

No. 1981-19

AN ACT

HB 32

Amending the act of July 12, 1972 (P.L.781, No.185) entitled, as amended, "An act providing debt limits for local government units, including municipalities and school districts; providing the methods of incurring, evidencing, securing and collecting debt; defining the powers and duties of the Department of Community Affairs and certain other public officers and agencies with respect thereto; exercising the inherent legislative authority of the General Assembly by providing additional over-all limitations on the incurring of lease rental and other obligations for the acquisition of capital assets to be repaid from the general tax revenues of such local government units; imposing penalties for filing false or untrue statements or refusing to give information with respect to proceedings for the incurring of debt; and conferring jurisdiction on the Commonwealth Court with respect to certain proceedings relating to the incurring of debt," making technical and editorial changes.

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

Section 1. Clause (1.1) of subsection (c) of section 102, subsection (d) of section 202, section 205, clause (7) of subsection (b) of section 208, subsection (d) of section 303, section 304, clause (1) of section 403, subsection (a) of section 409, subsection (b) of section 410, clause (1) of section 414, the heading of Article V, sections 501, 502, 503, 504, 505, 507, 508, 509 and 510, subsections (b) and (c) of section 602, sections 606, 701, 706 and 804, subsection (b) of section 807, subsection (a) of section 809, section 901, the heading of Article X, subsection (c) of section 1006, clause (4) of section 1102, section 1201, subsections (b) and (c) of section 1203 and sections 1204 and 1301, act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act," reenacted and amended April 28, 1978 (P.L.124, No.52), are amended to read:

Section 102. Definitions.—* * *

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

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(1.1) "Authority" means an authority or nonprofit corporation organized under any law of the Commonwealth by *or on behalf of* the Commonwealth, any local government unit or jointly by any one or more of the foregoing.

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Section 202. Limitations on the Incurring of Other Debt.—* * *

(d) Additional nonelectoral or additional lease rental debt or both in the aggregate amount of one hundred per cent of the borrowing base may be incurred:

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

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

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Section 205. Procedure for Exclusion of *Self-liquidating Debt* Evidenced by Revenue Bonds or Notes to Determine Net Nonelectoral Debt.—Self-liquidating debt evidenced by revenue bonds or notes shall not be excluded from nonelectoral debt for the purpose of establishing net nonelectoral debt until there has been filed with the department:

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

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

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

Section 208. Determination of Existing Net Nonelectoral Debt and Net Nonelectoral Plus Net Lease Rental Debt.—* * *

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

* * *

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

* * *

Section 303. Conduct of Election.—* * *

(d) The election officers and clerks shall make return on forms provided by the county board of elections of the votes cast on such question to the county board of elections, which shall compute the same and transmit a certified return thereof to the governing body of the local government unit which shall enter the same on its minutes. If such certified return shows that a majority of those voting on such question have voted in favor thereof, irrespective of any other law requiring a greater percentage, the local government unit shall file with the department a certified copy of the **[desired]** *desire* resolution, the certified return and proofs of publication of the notice of election, whereupon the amount of such debt so approved shall constitute electoral debt from and after the date of the election, subject to the provisions of section 304.

Section 304. Finality of Result of Election.—Any interested party or any taxpayer may contest the validity of any election proceedings under this Article III by filing with the **[Court]** *court* a petition in the nature of a bill in equity, specifically alleging the error or errors complained of in the proceedings, and the petitioner shall have the burden of proof. If no such petition has been filed, or if a petition shall have been filed and shall have been finally dismissed, the election shall be conclusively deemed to be valid for all purposes. If prior to the timely filing of a petition, further proceedings in connection with the incurring of such debt shall have been filed with the department, then any contest shall proceed by way of an appeal from the action of the department upon such proceedings. The petition or appeal provided by this section shall be such party's, or such taxpayer's, sole and exclusive remedy.

