

Regular Session, 2012

SENATE BILL NO. 499

BY SENATOR RISER

BONDS. Prohibits the State Bond Commission from approving bonds, notes, or other indebtedness of certain political subdivisions against whom there is an unpaid final, nonappealable judgment issued by a court of competent jurisdiction for amounts owed for services performed under contract. (8/1/12)

1 AN ACT

2 To enact R.S. 39:1405.5, relative to the issuance of debt by political subdivisions; to prohibit
3 the State Bond Commission from approving the issuance of bonds, notes, or other
4 evidences of indebtedness related to certain political subdivisions against whom
5 there are filed certain unpaid judgments; to provide for the filing of notices of certain
6 unpaid eligible judgments with the State Bond Commission; to provide that eligible
7 judgments shall include judgments owed for goods, services, or work performed
8 under a contractual obligation; to provide for exemptions for certain political
9 subdivisions; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 39:1405.5 is hereby enacted to read as follows:

12 **§1405.5. Other outstanding indebtedness**

13 **A. Except as provided in Subsections F, G, and H of this Section, bonds,**
14 **notes, or other evidences of indebtedness of any political subdivision required**
15 **by the constitution or laws of Louisiana to be sold or approved by the State**
16 **Bond Commission, shall not be sold or approved by the State Bond Commission**
17 **if the political subdivision has a notice of eligible judgment on file with the State**

1 Bond Commission, unless the political subdivision has obtained prior written
2 approval from the judgment creditor described in the notice or the notice is
3 withdrawn as provided in Subsection C of this Section.

4 B. As used in this Section, the following words shall have the meanings
5 provided in this Subsection, unless the context clearly requires otherwise:

6 (1) "Judgment creditor" means any person or entity who has obtained
7 an eligible judgment against a political subdivision, or the judgment creditor's
8 heirs, successors, or assignees.

9 (2) "Eligible judgment" means a judgment which has become final and
10 nonappealable issued by a court of competent jurisdiction after the effective
11 date of this statute, against a political subdivision for amounts owed for goods,
12 services, or work performed under a contractual obligation and which
13 judgment is recorded in the mortgage records in the parish where the political
14 subdivision is located.

15 (3) "Contractual obligation" means a voluntary written agreement
16 between a political subdivision and any person or entity who contracts to
17 provide goods, services, or work for, or on the behalf of, the political subdivision
18 as an independent contractor, including but not limited to any professional
19 service contract, consulting agreement, or procurement contract.

20 C. The notice of eligible judgment filed with the State Bond Commission
21 shall state the amount of the judgment indebtedness and shall include a copy of
22 the recorded eligible judgment. The notice shall remain on file with the State
23 Bond Commission until withdrawn. The notice shall be withdrawn by the
24 judgment creditor promptly upon satisfaction of the judgment or by the State
25 Bond Commission upon the petition of a political subdivision after a showing
26 that the eligible judgment has been canceled by the recorder of mortgages in all
27 applicable parishes or that the notice of judgment was improperly filed on a
28 noneligible judgment.

29 D. The State Bond Commission shall not approve any bonds, notes, or

1 other evidences of indebtedness by any political subdivision, special district,
2 public trust, or other entity seeking to issue them on behalf of a political
3 subdivision which has a notice of eligible judgment on file with the State Bond
4 Commission, unless the political subdivision has obtained prior written
5 approval from the judgment creditor described in the notice or the judgment
6 is withdrawn as provided in Subsection C of this Section.

7 E. Bonds, notes or certificates of indebtedness shall not be invalid
8 because of any noncompliance with this Section and shall be incontestable in the
9 hands of bona fide purchasers or holders for value.

10 F. The provisions of this Section shall not apply to bonds, notes, or other
11 evidence of indebtedness of the political subdivisions within the following
12 parishes or municipalities, or bonds, notes, or other evidences of indebtedness
13 by any political subdivision, special district, public trust, or other entity seeking
14 to issue them on behalf of the political subdivisions within the following parishes
15 or municipalities, if the parishes or municipalities are listed, or have the
16 following populations according to the most recent federal decennial census:

17 (1) Any parish with a population between fifty thousand and fifty-two
18 thousand two hundred fifty.

19 (2) Any parish with a population between seventy thousand and eighty
20 thousand.

21 (3) Any parish with a population between fifty-three thousand two
22 hundred fifty and fifty-four thousand seven hundred.

23 (4) Any parish with a population between sixty thousand five hundred
24 and sixty-one thousand eight hundred.

25 (5) Any parish with a population between eighty-two thousand five
26 hundred and eighty-three thousand five hundred.

27 (6) Any parish with a population between fifty-seven thousand and fifty-
28 eight thousand.

29 (7) Any parish with a population between fifty-two thousand two

1 hundred and fifty-two thousand five hundred.

2 (8) Any parish with a population between thirty-five thousand five
3 hundred and thirty-five thousand eight hundred.

4 (9) Any parish with a population between one hundred ninety thousand
5 and two hundred thousand.

6 (10) Any parish with a population between six thousand and seven
7 thousand.

8 (11) Any parish with a population between forty-seven thousand and
9 forty-eight thousand.

10 (12) Any parish with a population between one hundred seventeen
11 thousand and one hundred twenty-five thousand.

12 (13) Any parish with a population between two hundred thirty thousand
13 and two hundred forty thousand.

14 (14) Any parish with a population between two hundred twenty thousand
15 and two hundred twenty-five thousand eighteen.

16 (15) Any parish with a population between one hundred twenty-eight
17 thousand and one hundred twenty-nine thousand.

