
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 492 Session of
2017

INTRODUCED BY FOLMER, BLAKE, EICHELBERGER, BOSCOLA, COSTA,
BROWNE, SCHWANK, VULAKOVICH AND SCAVELLO, MARCH 10, 2017

REFERRED TO LOCAL GOVERNMENT, MARCH 10, 2017

AN ACT

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

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

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

19 § 8002. Definitions.

20 * * *

21 (c) Other definitions.--Subject to additional definitions
22 contained in subsequent provisions of this subpart which are

1 applicable to specific provisions of this subpart, the following
2 words and phrases when used in this subpart shall have the
3 meanings given to them in this section unless the context
4 clearly indicates otherwise:

5 * * *

6 "Independent financial advisor." A person or entity
7 experienced in the financial aspects and risks of interest rate
8 management agreements who is retained by a local government unit
9 to advise the local government unit with respect to a qualified
10 interest rate management agreement. The independent financial
11 advisor may not be the other party or an affiliate or agent of
12 the other party on a qualified interest rate management
13 agreement with respect to which the independent financial
14 advisor is advising a local government unit. For purposes of
15 [sections 8281(b)(2)] section 8281.3(b)(2) and (e)(5) (relating
16 to qualified interest rate management agreements), the
17 independent financial advisor may be retained by a public
18 authority.

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

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

29 (2) A schedule listing the notional amounts outstanding
30 of each previously executed qualified interest rate

1 management agreement which is then in effect.

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

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

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

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

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

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

1 payments of total debt service and scheduled, periodic, net
2 payments, which would be due under all of the qualified
3 interest rate management agreements.

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

9 * * *

10 "Qualified interest rate management agreement." An
11 agreement, including a confirmation evidencing a transaction
12 effected under a master agreement, entered into by a local
13 government unit in accordance with and fulfilling the
14 requirements of section [8281] 8281.3 (relating to qualified
15 interest rate management agreements), which agreement in the
16 judgment of the local government unit is designed to manage
17 interest rate risk or interest cost of the local government unit
18 on any debt a local government unit is authorized to incur under
19 this subpart, including, but not limited to, swaps, interest
20 rate caps, collars, corridors, ceiling and floor agreements,
21 forward agreements, float agreements and other similar
22 arrangements which in the judgment of the local government unit
23 will assist the local government unit in managing the interest
24 rate risk or interest cost of the local government unit.

25 * * *

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

27 [§ 8281. Qualified interest rate management agreements.

28 (a) General rule.--

29 (1) Except as set forth in paragraph (4),
30 notwithstanding any other law to the contrary, a local

1 government unit may negotiate and enter into qualified
2 interest rate management agreements consistent with the
3 provisions of this subchapter.

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

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

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

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

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

27 (2) The interest rate management plan meeting the
28 requirements under this subpart:

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

30 (ii) if the local government unit is incurring

1 indebtedness under this chapter which has or will be
2 issued to a public authority that has entered into or
3 will enter into an interest rate management agreement
4 meeting the requirements of a qualified interest rate
5 management agreement under this subpart, adopted by that
6 public authority.

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

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

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

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

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

30 (4) A provision requiring the termination of the

1 agreement if all debt to which the qualified interest rate
2 management agreement relates is no longer outstanding.

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

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

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

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

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

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

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

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

30 (1) A covenant to include any termination payment or

1 similar payment for a qualified interest rate management
2 agreement in its current budget at any time during a fiscal
3 year or in a budget adopted in a future fiscal year.

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

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

9 (ii) Any of the following to which the agreement
10 relates:

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

12 (B) payment under an instrument evidencing lease
13 rental debt; or

14 (C) payment under a guaranty of the local
15 government unit.

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

22 (e) Award of qualified interest rate management
23 agreements.--

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

27 (2) The local government unit shall establish
28 qualifications for other parties before entering into a
29 qualified interest rate management agreement. The
30 qualifications shall include a rating for the other party of

1 at least the third highest rating category from a nationally
2 recognized rating agency.

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

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

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

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

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

27 Section 3. Title 53 is amended by adding sections to read:

28 § 8281.1. (Reserved).

29 § 8281.2. Application of subchapter.

30 Only a local government unit may enter into an interest rate

1 management agreement, unless otherwise authorized to do so in
2 Subchapter G (relating to interest rate risk and interest cost
3 management in first class cities and counties).