Section 403. Contents of Ordinance Authorizing Issuance of Bonds or Notes or Instruments Evidencing Lease Rental Debt; Fixing the Date of Incurring Nonelectoral and Lease Rental Debt; Changes in Purpose of Nonelectoral General Obligation Bonds.—The ordinance or ordinances or, in the case of notes issued under section 409, the resolution, authorizing the issuance of bonds or notes or the execution of a lease, guaranty, subsidy contract or other agreement evidencing lease rental debt by a local government unit shall contain, in substance:

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

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

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

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

(iv) An authorization and direction to a specified officer or specified officers and their successors to prepare and certify and~~;~~, except in the case of notes issued under section 409, to file the debt statement required by section 410 of this act, to execute and deliver the bonds or notes or the instrument evidencing lease rental debt; and to take other necessary

action, and such designation may be changed from time to time thereafter; and

(v) An authorization, in the case of nonelectoral or lease rental debt which is subject to exclusion as subsidized debt or self-liquidating debt if such exclusion is presently desired, to the proper officers of the local government unit to prepare and file any statements required by Article II of this act which are necessary to qualify all or any portion of the debt for exclusion from the appropriate debt limit as self-liquidating debt or subsidized debt.

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Section 409. Small Borrowing for Capital Purposes.—(a) Any local government unit is hereby authorized to incur debt by resolution rather than by ordinance to be evidenced by notes to provide funds for a project as defined in this act without complying with the requirements of Article VIII provided: (i) that the aggregate amount of such debt outstanding at any one time shall not exceed the lesser of \$50,000 or thirty percent of the borrowing base; (ii) that the principal of each such debt shall mature not later than five years from the date of issuance; (iii) that the incurrence of such debt shall not cause the debt limits of Article II to be exceeded; *and* (iv) that the provisions of section 10 of Article IX of the Constitution shall have been observed and provided further that the provisions of section 808 shall apply to notes issued in violation of the foregoing requirements.

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Section 410. Debt Statement.—* * *

(b) Where debt has previously been excluded as self-liquidating or subsidized debt, the debt statement shall be accompanied by a certification that no decrease in the amounts to be excluded is required by any change of circumstances, or if there has been a change, *other than decreases resulting from the payments of bonds or notes*, so that less debt is to be excluded or if it has become possible to exclude a greater amount of debt, and the local government unit desires to do so, the debt statement shall be accompanied by appropriate certificates supporting the revised amount to be excluded and a revised approval shall be obtained from the department. **[and filed in the office for the recording of deeds in the county in which such local government unit is located to effectuate such exclusion.]**

Section 414. Evidence of Signatures of Holders and of Ownership of Bonds, Notes and Tax Anticipation Notes.—* * *

(1) The certificate shall state that the person or persons signing such instrument were known to be such persons by the individual certifying and that such person or persons acknowledged the execution of the instrument as his or their act. The authority of an attorney or agent may be proven by like statement of the principal acknowledged in a like manner, but a certificate as to authority shall not be necessary if an instrument is executed on behalf of a corporate holder of bonds, notes or coupons by a person purporting to be the president or a vice-president of

such corporation with the corporate seal affixed and attested by a person purporting to be its secretary or an assistant secretary.

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

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

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

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

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

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ARTICLE V

Tax and Revenue Anticipation Notes and Funding Debt

Section 501. Power to Issue Tax *and Revenue* Anticipation Notes.—A local government unit shall have power and authority, by resolution of its governing body, to borrow money from time to time in any fiscal year in anticipation of the receipt of current taxes or current revenues, or both, to evidence the obligation by notes, appropriately designated, and to authorize, issue and sell such notes in the manner, and subject to the limitations provided therefor in this article. References in this act to tax anticipation notes include also revenue anticipation notes and tax and revenue anticipation notes. Limitations imposed by this act on the incurring of nonelectoral debt shall not apply to the obligations evidenced by tax anticipation notes. Such power to borrow from time to time shall include but not be limited to, the power to make a single authorization and then issue and sell portions of such amount of authorized notes whenever desired during the fiscal year.

Section 502. Limitation on Amount of Tax *and Revenue* Anticipation Notes.—No local government unit shall authorize or issue tax anticipation notes in any one fiscal year which in the aggregate shall exceed eighty-five per cent of:

(1) in the case of notes solely payable from and secured by a pledge of taxes, the amount of such taxes levied for the current fiscal year;

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

(3) in the case of notes payable from and secured by a pledge of taxes and other revenues, the sum of such taxes levied and such revenues pledged, which, in all cases, are certified, pursuant to section 506, as

remaining to be collected or received in such fiscal year during the period when the notes will be outstanding. The certificate shall be as of a date not more than thirty days prior to, and no later than, the date of the vote on the resolution authorizing the issue and sale of the tax anticipation notes. In computing the aggregate amount of tax anticipation notes outstanding at any given time during the fiscal year for the purpose of the limitation imposed by this section, allowance shall be made for such notes as have already been fully paid and for amounts already paid into appropriate sinking funds, if any.