18 (16) Any parish with a population between ten thousand six hundred and
19 eleven thousand four hundred.

20 (17) Any parish with a population between four hundred thirty thousand
21 and four hundred forty thousand.

22 (18) Any municipality with a population between seventeen thousand and
23 eighteen thousand.

24 (19) Any municipality with a population between twenty-two thousand
25 and twenty-seven thousand.

26 (20) Any parish with a population between forty-one thousand five
27 hundred and forty-three thousand.

28 (21) Any parish with a population between twenty-five thousand and
29 twenty-six thousand.

1 (22) Any parish with a population between thirty-three thousand five
2 hundred and thirty-four thousand.

3 (23) Any parish with a population between twenty thousand seven
4 hundred and twenty thousand seven hundred fifty.

5 (24) Any parish with a population between eleven thousand seven
6 hundred and twelve thousand one hundred.

7 (25) Any parish with a population between twenty-seven thousand and
8 twenty-eight thousand.

9 (26) Any parish with a population between seven thousand five hundred
10 and eight thousand.

11 (27) Any parish with a population between five thousand and five
12 thousand five hundred.

13 (28) Any parish with a population between two hundred forty thousand
14 and three hundred thousand.

15 (29) Any parish with a population between one hundred twelve thousand
16 and one hundred twenty thousand.

17 (30) Any parish with a population between twenty-six thousand and
18 twenty-seven thousand.

19 (31) Any parish with a population greater than four hundred forty
20 thousand.

21 (32) Any parish with a population between three hundred forty
22 thousand and three hundred fifty thousand.

23 (33) Any municipality with a population between three thousand two
24 hundred twenty-one and three thousand two hundred thirty.

25 (34) Assumption, Ascension, St. James, St. John the Baptist, St. Charles,
26 Lafourche, Iberville, West Baton Rouge, and Terrebonne.

27 G. The provisions of this Section shall not apply to the parishes of
28 Lincoln, Grant, Bienville, Jackson, Natchitoches, Rapides, Red River, Sabine
29 and Winn or to any municipalities contained in any of these parishes.

1 **H. The provisions of this Section shall not apply to the parishes of**
 2 **Webster and Claiborne.**

3 **I. Any parish with a population between ten thousand and ten thousand**
 4 **three hundred according to the most recent federal decennial census is not**
 5 **exempt from the provisions of this Section.**

The original instrument was prepared by Martha Hess. The following digest, which does not constitute a part of the legislative instrument, was prepared by Jeanne Johnston.

DIGEST

Riser (SB 499)

Proposed law prohibits the State Bond Commission from selling or approving bonds, notes, or other evidences of indebtedness of any political subdivision required by the Constitution or laws to be sold or approved by the State Bond Commission, if the political subdivision has a notice of eligible judgment on file with the State Bond Commission, unless the political subdivision has obtained prior written approval from the judgment creditor or the notice is withdrawn as provided in proposed law.

Proposed law defines "eligible judgment" as a judgment which has become final and nonappealable issued by a court of competent jurisdiction after the effective date of proposed law, against a political subdivision for amounts owed for work or services performed under a contractual obligation, which judgment is recorded in the mortgage records in the parish where the political subdivision is located.

Proposed law defines "contractual obligation" as a voluntary written agreement between a political subdivision and any person or entity who contracts to provide goods, services, expertise, or work for, or on the behalf of, the political subdivision as an independent contractor, including but not limited to any professional service contract, consulting agreement, or procurement contract.

Proposed law provides that the notice of eligible judgment filed with the State Bond Commission shall state the amount of the judgment indebtedness and shall include a copy of the recorded eligible judgment. The notice shall remain on file with the State Bond Commission until withdrawn. The notice shall be withdrawn by the judgment creditor promptly upon satisfaction of the judgment or by the State Bond Commission upon the petition of a political subdivision after a showing that the eligible judgment has been canceled by the recorder of mortgages in all applicable parishes or that the notice of judgment was improperly filed on a noneligible judgment.

Proposed law prohibits the State Bond Commission from approving any bonds, notes, or other evidences of indebtedness by any political subdivision, special district, public trust, or other entity seeking to issue on behalf of a political subdivision which has a notice of eligible judgment on file with the State Bond Commission, unless the proposed issuer has obtained prior written approval from the judgment creditor described in the notice or the judgment is withdrawn as provided in proposed law.

Proposed law provides that bonds, notes or certificates of indebtedness shall not be invalid because of any noncompliance with proposed law and shall be incontestable in the hands of bona fide purchasers or holders for value.

The following parishes are exempted from the provisions of proposed law either specifically

by place name or through use of U.S. Census data population parameters:

Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, Claiborne, DeSoto, East Baton Rouge, East Carroll, Evangeline, Grant, Iberia, Iberville, Jackson, Jefferson, Lafayette, Lafourche, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Rapides, Red River, Richland, Sabine, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, and Winn.

The following municipalities are exempted from the provisions of proposed law through use of U.S. Census data population parameters:

Central, La. - East Baton Rouge Parish
Gretna, La. - Jefferson Parish
Welsh, La. - Jefferson Davis Parish

Caldwell Parish is specifically included in the provisions of proposed law through use of U.S. Census data population parameters.

Effective August 1, 2012.

(Adds R.S. 39:1405.5)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Changes definition of "eligible judgment" to mean a judgment which has become final and nonappealable and removes reference to appeal bond.
2. Technical amendment.

Senate Floor Amendments to engrossed bill

1. Makes technical corrections.
2. Specifically includes or excludes certain parishes and municipalities either specifically by place name or through use of U.S. Census data population parameters.