4 § 8281.3. Qualified interest rate management agreements.

5 (a) General rule.--

6 (1) Except as set forth in paragraph (4),
7 notwithstanding any other law to the contrary, a local
8 government unit may negotiate and enter into qualified
9 interest rate management agreements consistent with the
10 provisions of this subchapter. A local government unit may
11 only authorize a qualified interest rate management agreement
12 under this subchapter.

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

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

23 (4) The authority granted in this subchapter shall not
24 apply to any local government unit which has been declared
25 distressed by the department.

26 (5) No payments for consulting, advisory, brokerage or
27 similar fees incurred to enter into the interest rate
28 management agreement may be made to or on behalf of a local
29 government unit by the other party to a qualified interest
30 rate management agreement and termination payments, unless

1 such payments are disclosed in conformity with this chapter
2 and are acknowledged by the local government unit.

3 (6) Periodic scheduled payments on a qualified interest
4 rate management agreement must commence not later than one
5 year after the date of execution of any confirmation
6 associated with the qualified interest rate management
7 agreement.

8 (7) At the time a qualified interest rate management
9 agreement is entered into, the sum of the notional amount and
10 all other qualified interest rate management agreements
11 entered into or guaranteed, and then in effect of a local
12 government unit, shall not exceed 50% of the total principal
13 amount of the aggregate nonelectoral debt plus lease rental
14 debt capacity of the local government unit then outstanding.

15 (8) Scheduled periodic payments and termination payments
16 received by a local government unit on a qualified interest
17 rate management agreement shall be deposited in a payment
18 account to pay periodic swap payments or to pay principal and
19 interest on the debt related to the qualified interest rate
20 management agreement.

21 (9) The scheduled expiration date of a qualified
22 interest rate management agreement shall not exceed 10 years
23 from the date of the related confirmation unless the
24 qualified interest rate management agreement contains a
25 provision allowing the local government unit to terminate the
26 agreement at any time, or at periodic intervals as shown in
27 the confirmation, after 10 years from the date of the related
28 confirmation without making a termination payment.

29 (10) No payments shall be made to or on behalf of a
30 local government unit by the other party to a qualified

1 interest rate management agreement except periodic scheduled
2 payments and termination payments.

3 (11) The index or basis used for calculating the
4 periodic scheduled payments receivable by the local
5 government unit on a qualified interest rate management
6 agreement shall be a fixed rate or variable rate of interest
7 determined using either an index published by the Securities
8 Industry and Financial Markets Association or an index that
9 references the London Interbank Offered Rate. Periodic
10 scheduled payments based upon a London InterBank Offered Rate
11 index or other index are not permitted unless the interest
12 rate on the associated debt is also based on the same index
13 or the index is based on the same type of debt as the
14 associated debt.

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

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

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

26 (i) approved by the local government unit not less
27 than 10 days prior to the date of the resolution; 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, approved by that
4 public authority not less than 10 days prior to the date
5 of the resolution.

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

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

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

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

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

29 (4) A provision requiring the termination of the
30 agreement when all debt to which the qualified interest rate

1 management agreement relates is no longer outstanding.

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

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

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

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

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

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

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

26 (10) A certification by the other party to the qualified
27 interest rate management agreement in which the other party
28 does all of the following:

29 (i) Acknowledges and agrees that the local
30 government unit which is entering into the qualified

1 interest rate management agreement under this subpart is
2 a political subdivision of the Commonwealth.

3 (ii) Acknowledges that the other party has read this
4 subpart.

5 (iii) Acknowledges and agrees that a local
6 government unit may only enter into a qualified interest
7 rate management agreement to manage interest rate risk or
8 interest cost of the local government unit on debt of the
9 local government unit.

10 (iv) Certifies that, in executing the transactions
11 under the qualified interest rate management agreement,
12 the other party has complied in all material aspects with
13 the applicable rules and regulations of the Commodity
14 Futures Trading Commission, the Securities and Exchange
15 Commission and the Municipal Securities Rulemaking Board
16 to which the other party is subject.

17 (v) Certifies that the other party acted in good
18 faith and made full and fair disclosure of all required
19 material facts and any conflicts of interest regarding
20 the qualified interest management agreement as required
21 by the Dodd-Frank Wall Street Reform and Consumer
22 Protection Act (Public Law 111-203, 12 U.S.C. § 5301 et
23 seq.).

