--Authorization shall be obtained by
filing a notice with the department in the form of a certificate
signed by two officers of the local government unit. The
department shall prescribe the form of the certificate which
shall include a basic description of the intended financing and,
as applicable, the following:

(1) Evidence that the local government unit is current
in the filing of its annual financial statements with
Commonwealth agencies under applicable State law.

(2) A description of the intended type and amount of
payment or performance bond, letter or credit or other

1 financial security proposed to insure the completion of the
2 project.

3 (3) Information that the local government unit is up to
4 date on all of its municipal securities disclosures required
5 under 17 CFR § 240.15c2-12 (relating to municipal securities
6 disclosure).

7 (4) If the local government unit intends for the
8 proposed debt to be self-liquidating or subsidized,
9 information which reasonably demonstrates to the department
10 that the debt will qualify as self-liquidating or subsidized
11 debt, including filings required under section 8024 (relating
12 to exclusion of subsidized debt from net nonelectoral debt or
13 net lease rental debt), 8025 (relating to exclusion of self-
14 liquidating debt evidenced by revenue bonds or notes to
15 determine net nonelectoral debt) or 8026 (relating to
16 exclusion of other self-liquidating debt to determine net
17 nonelectoral debt or net lease rental debt), as applicable.

18 (5) If the local government unit has existing debt which
19 was previously approved by the department as subsidized or
20 self-liquidating, information satisfactory to the department
21 that the debt continues to be treated as subsidized or self-
22 liquidating and that no decrease in the amount to be excluded
23 is required by any change in circumstances, other than
24 resulting from the payments of the debt, or, if there has
25 been a change in circumstances, information demonstrating to
26 the satisfaction of the department the amount of debt that
27 should continue to be treated as subsidized or self-
28 liquidating.

29 (6) Schedules demonstrating the estimated net debt
30 service impact of the transaction and a certification that

1 the local government adopted or approved a plan to provide
2 the tax or other revenues necessary to pay the debt service
3 on the debt, if applicable.

4 (7) The debt statement required by section 8110
5 (relating to debt statement).

6 (8) A statement of the intended manner of sale of the
7 bonds or notes.

8 (9) A project cost statement detailing the intended uses
9 of debt proceeds.

10 (c) Additional information.--As part of the department's
11 review of a filing by a local government unit under subsection
12 (b), the department may request and the local government unit
13 shall provide additional information, including any of the
14 following:

15 (1) an explanation for costs of issuance exceeding 2% of
16 the principal amount of the proposed debt;

17 (2) an explanation for the use of more than 10% of the
18 proceeds of the debt for working capital; and

19 (3) if bonds or notes are to be sold at private sale by
20 negotiation, the basis for the local government unit's
21 finding that the bonds or notes are in the best financial
22 interests of the local government unit.

23 (d) Action by department.--If the department, upon review of
24 the filing made by the local government unit under subsection
25 (b) and any additional information provided under subsection
26 (c), if applicable, finds in its reasonable discretion that:

27 (1) The requirements are satisfied in connection with
28 the proposed debt, the department shall issue a preliminary
29 approval of the debt.

30 (2) The requirements are not satisfied in connection

1 with the proposed debt, the department shall issue a
2 preliminary disapproval of the debt and the local government
3 may not proceed to incur the debt until the requirements are
4 satisfied.

5 (e) Timely action required.--The department shall have 30
6 days after receipt of the filing required under subsection (b)
7 to issue a preliminary approval or disapproval of the debt. If
8 the local government unit has submitted a certificate for
9 preliminary approval to the department by certified mail, return
10 receipt requested, or otherwise has an official receipt from the
11 department and the local government unit has not, within 30 days
12 of the date of receipt of the filing by the department, received
13 the certificate of preliminary approval, disapproval or
14 notification of correctable error, the filing shall be deemed to
15 have been preliminarily approved for all purposes unless the
16 local government unit has extended the time within which the
17 department may act by written communication to the department or
18 by failure to object to a written communication from the
19 department requesting the extension. No extension shall exceed
20 15 days.

21 (f) Incurrence of debt.--Upon issuance of preliminary
22 approval of the department, the local government unit shall have
23 one year to incur the debt under this subpart. The bonds or
24 notes shall be sold, or instruments evidencing lease rental debt
25 delivered, not more than two years following the date of the
26 preliminary approval.

27 (g) Review.--All determinations by the department under this
28 section are reviewable as provided under 2 Pa.C.S. Ch. 7
29 (relating to judicial review).

