

---

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 320 Session of  
2019

---

INTRODUCED BY RYAN, KEEFER, PICKETT AND ROTHMAN,  
FEBRUARY 1, 2019

---

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, FEBRUARY 1, 2019

---

AN ACT

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

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

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

18 § 8002. Definitions.

19 \* \* \*

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

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

4 \* \* \*

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

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

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

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

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

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

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

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

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

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

1 interest rate management agreements.

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

7 \* \* \*

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

23 \* \* \*

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

25 [§ 8281. Qualified interest rate management agreements.

26 (a) General rule.--

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

1 provisions of this subchapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

26 § 8285. Financial reporting.

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

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

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

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

12 § 8286. Application of subchapter.

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

17 § 8287. Definitions.

18 As used in this subchapter, the term "local government unit"  
19 means an authority as defined in section 8002 (relating to  
20 definitions) and a school district of the first class presently  
21 operating under a home rule charter as defined under section  
22 2902 (relating to definitions) or home rule charter supplement.

23 § 8288. Qualified interest rate management agreements.

24 (a) General rule.--

25 (1) Except as set forth in paragraph (4),  
26 notwithstanding any other law to the contrary, a local  
27 government unit may negotiate and enter into qualified  
28 interest rate management agreements consistent with the  
29 provisions of this subchapter. A local government unit may  
30 only authorize a qualified interest rate management agreement

1 under this subchapter.

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

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

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

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

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

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

1 amount of the aggregate nonelectoral debt plus lease rental  
2 debt capacity of the local government unit then outstanding.

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

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

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

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

1 or the index is based on the same type of debt as the  
2 associated debt.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1       (7) The source of payment of the payment obligations of  
2 the local government unit, which must be either general  
3 revenues or revenues specifically identified in the  
4 agreement.

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

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

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

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

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

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

28           (iv) Certifies that, in executing the transactions  
29 under the qualified interest rate management agreement,  
30 the other party has complied in all material aspects with

1 the applicable rules and regulations of the Commodity  
2 Futures Trading Commission, the Securities and Exchange  
3 Commission and the Municipal Securities Rulemaking Board  
4 to which the other party is subject.

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

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

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

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



1 agreement may include:

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

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

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

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

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

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

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

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

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

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

30 (2) The local government unit shall establish

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

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

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

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

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

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

30 Section 5. Chapter 82 of Title 53 is amended by adding a

1 subchapter to read:

2 SUBCHAPTER G

3 INTEREST RATE RISK AND INTEREST COST MANAGEMENT

4 IN FIRST CLASS CITIES AND COUNTIES

5 Sec.

6 8291. Scope of subchapter.

7 8292. Definitions.

8 8293. Interest rate management agreement requirements.

9 8294. Notice and retention of records.

10 8295. Financial reporting.

11 § 8291. Scope of subchapter.

12 Notwithstanding Subchapter F (relating to interest rate risk  
13 and interest cost management), this subchapter shall apply to  
14 interest rate management agreements in cities and counties of  
15 the first class.

16 § 8292. Definitions.

17 The following words and phrases when used in this subchapter  
18 shall have the meanings given to them in this section unless the  
19 context clearly indicates otherwise:

20 "Contracting authority." Any of the following that enter  
21 into an interest rate management agreement under this  
22 subchapter:

23 (1) A city of the first class.

24 (2) A county of the first class.

25 (3) A municipal authority created under Chapter 56  
26 (relating to municipal authorities) by an entity listed under  
27 paragraph (1) or (2).

28 "Department." The Department of Community and Economic  
29 Development of the Commonwealth.

30 "Interest rate management agreement." An agreement,

1 including a confirmation evidencing a transaction effected under  
2 a master agreement, that:

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

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

15 (3) in the judgment of the contracting authority, will  
16 assist the contracting authority in managing the interest  
17 rate risk or interest cost of the contracting authority.  
18 § 8293. Interest rate management agreement requirements.

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

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

24 (1) A contracting authority shall authorize and award by  
25 resolution each interest rate management agreement or  
26 confirmation of a transaction.

27 (2) No payments may be made to or on behalf of a  
28 contracting authority by the other party to an interest rate  
29 management agreement except periodic scheduled payments,  
30 termination payments and attorney fees and other consultant

1 fees incurred in connection with entering into an interest  
2 rate management agreement.

3 (3) Periodic scheduled payments on an interest rate  
4 management agreement must commence not later than three years  
5 after the date of the confirmation associated with the  
6 interest rate management agreement.