24 (vi) Represents and warrants that the rate or rates
25 used to calculate amounts payable by the local government
26 unit pursuant to the qualified interest rate management
27 agreement are comparable to the rate or rates that the
28 other party would quote to receive from or pay to, as
29 applicable, a similarly situated counterparty to enter
30 into a reasonably comparable qualified interest rate

1 management agreement taking into full account the terms
2 and conditions of the qualified interest rate management
3 agreement.

4 (vii) Acknowledges and agrees that the other party
5 will notify the department in writing promptly upon the
6 other party's receipt of a termination payment by the
7 local government unit, including the date and amount of
8 the payment and the identity of the qualified interest
9 rate management agreement under which the payment was
10 made.

11 (d) Other provisions of the qualified interest rate
12 management agreement.--The qualified interest rate management
13 agreement may include:

14 (1) A covenant to include any termination payment or
15 similar payment for a qualified interest rate management
16 agreement in the other party's current budget at any time
17 during a fiscal year or in a budget adopted in a future
18 fiscal year.

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

22 (i) Periodic scheduled payments due under the
23 qualified interest rate management agreement.

24 (ii) Any of the following to which the agreement
25 relates:

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

27 (B) payment under an instrument evidencing lease
28 rental debt; or

29 (C) payment under a guaranty of the local
30 government unit.

1 (3) A provision that the qualified interest rate
2 management agreement may be terminated at the option of the
3 local government unit without cause but that the qualified
4 interest rate management agreement may not be terminated at
5 the option of the other party to the qualified interest rate
6 management agreement without cause.

7 (e) Award of qualified interest rate management
8 agreements.--

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

12 (2) The local government unit shall establish
13 qualifications for other parties before entering into a
14 qualified interest rate management agreement. The
15 qualifications shall include a rating for the other party of
16 at least the third highest rating category from a nationally
17 recognized rating agency.

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

21 (4) The local government unit shall select the qualified
22 interest rate management agreement which the local government
23 unit determines is in the best financial interest. The
24 qualified interest rate management agreement selected must
25 contain financial terms and conditions which, in the opinion
26 of the independent financial advisor to the local government
27 unit, are fair and reasonable to the local government unit as
28 of the date of award.

29 (5) The local government unit may satisfy the
30 requirements of paragraph (4) by obtaining a finding from an

1 independent financial advisor to the public authority that
2 the financial terms and conditions of the agreement are fair
3 and reasonable to the public authority as of the date of the
4 award if all of the following apply:

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

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

12 Section 4. Section 8285 of Title 53 is amended to read:

13 § 8285. Financial reporting.

14 (a) General rule.--A local government unit which has entered
15 into a qualified interest rate management agreement shall
16 include in its annual financial statements information with
17 respect to each qualified interest rate management agreement it
18 has authorized or entered into, including any information
19 required pursuant to any statement issued by the Governmental
20 Accounting Standards Board.

21 (b) Quarterly report.--A local government unit that
22 authorizes a qualified interest rate management agreement shall
23 report on the performance of the qualified interest rate
24 management agreement quarterly at a public meeting. At a
25 minimum, the reporting shall include a current market to market
26 valuation of the agreement.

27 Section 5. Chapter 82 of Title 53 is amended by adding a
28 subchapter to read:

29 SUBCHAPTER G

30 INTEREST RATE RISK AND INTEREST COST MANAGEMENT

1 IN FIRST CLASS CITIES AND COUNTIES

2 Sec.

3 8291. Scope of subchapter.

4 8292. Definitions.

5 8293. Interest rate management agreement requirements.

6 8294. Notice and retention of records.

7 8295. Financial reporting.

8 § 8291. Scope of subchapter.

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

13 § 8292. Definitions.

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

17 "Contracting authority." Any of the following that enter
18 into an interest rate management agreement under this
19 subchapter:

20 (1) A city of the first class.

21 (2) A county of the first class.

22 (3) A municipal authority created by a city of the first
23 class under Chapter 56 (relating to municipal authorities) by
24 an entity listed under paragraph (1) or (2).

25 "Department." The Department of Community and Economic
26 Development of the Commonwealth.