30 (h) Exemptions and special provisions.--

1 (1) Small borrowing for capital purposes as provided in
2 section 8109 (relating to small borrowing for capital
3 purposes) shall be exempt from the requirements of this
4 section.

5 (2) A local government unit may obtain a single annual
6 preliminary authorization with regard to all such anticipated
7 or potential refinancing transactions that comply with
8 section 8244 (relating to effect of debt limits on refunding
9 nonelectoral bonds or notes or lease rental debt). The
10 department shall provide a procedure through which a local
11 government unit may obtain authorization, which must include
12 identifying current debt which the unit may seek to refund
13 and complying with applicable provisions of this section.

14 (3) A transaction which includes a qualified interest
15 rate management agreement shall not be exempt from the
16 requirements of this section.

17 Section 4. Sections 8109(a)(1) and 8110(b) of Title 53 are
18 amended to read:

19 § 8109. Small borrowing for capital purposes.

20 (a) General rule.--Any local government unit may incur debt
21 by resolution rather than by ordinance to be evidenced by notes
22 to provide funds for a project as defined in this subpart
23 without complying with the requirements of Subchapter A of
24 Chapter 82 (relating to Department of Community and Economic
25 Development) if:

26 (1) The aggregate amount of the debt outstanding at any
27 one time shall not exceed the lesser of [\$125,000] \$250,000
28 or 30% of the nonelectoral debt limit as authorized in
29 section 8022(a) (relating to limitations on incurring of
30 other debt).

1 * * *

2 § 8110. Debt statement.

3 * * *

4 (b) Previously excluded self-liquidating or subsidized
5 debt.--Where debt has previously been excluded as self-
6 liquidating or subsidized debt, the debt statement shall be
7 accompanied by a certification that indicates one of the
8 following:

9 (1) no decrease in the amounts to be excluded is
10 required by any change of circumstances [or, if there has
11 been a change, other than decreases resulting from the
12 payments of bonds or notes, so that less debt is to be
13 excluded. If it has become possible to exclude a greater
14 amount of debt and the local government unit desires to do
15 so, the debt statement shall be accompanied by appropriate
16 certificates supporting the revised amount to be excluded,
17 and a revised approval shall be obtained from the
18 department.]; or

19 (2) a decrease in the amounts to be excluded is required
20 due to a change in circumstances, in which case:

21 (i) The change in circumstance must be described. If
22 it has become possible to exclude a greater amount of
23 debt and the local government unit wants to do so, the
24 debt statement shall be accompanied by appropriate
25 certifications supporting the revised amount to be
26 excluded and a revised approval shall be obtained from
27 the department.

28 (ii) No debt service payments have been made under a
29 guaranty of debt previously established as self-
30 liquidating. Debt service payments that have been made

1 under a guarantee of the local government unit shall no
2 longer be considered self-liquidating unless and until
3 the local government unit files with the department a new
4 report satisfying the requirements of section 8025
5 (relating to exclusion of self-liquidating debt evidenced
6 by revenue bonds or notes to determine net nonelectoral
7 debt) or 8026 (relating to exclusion of other self-
8 liquidating debt to determine net nonelectoral debt or
9 net lease rental debt), as the case may be.

10 Section 5. Section 8111(a) of Title 53 is amended by adding
11 paragraphs to read:

12 § 8111. Submission to department.

13 (a) General rule.--Before delivering any bonds or notes
14 other than notes representing small borrowings issued under
15 section 8109 (relating to small borrowing for capital purposes),
16 the local government unit shall apply for and receive or be
17 deemed to have received the approval of the department under
18 section 8204 (relating to certificate of approval of transcript)
19 or 8206 (relating to effect of failure of timely action by
20 department). The application, in such form as the department
21 prescribes, shall be accompanied by a transcript of the
22 proceedings consisting of certified copies of any of the
23 following, not previously filed, which are applicable:

24 * * *

25 (8) A written statement with regard to the manner of
26 compliance or intended compliance with the requirements of
27 the act of December 20, 1967 (P.L.869, No.385), known as the
28 Public Works Contractors' Bond Law of 1967.

29 (9) An itemized statement of all estimated disbursements
30 for costs to be made from the proceeds of the borrowing to

1 the extent possible.

2 * * *

3 Section 6. Sections 8203, 8204, 8206 and 8207(a) and (c) of
4 Title 53 are amended to read:

5 § 8203. Fees for filing.

