

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

A Bill

HOUSE BILL 1985

5 By: Representatives Hausam, Hutchinson, Files
6
7

For An Act To Be Entitled

9 AN ACT AUTHORIZING THE ISSUANCE OF SHORT-TERM
10 FINANCING OBLIGATIONS BY MUNICIPALITIES AND COUNTIES;
11 PRESCRIBING OTHER MATTERS RELATING THERETO; DECLARING
12 AN EMERGENCY; AND FOR OTHER PURPOSES.
13
14

Subtitle

16 AN ACT AUTHORIZING THE ISSUANCE OF
17 SHORT-TERM FINANCING OBLIGATIONS BY
18 MUNICIPALITIES AND COUNTIES; PRESCRIBING
19 OTHER MATTERS RELATING THERETO;
20 DECLARING AN EMERGENCY; AND FOR OTHER
21 PURPOSES.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

SECTION 1. Title.

27 This act shall be referred to and may be cited as the "Local Government
28 Short-Term Financing Obligations Act of 2001."
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SECTION 2. Definitions.

31 As used in this act unless the context otherwise requires:

32 (1) "Chief executive" means the mayor of a municipality or the county
33 judge of a county;

34 (2) "County" means any county in the State of Arkansas;

35 (3) "Issue" means, depending on the type of obligation, to issue,
36 enter into or incur;

1 (4) "Issue date" means the date on which the obligation commences to
2 bear interest;

3 (5) "Issuer" means a municipality or a county;

4 (6) "Legislative body" means the quorum court of a county or the
5 council, board of directors, board of commissioners, or similar elected
6 governing body of a municipality;

7 (7) "Mortgage lien" means a lien on or security interest in real
8 property or personal property, financed or refinanced, in whole or in part,
9 with the proceeds of obligations;

10 (8) "Obligations" means short-term financing obligations;

11 (9) "Short-term financing agreement" means any loan agreement, line of
12 credit agreement, note purchase agreement, security agreement, mortgage,
13 trust indenture or other agreement, other than the short-term financing
14 obligation itself, pursuant to which a short-term financing obligation is
15 secured, sold or otherwise provided for;

16 (10) "Short-term financing obligations" means "short-term financing
17 obligations" within the meaning of Amendment 78 to the Arkansas Constitution.

18 SECTION 3. Authorization for Issuance of Obligations.

19 (a)(1) Municipalities and counties are authorized to issue obligations
20 for the purpose of acquiring, constructing, installing, and renting real
21 property or tangible personal property having an expected useful life of more
22 than one (1) year.

23 (2) The maximum term and maximum interest rate for the
24 obligations shall be as set forth in Amendment 78 to the Arkansas
25 Constitution.

26 (3) The amount of obligations issued shall be sufficient to pay
27 all or a portion of the cost of accomplishing the specified purpose.

28 (4) Proceeds of the obligations may pay all or a portion of the
29 costs of issuing the obligations.

30 (5) The obligations shall be issued pursuant to ordinance
31 adopted by the legislative body specifying the principal amount of
32 obligations to be issued, the purpose or purposes for which the obligations
33 are to be issued, and provisions with respect to the obligations.

34 (6) A municipality shall not authorize the issuance of
35 obligations unless at the time of issuance, the aggregate principal amount of
36 short-term financing obligations, including the obligations to be issued,

1 outstanding and unpaid, will equal five percent (5%) or less of the assessed
2 value of taxable property located within the municipality as determined by
3 the last tax assessment completed prior to the issuance of the obligations to
4 be issued.

5 (7) A county shall not authorize the issuance of obligations
6 unless at the time of issuance, the aggregate principal amount of short-term
7 financing obligations, including the obligations to be issued, outstanding
8 and unpaid, will equal two and one-half percent (2 ½%) or less of the
9 assessed value of taxable property located within the county as determined by
10 the last tax assessment completed prior to the issuance of the obligations to
11 be issued.

12 (b) The obligations may:

13 (1) Be in registered or other form;

14 (2) Be in denominations exchangeable for obligations of another
15 denomination;

16 (3) Be payable in or out of the state;

17 (4) Be issued in one or more series, bearing date or dates of
18 maturity;

19 (5) Be payable in the medium of payment, subject to terms of
20 redemption;

21 (6) Contain other terms, covenants and conditions as the
22 ordinance or short-term financing agreement may provide, including, without
23 limitation:

24 (A) Terms pertaining to custody and application of
25 proceeds;

26 (B) Remedies on default;

27 (C) The rights, duties and obligations of the officers and
28 legislative body of the issuer and the trustee, if any; and

29 (D) The rights of the owners of the obligations.

30 (c) Successive obligations may be issued for the purpose of financing
31 the same property.

32 (d)(1) The total annual principal and interest payments in each fiscal
33 year on the obligations shall be charged against and paid from the general
34 revenues of the issuer for the fiscal year, including road fund revenues.