27 "Interest rate management agreement." An agreement,
28 including a confirmation evidencing a transaction effected under
29 a master agreement, entered into by a contracting authority in
30 accordance with and fulfilling the requirements of section 8293

1 (relating to interest rate management agreement requirements),
2 which agreement in the judgment of the contracting authority is
3 designed to manage interest rate risk or interest cost of the
4 contracting authority on a debt or other debt-related
5 obligations a contracting authority is authorized to incur,
6 including, but not limited to, swaps, interest rate caps,
7 collars, corridors, ceiling and floor agreements, forward
8 agreements, float agreements and other similar arrangements
9 which, in the judgment of the contracting authority will assist
10 the contracting authority in managing the interest rate risk or
11 interest cost of the contracting authority.

12 § 8293. Interest rate management agreement requirements.

13 (a) General rule.--Notwithstanding any other law to the
14 contrary, any interest rate management agreement entered into by
15 a contracting authority shall comply with the provisions of this
16 section.

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

18 (1) A contracting authority shall authorize and award by
19 resolution each interest rate management agreement or
20 confirmation of a transaction.

21 (2) No payments shall be made to or on behalf of a
22 contracting authority by the other party to an interest rate
23 management agreement except periodic scheduled payments,
24 termination payments and attorney fees and other consultant
25 fees incurred in connection with entering into an interest
26 rate management agreement.

27 (3) Periodic scheduled payments on an interest rate
28 management agreement must commence not later than three years
29 after the date of the confirmation associated with the
30 interest rate management agreement.

1 (4) The index or basis used for calculating the periodic
2 scheduled payments receivable by the contracting authority on
3 an interest rate management agreement shall be substantially
4 similar to the index or basis used for calculating the
5 interest due on the associated debt or other debt-related
6 obligations of the contracting authority.

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

22 (6) Scheduled periodic payments and termination payments
23 received by a contracting authority on an interest rate
24 management agreement shall be deposited in a payment account
25 to:

26 (i) Pay periodic swap payments or to pay principal
27 and interest on the debt or debt-related obligations
28 related to the interest rate management agreement.

29 (ii) If the interest rate management agreement
30 described under subparagraph (i) has been terminated and

1 none of the related debt or debt-related obligations are
2 outstanding, pay periodic swap payments on interest rate
3 management agreements or principal and interest on debt
4 or debt-related obligations payable from or supported by
5 the same fund or revenues as the interest rate management
6 agreement described under subparagraph (i).

7 (iii) If all of the interest rate management
8 agreements described under subparagraph (ii) have been
9 terminated and no debt or debt-related obligations
10 described under subparagraph (ii) are outstanding, pay
11 any other obligations of the contracting authority.

12 (7) The scheduled expiration date of an interest rate
13 management agreement shall not exceed 10 years from the date
14 of the related confirmation unless the interest rate
15 management agreement contains a provision allowing the
16 contracting authority to terminate the agreement at any time
17 after 10 years from the date of the related confirmation
18 without making a termination payment.

19 (8) An interest rate management agreement shall contain
20 a certification by the other party to the interest rate
21 management agreement in which the other party does all of the
22 following:

23 (i) Acknowledges that the contracting authority
24 which is entering into the interest rate management
25 agreement under this subchapter is a political
26 subdivision of this Commonwealth or a municipal authority
27 created under Chapter 56 (relating to municipal
28 authorities) by a city of the first class or a county of
29 the first class.

30 (ii) Acknowledges that the other party has read this

1 subchapter.

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

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

14 § 8294. Notice and retention of records.

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

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

26 § 8295. Financial reporting.

27 A contracting authority that has entered into an interest
28 rate management agreement shall include in the contracting
29 authority's annual financial statements information with respect
30 to each interest rate management agreement the contracting

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

4 Section 6. The following shall apply:

5 (1) The amendment or addition of 53 Pa.C.S. §§ 8002(c),
6 8281.1, 8281.2 and 8281.3:

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

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

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

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

22 (ii) Shall not apply to any amendment, termination
23 or novation of an interest rate management agreement if
24 the interest rate management agreement was entered into
25 prior to the effective date of this section if the term
26 of the interest rate management agreement is not
27 extended.

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

- 1 (A) A city of the first class.
- 2 (B) A county of the first class.
- 3 (C) A municipal authority created under 53
- 4 Pa.C.S. Ch. 56 by an entity listed under clause (A)
- 5 or (B).
- 6 Section 7. This act shall take effect in 60 days.