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

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

Section 505. Security for Tax and Revenue Anticipation Notes; Sinking Fund.—All tax anticipation notes issued in a single fiscal year, shall be equally and ratably secured by the pledge of, security interest in, and a lien and charge on, the taxes or revenues or both of the local government unit specified in the authorizing resolution to be received during the period when the notes will be outstanding. Such pledge, lien and charge shall be fully perfected as against the local government unit, all creditors thereof, and all third parties in accordance with the terms of such resolution from and after the filing of a financing statement or statements in accordance with the Uniform Commercial Code. For the purpose of such filing the sinking fund depository, if any, otherwise the fiscal agent or paying agent designated in the notes, may act as the representative of noteholders and, in such capacity, execute and file the financing statement and any continuation or termination statements as secured party. The authorizing resolution may establish one or more sinking funds and provide for periodic or other deposits therein, and may contain such covenants or other provisions as the local government unit shall determine. The amount of any tax anticipation notes issued in compliance with this act shall be general obligations of the local govern-

ment unit and, if the same shall not be paid within the fiscal year in which such notes were issued, shall be deemed to be nonelectoral debt enforceable in the manner of a general obligation which unless funded pursuant to this article, shall be included in the budget of the local government unit for the ensuing fiscal year and shall be payable from the taxes and revenues of such ensuing year notwithstanding that the amount thereof shall cause the nonelectoral debt of such local government unit to exceed the limitations of Article II.

The holder of such tax anticipation notes issued by a first class school district or the sinking fund depository of the applicable sinking fund, if any, therefor shall have the right to enforce such pledge of, security interest in and lien and charge on, the pledged taxes and revenues of the first class school district against all State and local public officials in possession of any of such taxes and revenues at any time which may be collected directly from such officials upon notice by such holder or depository for application to the payment thereof as and when due or for deposit in the applicable sinking fund at the times and in the amounts specified in such tax anticipation notes. Any State or local public official in possession of any of such taxes and revenues shall make payment, against receipt therefor, directly to the holder of such tax anticipation notes or to such depository upon such notice and shall thereby be discharged from any further liability or responsibility for such taxes and revenues. If such payment shall be to a holder of tax anticipation notes, it shall be made against surrender of the notes to the payor for delivery to the first class school district in the case of payment in full, otherwise it shall be made against production of the notes for notation thereon of the amount of the payment. The provisions of this paragraph with respect to the enforceability and collection of taxes and revenues which secure tax anticipation notes of a first class school district shall supersede any contrary or inconsistent statutory provision or rule of law. This paragraph shall be construed and applied to fulfill the legislative purpose of clarifying and facilitating temporary borrowings by a first class school district by assuring to holders of tax anticipation notes the full and immediate benefit of the security therefor without delay, diminishment or interference based on any statute, decision, ordinance or administrative rule or practice.

Section 507. Sale of Tax and Revenue Anticipation Notes.—Tax anticipation notes may be sold at public, private, or invited sale as the governing body of the local government unit may determine. Any public sale shall be advertised and conducted in the manner and subject to the conditions provided for a public sale of bonds in Article VII of this act, except as modified by this Article V. The governing body of the local government unit shall award the notes by resolution to specified purchasers at a specified price, not less than the principal amount thereof. At the time of delivery of each issue, series or subseries of tax anticipation notes, authorized officers of the local government unit shall certify to the original purchasers thereof that the amount of all such

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

Section 508. Condition Precedent to Validity of Tax *and Revenue* Anticipation Notes.—No tax anticipation note shall be valid or obligatory in the hands of an original purchaser thereof until certified copies of the authorizing and awarding resolution, the certificate as to the taxes and revenues remaining to be collected, and a true copy of the accepted proposal for the purchase of the tax anticipation notes shall have been filed with the department. No approval of the department shall be required.

Section 509. Unfunded Debt.—For the purpose of this article, unfunded debt shall mean obligations of the same or [a] *one or more* prior [year] *years* incurred for current expenses (including tax anticipation notes), due and owing or judgments against the local government unit entered by a court of competent jurisdiction after adversary proceedings, for the payment of either of which category the taxes and other revenues remaining to be collected in the fiscal year and funds on hand will not be sufficient without a curtailment of municipal services to an extent endangering the health or safety of the public or proper education of school children, and the local government unit either may not legally levy a sufficient tax for the balance of the fiscal year, or a sufficient tax, if legally leviable, would not be in the public interest. Unfunded debt shall not, however, include debt incurred under this act nor obligations in respect of a project or part of a project as defined in section 102(c)(12) or incurred in respect of the cost of a project as defined in section 107.