6 Every filing under this subpart with the department shall be
7 accompanied by a filing fee [as determined in section 605-A of
8 the act of April 9, 1929 (P.L.177, No.175), known as The
9 Administrative Code of 1929.] of \$250, subject to the following
10 provisions:

11 (1) The filing shall be accompanied by an additional fee
12 of 1/32 mill on each dollar of the aggregate principal amount
13 of the debt relating to the filing.

14 (2) No submission shall constitute a filing until the
15 proper fee is paid. [All fees received under this section
16 shall be paid by the department into the State Treasury
17 through the Department of Revenue.]

18 (3) The fee shall be waived for borrowings in connection
19 with a plan or recovery plan under the act of July 10, 1987
20 (P.L.246, No.47), known as the Municipalities Financial
21 Recovery Act.

22 (4) Fees paid in connection with a filing under section
23 8102.1 (relating to preliminary approval by the department of
24 the issuance of certain debt) shall constitute payment of
25 fees due under section 8204 (relating to certificate of final
26 approval).

27 § 8204. Certificate of final approval [of transcript].

28 The department shall, upon receipt of a submission under
29 section 8111 (relating to submission to department) containing
30 an application for final approval and any bond or note

1 transcripts or other filings, carefully examine them to
2 determine whether the debt outstanding and to be outstanding is
3 within the applicable limitations imposed by this subpart and
4 whether the proceedings for incurring the debt, for issuing and
5 selling the bonds or notes and for excluding self-liquidating
6 and subsidized debt have been taken in conformity with the
7 Constitution of Pennsylvania and this subpart. If, upon
8 completion of its examination, a transcript or other filing is
9 found by the department to be in conformity with the
10 Constitution of Pennsylvania and this subpart, the department
11 shall certify its approval to the local government unit if
12 required under other provisions of this subpart. If the debt
13 requires preliminary approval under section 8102.1 (relating to
14 preliminary approval by the department of the issuance of
15 certain debt), the certificates and filings related to
16 preliminary approval shall be part of the transcript and a
17 requirement for final approval under this section. If the debt
18 has received preliminary approval under section 8102.1, the
19 department shall provide for a procedure to expedite the
20 processing of final approval.

21 § 8206. Effect of failure of timely action by department.

22 If the local government unit has submitted [a filing] an
23 application for final approval to the department by certified
24 mail, return receipt requested, or otherwise has an official
25 receipt from the department, and the local government unit has
26 not, within 20 days of the date of receipt of the filing by the
27 department, received the certificate of final approval or
28 disapproval or notification of correctable error, the filing
29 shall be deemed to have been approved for all purposes unless
30 the local government unit has extended the time within which the

1 department may act by written communication to the department or
2 by failure to object to a written communication from the
3 department requesting the extension. Extensions shall not exceed
4 one additional period of 20 days.

5 § 8207. Records of department.

6 (a) Retention period.--The department shall keep all
7 proceedings, including all applications and statements by a
8 local government unit under sections 8102.1 (relating to
9 preliminary approval by the department of the issuance of
10 certain debt), 8111 (relating to submission to department) and
11 8201 (relating to certification to department of bond or note
12 transcript or lease, guaranty, subsidy contract or other
13 agreement), on file for a period of not less than [four months
14 after issuance of its certificate of approval or disapproval and
15 thereafter as long as any appeal respecting the proceedings is
16 pending and not finally determined.] five years after the debt
17 issuance has been paid off by the local government unit. The
18 department shall also keep copies of all documents filed with
19 the department relating to a qualified interest rate management
20 agreement for as long as the qualified interest rate management
21 agreement is in effect.

22 * * *

23 (c) Records open for inspection.--[The records of the
24 department shall be public records available for examination by
25 any citizen of this Commonwealth or any bondholders or
26 noteholders.] All submissions, determinations and records of the
27 department under this subpart, including those related to
28 qualified interest rate management agreements and including
29 correspondence with the interested parties to any debt
30 proceeding, shall be public records available for examination by

any citizen of this Commonwealth, any interested parties or any bondholder or noteholder, including holders of tax anticipation notes, of the local government unit.

Section 7. Chapter 82 of Title 53 is amended by adding a subchapter to read:

SUBCHAPTER G

OTHER PROVISIONS

Sec.

8291. Duties of participants.

§ 8291. Duties of participants.