7 (4) The index or basis used for calculating the periodic  
8 scheduled payments receivable by the contracting authority on  
9 an interest rate management agreement shall be substantially  
10 similar to the index or basis used for calculating the  
11 interest due on the associated debt or other debt-related  
12 obligations of the contracting authority.

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

28 (6) Scheduled periodic payments and termination payments  
29 received by a contracting authority on an interest rate  
30 management agreement shall be deposited in a payment account

1 to:

2 (i) Pay periodic swap payments or to pay principal  
3 and interest on the debt or debt-related obligations  
4 related to the interest rate management agreement.

5 (ii) If the interest rate management agreement  
6 described under subparagraph (i) has been terminated and  
7 none of the related debt or debt-related obligations are  
8 outstanding, pay periodic swap payments on interest rate  
9 management agreements or principal and interest on debt  
10 or debt-related obligations payable from or supported by  
11 the same fund or revenues as the interest rate management  
12 agreement described under subparagraph (i).

13 (iii) If all of the interest rate management  
14 agreements described under subparagraph (ii) have been  
15 terminated and no debt or debt-related obligations  
16 described under subparagraph (ii) are outstanding, pay  
17 all other obligations of the contracting authority.

18 (7) The scheduled expiration date of an interest rate  
19 management agreement may not exceed 10 years from the date of  
20 the related confirmation unless the interest rate management  
21 agreement contains a provision allowing the contracting  
22 authority to terminate the agreement at any time after 10  
23 years from the date of the related confirmation without  
24 making a termination payment.

25 (8) An interest rate management agreement shall contain  
26 a certification by the other party to the interest rate  
27 management agreement in which the other party does all of the  
28 following:

29 (i) Acknowledges that the contracting authority that  
30 is entering into the interest rate management agreement

1 under this subchapter is a political subdivision of this  
2 Commonwealth or a municipal authority created under  
3 Chapter 56 (relating to municipal authorities) by a city  
4 of the first class or a county of the first class.

5 (ii) Acknowledges that the other party has read this  
6 subchapter.

7 (iii) Acknowledges that a contracting authority may  
8 only enter into an interest rate management agreement to  
9 manage interest rate risk or interest cost of the  
10 contracting authority on debt or other debt-related  
11 obligations of the contracting authority.

12 (iv) Acknowledges and agrees that the other party  
13 will notify the department, in writing, promptly upon the  
14 payment to the other party of a termination payment by  
15 the contracting authority, including the date and amount  
16 of the payment and the identity of the interest  
17 rate management agreement under which the payment was  
18 made.

19 § 8294. Notice and retention of records.

20 (a) Notice.--Within 15 days following the adoption of a  
21 resolution authorizing an interest rate management agreement, a  
22 contracting authority shall file with the department certified  
23 copies of the resolution, including an appendix to the  
24 resolution, together with an itemized statement of all attorney  
25 fees, consultant fees and other costs expected to be paid on  
26 behalf of a contracting authority by the other party to  
27 the interest rate management agreement.

28 (b) Records.--The department shall keep copies of all  
29 documents filed with the department under this section as long  
30 as an interest rate management agreement is in effect.

1 § 8295. Financial reporting.

2 A contracting authority that has entered into an interest  
3 rate management agreement shall include in the contracting  
4 authority's annual financial statements information with respect  
5 to each interest rate management agreement the contracting  
6 authority has authorized or entered into, including information  
7 required pursuant to a statement issued by the Governmental  
8 Accounting Standards Board.

9 Section 6. The following shall apply:

10 (1) The amendment or addition of 53 Pa.C.S. §§ 8002(c),  
11 8286, 8287 and 8288:

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

15 (ii) Shall not apply to an amendment, termination or  
16 novation of a qualified interest rate management  
17 agreement where the qualified interest rate management  
18 agreement was entered into prior to the effective date of  
19 this section, unless the term of the qualified interest  
20 rate management agreement is extended and the qualified  
21 interest rate management agreement continues to be in  
22 effect on or after the effective date of this section.

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

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

27 (ii) Shall not apply to any amendment, termination  
28 or novation of an interest rate management agreement if  
29 the interest rate management agreement was entered into  
30 prior to the effective date of this section or if the



1 term of the interest rate management agreement is not  
2 extended.

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

6 (A) A city of the first class.

7 (B) A county of the first class.

8 (C) A municipal authority created under 53  
9 Pa.C.S. Ch. 56 by an entity listed under clause (A)  
10 or (B).

11 Section 7. This act shall take effect in 60 days.