Section 510. Approval by Court.—(a) Whenever the governing body of a local government unit shall be of the opinion that it has outstanding unfunded debt, it may, by petition to the court of common pleas setting forth the facts, request approval for the issuance of bonds or notes to fund the unfunded debt. After hearing, on such notice to the local government unit and its taxpayers as the court may prescribe, the court shall make an order granting authority to fund all or a part of such unfunded debt if the court shall find that such unfunded debt is a lawful obligation of the local government unit, that there has been an unforeseeable decline in revenues, or that taxes levied have not produced the revenues anticipated or that it was not reasonable to foresee such obligation; that paying such debt by curtailing municipal services will be dangerous to the public health, safety or education, and that it is not feasible or not in the public interest to levy additional taxes in the current fiscal year. The funding debt so approved shall be stated to mature in such amounts and over such number of years, not exceeding ten, as the court shall find will accomplish the payment of the debt without endan-

gering the rendering of municipal services or requiring the levying of excessive taxes. If the funding of the unfunded debt has not been approved by a vote of the electors, the order of the court upon cause shown may fix the portion thereof, if any, which shall not be charged against the nonelectoral debt limitations of the local government unit under sections 202 and 505 of this act, during the time such funding debt is outstanding. **[The percentages fixed by section 202 of this act shall be deemed increased to the extent required for such funding debt.]**

(b) The bonds or notes representing funding debt so authorized by the court shall be issued and sold by the governing body as provided by other provisions of this act in respect of general obligation bonds except as such provisions are modified by this section or by orders of the court issued under this section, and the proceedings filed by the local government unit in respect of such funding bonds under section 801 shall include certified copies of the petition and of the order of the court.

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

Section 602. Limitations on Stated Maturity Dates.—* * *

(b) Bonds or notes may be serial bonds or notes, or term bonds or notes *or* any combination thereof that may be selected by the governing body of the issuing local government unit. If term bonds or notes are issued, such bonds or notes must be subject to mandatory redemption, and, if serial or installment bonds or notes, the amounts of the stated maturities or installments shall be fixed, (1) so as to amortize the issue on at least an approximately level annual debt service plan during the period specified for the payment of principal in subsection (c) of this section 602; or (2) so that the debt service on outstanding debt of the same classification (and for this purpose lease rental debt shall be considered as the same classification as general obligation debt) will be brought more nearly into an over-all level annual debt service plan.

(c) Except as provided by subsection (e), stated installments or maturities of principal of any series of bonds or notes or the mandatory redemption of such principal may not be deferred beyond the later of:

- (1) two years from date of issue, or
- (2) one year after estimated completion of construction[:].

In the case of revenue or guaranteed revenue bonds this provision will be satisfied by a covenant for the mandatory application to term bonds **[or]** *of* such revenues as may remain after payment of interest and operating expenses up to such fixed amount conforming to subsection (b) above as shall be specified in the ordinance pursuant to which the bonds or notes are issued.

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Section 606. Pledge of Revenues.—The governing body of any local government unit which has determined to issue any revenue bonds or notes, or any guaranteed revenue bonds or notes, may provide, by ordinance, for such pledges of or priorities in such rentals, revenues, receipts,

rates and charges to be received from projects of the issuing local government unit as may be desirable. Such pledge or priority shall be perfected as a security interest against all creditors of the local government unit and all third parties, in accordance with the terms of such ordinance, from and after the filing of a financing statement or statements in accordance with the Uniform Commercial Code. For the purpose of such filing the sinking fund depositary may act as representative *of the* bond or note holders and, in such capacity, execute and file the financing statement and any continuation or termination statements as secured party.

Section 701. Manner of Sale of Bonds or Notes.—(a) Except as otherwise specifically provided in this act and subject to the following subsection, bonds or notes may be sold at public sale or private sale by negotiation or upon invitation and at such price all as the governing body of the issuing local government unit shall determine. *Before making any private sale by negotiation of bonds or notes, the governing body shall adopt a resolution finding that a private sale by negotiation is in the best financial interest of the local government unit.* Bonds or notes may be conditionally sold before the final details of the series are fixed.