(a) Declaration of representation.--

(1) As a condition of participation in transactions under Chapter 81 (relating to incurring debt and issuing bonds and notes) and this chapter, each attorney or financial advisor involved in the transaction shall provide a written declaration to the local government unit as to:

(i) Which party is being represented by the attorney or financial advisor, the source from which the attorney or financial advisor will receive compensation for services related to the transaction.

(ii) Whether the compensation is dependent upon the issuance of debt by the local government unit.

(2) A full-time employee of the local government unit shall not be required to file a declaration under this subsection.

(b) Fiduciary duty of local government unit representatives.--

(1) An attorney or financial advisor who purports to represent a local government unit under subsection (a) in a transaction under this subpart shall stand in a fiduciary

1 relationship to the local government unit.

2 (2) (i) With regard to a financial advisor who
3 represents a local government unit, the term "fiduciary
4 duty" shall mean the duty to perform loyally, in good
5 faith and in a manner the financial advisor reasonably
6 believes to be in the best interests of the local
7 government unit. The financial advisor shall act with
8 such care, including reasonable inquiry, skill and
9 diligence that a person of ordinary prudence would use
10 under similar circumstances, and provide opinion as to
11 possible positive and negative impacts of a transaction.

12 (ii) With regard to attorneys licensed to practice
13 law in this Commonwealth, the fiduciary duty shall be as
14 prescribed by the Pennsylvania Supreme Court, including
15 the Pennsylvania Rules of Professional Conduct.

16 (3) An attorney or financial advisor in the course of
17 the representation shall be entitled to rely on reasonable
18 representations and certifications made to the attorney or
19 financial advisor by architects, engineers and other persons
20 retained by and the officers and employees of a local
21 government unit.

22 (4) Pursuant to subsection (f) of Municipal Securities
23 Rulemaking Board Rule G-23 (relating to activities of
24 financial advisors), 17 CFR §§ 240.15Ba1-1 (relating to
25 definitions), 240.15Ba1-2 (relating to registration of
26 municipal advisors and information regarding certain natural
27 persons), 240.15Ba1-3 (relating to exemption of certain
28 natural persons from registration under section 15B(a)(1)(B)
29 of the act), 240.15Ba1-4 (relating to withdrawal from
30 municipal advisor registration), 240.15Ba1-5 (relating to

amendments to Form MA and Form MA-I), 240.15Ba1-6 (relating to consent to service of process to be filed by non-resident municipal advisors; legal opinion to be provided by non-resident municipal advisors), 240.15Ba1-7 (relating to registration of successor to municipal advisor) and 240.15Ba1-8 (relating to books and records to be made and maintained by municipal advisors), and as to local government unit representatives only, the fiduciary duty described in this section shall be in addition to any duty contained in rules promulgated by the Municipal Securities Rulemaking Board that may apply to the attorney or financial advisor.

(c) Ultra vires acts.--An officer or member of the governing body of a local government unit or a financial advisor or attorney may not knowingly participate in a violation of this title.

(d) Materially false or misleading certifications.--An officer or member of the governing body of a local government unit or an attorney or financial advisor may not knowingly file a materially false or misleading certification or statement with the department under this subpart.

(e) Penalties.--

(1) An officer or member of the governing body of a local government unit or an attorney or financial advisor who aids or participates in the commission of an act prohibited in subsection (c) or (d) commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to pay a fine of not more than \$5,000 or to imprisonment for not more than two years, or both.

(2) Notwithstanding paragraph (1), a local government may seek civil judicial redress for a violation of this

1 section that results in damages to the local government unit
2 not caused by the local government unit or its agents. A
3 local government unit shall prohibit or restrict the future
4 participation in transactions under this subpart of an
5 individual attorney or financial advisor who violates this
6 section and may also prohibit or restrict participation of a
7 firm that employs the attorney or financial advisor for a
8 period not to exceed two years.

9 Section 8. Repeals are as follows:

10 (1) The General Assembly declares that the repeal under
11 paragraph (2) is necessary to effectuate the amendment of 53
12 Pa.C.S. § 8203.

13 (2) Section 605-A of the act of April 9, 1929 (P.L.177,
14 No.175), known as The Administrative Code of 1929, is
15 repealed.

16 (3) All acts and parts of acts are repealed insofar as
17 they are inconsistent with the amendment or addition of 53
18 Pa.C.S. §§ 8002(b) and (c), 8005(c) and (d), 8007,
19 8026(a)(5), 8102.1, 8111(a), 8203, 8204, 8206, 8207(a) and
20 (c) and 8291.

21 Section 9. This act shall take effect in 60 days.