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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 343 Session of  
2015

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INTRODUCED BY TEPLITZ, FOLMER, BLAKE, EICHELBERGER, FARNESE,  
VULAKOVICH, VANCE, YUDICHAK, COSTA, BOSCOLA, BROWNE AND  
WILLIAMS, FEBRUARY 20, 2015

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REFERRED TO LOCAL GOVERNMENT, FEBRUARY 20, 2015

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AN ACT

1 Providing for requirements for interest rate management  
2 agreements entered into by a city or county of the first  
3 class.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the First Class  
8 City and County Interest Rate Management Agreement Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall  
11 have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Contracting authority." Any of the following that enter  
14 into an interest rate management agreement under this act:

15 (1) A city of the first class.

16 (2) A county of the first class.

17 (3) A municipal authority created under 53 Pa.C.S. Ch.

18 56 (relating to municipal authorities) by an entity listed

1 under paragraph (1) or (2).

2 "Department." The Department of Community and Economic  
3 Development of the Commonwealth.

4 "Interest rate management agreement." An agreement,  
5 including a confirmation evidencing a transaction effected under  
6 a master agreement, entered into by a contracting authority in  
7 accordance with and fulfilling the requirements of section 2,  
8 which agreement in the judgment of the contracting authority is  
9 designed to manage interest rate risk or interest cost of the  
10 contracting authority on any debt or other debt-related  
11 obligations a contracting authority is authorized to incur,  
12 including, but not limited to, swaps, interest rate caps,  
13 collars, corridors, ceiling and floor agreements, forward  
14 agreements, float agreements and other similar arrangements  
15 which in the judgment of the contracting authority will assist  
16 the contracting authority in managing the interest rate risk or  
17 interest cost of the contracting authority.

18 Section 3. Interest rate management agreement requirements.

19 (a) General rule.--Notwithstanding any other law to the  
20 contrary, any 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 any  
26 confirmation of a transaction.

27 (2) No payments shall 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 thereof, without  
15 duplication for the notional amount of any offsetting  
16 transactions, and all other interest rate management  
17 agreements entered into or guaranteed, and then in effect of  
18 a contracting authority, shall not exceed 30% of the total  
19 principal amount of the aggregate general obligation debt and  
20 other debt-related obligations payable from or supported by  
21 its general fund then outstanding. If an interest rate  
22 management agreement is payable from or supported by another  
23 specified fund or revenues, the limitation shall apply based  
24 solely on interest rate management agreements and debt and  
25 other debt-related obligations payable from or supported by  
26 the specified fund or revenues.

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

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

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

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

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

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

28           (i) Acknowledges that the contracting authority  
29 which is entering into the interest rate management  
30 agreement under this subpart is a political subdivision

1 of this Commonwealth or a municipal authority created  
2 under 53 Pa.C.S. Ch. 56 (relating to municipal  
3 authorities) by a city of the first class or a county of  
4 the first class.

5 (ii) Acknowledges that it has read this act.

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

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

17 Section 4. Notice and retention of records.

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

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

29 Section 5. Financial reporting.

30 A contracting authority which has entered into an interest

1 rate management agreement shall include in its annual financial  
2 statements information with respect to each interest rate  
3 management agreement it has authorized or entered into,  
4 including any information required pursuant to any statement  
5 issued by the Governmental Accounting Standards Board.

6 Section 6. Applicability.

7 The following shall apply:

8 (1) This act shall apply to all interest rate management  
9 agreements entered into by a contracting authority on or  
10 after the effective date of this section.

11 (2) This act shall not apply to any amendment,  
12 termination or novation of an interest rate management  
13 agreement if the interest rate management agreement was  
14 entered into prior to the effective date of this section if  
15 the term of the interest rate management agreement is not  
16 extended.

17 (3) Notwithstanding any other provision of law, this act  
18 shall apply to an interest rate management agreement entered  
19 into by any of the following:

20 (i) A city of the first class.

21 (ii) A county of the first class.

22 (iii) A municipal authority created under 53 Pa.C.S.  
23 Ch. 56 (relating to municipal authorities) by an entity  
24 listed under subparagraph (i) or (ii).

25 Section 7. Effective date.

26 This act shall take effect in 60 days.