(b) Bonds or notes, if sold at public sale, shall be sold to the highest responsible bidder or bidders after one public notice by advertisement of either the official notice of sale, or of the availability of the official notice of sale, in at least one and not more than two newspapers of general circulation in the county in which the local government unit is located. The advertisement may also be published in a financial journal circulating among the underwriters of securities. Advertisements shall be published not less than ten nor more than thirty days prior to the date fixed for opening proposals, and need not appear on the same date nor successively in each newspaper *or* journal.

Section 706. Required Bid Security.—**[Bid]** *In the case of public sale, bid* security shall be given by each bidder, shall be in cash or by certified or official bank check payable to the local government unit, and shall be not less than two per cent of the principal amount of the bonds or notes to be purchased. The bid security of the unsuccessful bidder or bidders shall be returned to each unsuccessful bidder, without interest in accordance with written instructions of the bidder conforming to the official notice of sale, promptly upon an award of the bonds or notes or upon the rejection of all bids. The bid security of the successful bidder shall be retained by the treasurer of the local government unit and (with or without allowance for interest as the official notice of sale may specify) shall be applied on the purchase price when the bonds or notes are actually delivered and paid for, retained as liquidated damages if the bidder defaults, or returned to the bidder with interest at the judgment rate if, after an acceptance of the proposal, the bonds or notes are not issued for any reason not constituting a default by the bidder. Unless required by the local governing body, no bid security shall be required in the case of tax anticipation notes, bond anticipation notes or notes to be issued under section 409.

Section 804. Examination of Bond or Note Transcript and Other Filings by Department; Certificate of Approval.—The department shall, upon receipt of any bond or note transcripts, or other filings, carefully examine the same to determine whether the debt outstanding and to be outstanding is within the applicable limitations imposed by this act, and whether the proceedings for incurring the debt, for issuing and selling the bonds or notes and for excluding self-liquidating and subsidized debt have been taken in conformity with the Constitution and **[all then applicable laws] this act**. If, upon completion of its examination, a transcript or other filing is found by the department to be in conformity with the Constitution and **[existing laws] this act**, the department shall certify its approval, if required under other provisions of this act, to the local government unit.

Section 807. Records of Department.—* * *

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

- (1) The name of the local government unit;
- (2) The purpose of each series issued or lease executed;
- (3) Whether such series represents nonelectoral, lease rental or electoral debt, and the extent to which such debt is subsidized or self-liquidating, and if subsidized or self-liquidating in part the principal amount thereby eliminated from nonelectoral debt;
- (4) The schedule of stated maturity dates, interest rates and mandatory sinking fund payments for each outstanding issue of bonds or notes or the schedule of lease rentals;
- (5) The dates and designations of each issue of bonds or notes, lease or other document to be executed with the approval number assigned to each such issue, lease or other document approved;
- (6) The local government unit's most recently certified borrowing base and regular debt limits computed therefrom;
- (7) The date and manner of authorization of any use of any additional debt limit.

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Section 809. Finality of Proceedings; Validity of Bonds, Notes, Tax Anticipation Notes, Leases, Guaranties, Subsidy Contracts or Other Agreements.—(a) Where a certificate of approval has been issued by the department or has been deemed issued under section 806, or, in the case of tax anticipation notes where the filing with the department required by section 508 has occurred, and no petition for a declaratory order *or complaint* has been filed within the applicable time limits specified in section 901, or when after a petition for a declaratory order *or complaint* has been filed, the proceedings have been approved finally by **[the court,] the department, and no appeal to court has been taken, or an appeal to court has been taken, and the proceedings have been approved finally by the court or the appeal has been dismissed**, the validity of the proceedings, the right of the local government unit lawfully to issue its bonds or notes or to enter into a lease, guaranty, subsidy contract or

other agreement evidencing lease rental debt pursuant to such proceedings, and the validity and due enforceability of the bonds, notes or other instruments in accordance with their terms shall not thereafter be inquired into judicially, in equity, at law, or by civil or criminal proceedings, or otherwise, either directly or collaterally. The effect of the approval by the department, or by the court on appeal, or, in the case of tax anticipation notes, the effect of filing in compliance with section 508, shall be to ratify, validate and confirm such proceedings absolutely, including the lawful nature of the project and, in the case of tax anticipation notes, the accuracy of the estimates contained in the certificate as to taxes and revenues to be collected, notwithstanding any defect or error in such proceedings, except as specifically provided hereinafter in this section, and any debt limit imposed by this act shall be deemed increased to the extent necessary to validate such debt or obligation. Nothing herein contained shall, however, free an initial purchaser of bonds or notes from liability to a local government unit for the payment of the consideration agreed in the contract of sale, or make all such bonds or notes valid and enforceable in the hands of an initial purchaser unless the issuer shall have received a substantial consideration for the series as a whole.