35 (2) The obligations shall not be deemed to be revenue bonds for
36 purposes of any statute, and it shall not be necessary for a public hearing

1 to be held by the legislative body or a delegate thereof on the issuance of
2 the obligations.

3 (e)(1) The ordinance authorizing the obligations may provide for
4 execution by the chief executive officer of the issuer of a short-term
5 financing agreement or agreements defining the rights of the owners of
6 obligations and in the case of a trust indenture, provide for the appointment
7 of a trustee for the owners of the obligations.

8 (2) The ordinance or short-term financing agreement may provide
9 for priority between and among successive issues and may contain any of the
10 provisions set forth in subsection (b) above and any other terms, covenants
11 and conditions that are deemed desirable.

12 (f) The obligations may be sold at public or private sale for the
13 price including, without limitation, sale at a discount, and in a manner as
14 the legislative body of the issuer may determine.

15 (g) The obligations shall be signed by the chief executive officer of
16 the issuer and shall be executed in the manner provided by the Registered
17 Public Obligations Act of Arkansas, beginning at Arkansas Code 19-9-401.

18 (h) It shall be plainly stated in the obligation, ordinance or short-
19 term financing agreement that the obligation has been issued under the
20 provisions of this act and Amendment 78 to the Arkansas Constitution.

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22 SECTION 4. Refunding Obligations.

23 (a) Obligations may be issued under this act to refund any outstanding
24 short-term financing obligations issued pursuant to Amendment 78 to the
25 Arkansas Constitution, whether or not issued under this act.

26 (b)(1) Refunding obligations may be either sold for cash or delivered
27 in exchange for the outstanding obligations being refunded.

28 (2) If sold for cash, the proceeds may be applied to the payment
29 of the obligations refunded or deposited in irrevocable trust for the
30 retirement thereof, either at maturity or on an authorized redemption date.

31 (c) Refunding obligations shall in all respects be authorized, issued
32 and secured in the manner provided in this section.

33 (d) Refunding obligations shall mature not later than five (5) years
34 beyond the issue date for the obligations being refunded.

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36 SECTION 5. Obligations may be secured by mortgage lien.

1 (a) The ordinance or short-term financing agreement may impose or
2 authorize the imposition of a forecloseable mortgage lien upon the property
3 financed or refinanced, in whole or in part, with the proceeds of obligations
4 issued under this act.

5 (b) The nature and extent of the mortgage lien may be controlled by
6 the ordinance or short-term financing agreement including provisions
7 pertaining to the release of all or part of the land, buildings, facilities
8 and equipment from the mortgage lien, the priority of the mortgage lien in
9 the event of successive issues of obligations, and authorizing any owner of
10 obligations, or a trustee on behalf of all owners, either at law or in
11 equity, to enforce the mortgage lien and, by proper suit, compel the
12 performance of the duties of the officials of the issuer set forth in this
13 act, the ordinance or short-term financing agreement authorizing the securing
14 the obligations.

15 (c) Obligations which are discharged or are secured by deposit in
16 irrevocable trust shall not be taken into account in determining the
17 aggregate principal amount outstanding for the purpose of Section 2 of
18 Amendment 78 to the Arkansas Constitution.

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20 SECTION 6. Tax Exemption.

21 Obligations issued under this act and all amounts treated as interest
22 thereon shall be exempt from all state, county, and municipal taxes.

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24 SECTION 7. Obligations are negotiable instruments.

25 Unless set forth in the ordinance, obligation or short-term financing
26 agreement, all obligations issued under the provisions of this act are
27 negotiable instruments within the meaning of the negotiable instruments law
28 of the state.

29
30 SECTION 8. Non-Liability.

31 No officer, employee, or member of the legislative body of the issuer
32 shall be personally liable for any obligations issued under the provisions of
33 this act or for any damages sustained by any person in connection with any
34 contracts entered into to carry out the purposes and intent of this act
35 unless the person acted with corrupt intent.

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SECTION 9. Supplemental nature of this act.

(a) The provisions of this act are supplemental to constitutional or statutory provisions now existing or later adopted which may provide for the financing of real or personal property.

(b) Nothing contained in this act shall be deemed to be a restriction or limitation upon alternative means of financing previously available or made available to municipalities or counties for the purposes of this act.

(c) It is hereby recognized that Amendment 78 to the Arkansas Constitution is self-executing. Nothing contained in this act shall be deemed to require a municipality or county to utilize the provisions of this act in authorizing and issuing short-term financing obligations under Amendment 78.

SECTION 10. This act shall be construed liberally to effectuate the legislative intent and the purposes of this act as complete and independent authority for the performance of every act and thing authorized and all powers granted under this act shall be broadly interpreted to effectuate the intent and purposes, and not as a limitation of powers.

SECTION 11. EMERGENCY CLAUSE. It is found and determined by the General Assembly that legislation is needed to establish a procedure pursuant to which municipalities and counties may issue and sell short-term financing obligations under Amendment 78 to the Arkansas Constitution, and that the immediate passage of this act is necessary for municipalities and counties to avail themselves of the public debt market. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.