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Section 901. Petitions for Declaratory Orders and Complaints to the Department; Exclusive Jurisdiction of Department.—(a) Where proceedings for the incurring of debt represented by bonds or notes or by a lease, guaranty, subsidy contract or other agreement evidencing the acquisition of a capital asset, for the issuance of tax anticipation notes, or for the exclusion of debt as self-liquidating or subsidized, have been taken by a local government unit, such local government unit, or any taxpayer of the local government unit, or other interested party may file with the department a petition for a declaratory order asserting the validity or a complaint asserting the invalidity of such proceedings, or any part thereof. Any such complaint asserting the invalidity of such proceedings or part thereof taken under section 409 may be filed at any time not later than one year after final adoption of the resolution authorizing the debt. Any such complaint asserting the invalidity of such proceedings or part thereof excluding debt as self-liquidating under section 205 or authorizing tax anticipation notes under Article V may be filed at any time not later than fifteen days after the filing with the department of the documents required by section 205 or of the proceedings pursuant to section 506, as the case may be. Any such complaint asserting the invalidity of any such proceedings or part thereof in cases in which, under this act, the approval or deemed approval of the department is required, may be filed with the department at any time not later than *the later of (i) fifteen days after the date of the submission of the proceedings by the local government unit to the department for approval even though such proceeding may be subject to correction as provided in section 805 or otherwise or (ii) five days after the date of the last submission of any such corrected document or certification to the department.*

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

(b) Exclusive jurisdiction is hereby conferred on the department to hear and determine all procedural and substantive matters arising from the proceedings of a local government unit taken pursuant to this act, including without limitation, the regularity of the proceedings, the validity of the bonds, notes, tax anticipation notes or other obligations of the local government unit, and the legality of the purpose for which such obligations are to be issued. If a local government unit shall file a petition for a declaratory order with the department, relating to such proceedings, the department may require such service by publication on taxpayers as the circumstances warrant. In all other respects the proceedings before the department shall be governed by regulations of the department. The department shall have the power, after appropriate proceedings in accordance with such regulations, to approve or disapprove the proceedings of the local government unit or to direct correction as provided in section 805. A determination by the department under this act shall, except as provided in **[section 902]** *this subsection*, be conclusive and binding as to all procedural and substantive matters which were or could have been presented to the department hereunder. **[A determination in favor of the local government unit under this section shall have the effect provided in section 809.] All determinations by the department under this act are reviewable as provided in 2 Pa.C.S. Ch. 7 (relating to judicial review).**

ARTICLE X

Sinking and Assessment Funds[:]; Reserves and Pledged Revenues

Section 1006. Inspection of Sinking Funds; Orders to Comply. —
* * *

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

Section 1102. Treatment of Costs Upon a Refunding.—In any refunding, a principal amount of refunding bonds or notes or obligations evidencing lease rental debt equal to the sum of the following:

* * *

(4) The costs of issue and sale of the refunding bonds, notes or obligations; may be considered as interest on the refunding bonds, notes or obligations, may be separately stated in all reporting of debt, and in all

computation of debt limits and if so considered and reported by the local government unit shall not be considered as electoral, nonelectoral or lease rental debt. In subsequent debt statements, any such separately stated principal amount of bonds, notes or obligations shall be reported as being amortized in the same proportion as the series of which they are a part.

* * *

Section 1201. Failure to Budget Debt Service.—If a local government unit having outstanding any general obligation bonds or notes or guaranteed revenue bonds or notes, lease rental debt or guaranty of authority obligations fails or refuses to make adequate provision in its budget for any fiscal year for the sums payable in respect of such bonds or notes, lease rental or guaranty in such year or shall fail to appropriate or pay the moneys necessary in such year for the payment of the amount of the lease rental or guaranty, [or] as the case may be, of the maturing principal of and the interest on such bonds or notes or any of them, or any tax anticipation notes, or any sinking fund obligation for such bonds or notes or tax anticipation notes, or guaranty or the lease rental payment coming due in the fiscal year of such budget or for which such appropriations or payments should have been made, then at the suit of the holder of any bond, note, or tax anticipation note, or coupon or guaranty, or the holder of any authority obligation secured by a lease evidencing the acquisition of a capital asset or of any taxpayer of the local government unit, the court of common pleas, shall, after a hearing held upon such notice to the local government unit as the court may direct, and upon a finding of such failure or neglect, by writ of mandamus, require the treasurer of the local government unit, and it shall be the duty of such treasurer, to pay into the sinking fund for each series of bonds or notes then outstanding, or for each guaranty or lease rental payment, the first tax moneys or other available revenues or moneys thereafter received in such fiscal year by such treasurer, equally and ratably for each series for which provision has not been made in proportion to debt service for such year on each such series then outstanding, or the amounts due upon guaranties or as payments with respect to lease rental debt, as the case may be, (except that any priority on incoming tax moneys accorded to a separate sinking fund for tax anticipation notes under the authority of section 505, shall not be affected by this provision), until the sum on deposit in each sinking fund shall equal the moneys that should have been budgeted or appropriated for each such series.

Section 1203. Trustee for Bondholders.—* * *

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

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

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

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

(4) In the case of general obligation bonds or notes, petition the court to levy, and the court is hereby empowered to levy, after a hearing upon such notice to the owners of assessable real estate, as the court may prescribe, the amount due before or after the exercise of any right of acceleration on the bonds or notes plus estimated costs of collection as an assessment upon the properties benefited by the improvement pursuant to the front foot rule if the project is an assessable improvement, otherwise upon all taxable real estate and other property subject to ad valorem taxation in the local government unit, in proportion to the value thereof as assessed for tax purposes, and the trustee may collect or cause the local government unit to collect, such assessments as by foreclosure of a mortgage or security interest on the realty or other property if not paid on demand;

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

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

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

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

(c) The court of common pleas in cases of extreme hardship may provide for the payment of sums levied in five or less annual installments with interest at a rate sufficient to cover the interest accruing on the bonds or notes.

* * *

Section 1204. Receiver for Revenue Projects.—A trustee for the holders of defaulted bonds or notes, whether or not the series of bonds **[presented] represented** by the trustee has been declared to be and has become forthwith due and payable, shall be entitled as of right to the appointment, by the court of common pleas **[of the county in which such local government unit is located, or, if located in two counties, then of either county,]** of a receiver of all or any part or parts of a project or the projects, the rents, rates, revenues, tolls and charges of which are pledged for the security of the bonds or notes of such series. Except as otherwise provided in **[the] this** section, such receiver shall have no power to sell, assign, mortgage, or otherwise dispose of, but may enter and take possession of the project or projects or part or parts thereof, and, subject to the equal or prior rights of the holders of any other series of bonds or notes, shall take possession of all moneys and other property derived from or applicable to the construction, operation, maintenance, repair and reconstruction of such project or projects or parts thereof. The receiver may thereafter proceed with any construction or other work thereon which the local government unit is under obligation to do. The receiver may operate, maintain, repair, and reconstruct such project or projects, or parts thereof and collect and receive all rents, rates, receipts, tolls, other charges and revenues arising therefrom, subject to the equal or prior rights of the holders of any other series of bonds or notes therein. As part of his power to operate and maintain a project, the receiver may sell or otherwise dispose of equipment which is no longer used or usable by the project. The receiver shall perform the public duties and carry out the lawful agreements and obligations of the local government unit with respect to the project or projects or parts thereof, all under the direction of the court but shall not perform any essential governmental functions.

Section 1301. False Statement in Documents **[Constitute] Constitutes** Perjury; Fines and Penalties Therefor.—Whoever wilfully and corruptly makes under oath false oral or written statements or any false

statement in any document required to be filed in the department, **[in the office of the recorder of deeds]** or in the office of the prothonotary of the appropriate county, is guilty of perjury, or false swearing, as the case may be, and whoever wilfully and corruptly procures or suborns any other person to make any such false statement, is guilty of a crime, and on conviction of either offense, shall be sentenced to pay a fine or undergo imprisonment, or both within the limits prescribed by Title 18 Pa.C.S. (relating to crimes and offenses).

Section 2. This act shall take effect in 60 days.

APPROVED—The 22nd day of May, A. D. 1981.

DICK THORNBURGH