

REVISED MUNICIPAL FINANCE ACT (EXCERPT)

Act 34 of 2001

PART VI

REFUNDING

141.2601 Issuance of refunding securities.

Sec. 601. (1) Subject to this act, a municipality may, by resolution or ordinance adopted by its governing body and without a vote of its electors, refund all or any part of its outstanding securities by issuing refunding securities as described in this part.

(2) A municipality may issue a refunding security whether the outstanding security to be refunded has or has not matured, is or is not redeemable on the date of issuance of the refunding security, exceeds the original estimated period of usefulness but not to exceed the current period of usefulness as determined by the project engineer or architect, or is or is not subject to redemption before maturity.

(3) A refunding security may be issued in a principal amount greater than the principal amount of the outstanding securities to be refunded as necessary to effect the refunding under the refunding plan.

(4) A municipality may use the proceeds of a refunding security to pay interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the outstanding security to be refunded, redemption premium, if any, and any commission, service fee, and other expense necessary to be paid in connection with the outstanding security to be refunded. A municipality may also use the proceeds of a refunding security to pay part of the cost of issuance of the refunding security, interest on the refunding security, a reserve for the payment of principal, interest, and redemption premiums on the refunding security, and other necessary incidental expenses, including, but not limited to, placement fees and fees or charges for insurance, letters of credit, lines of credit, or commitments to purchase the outstanding security to be refunded.

(5) A municipality may invest the proceeds of a refunding security as provided in section 607(2).

(6) To the extent provided by the proceedings authorizing the refunding security, principal, interest, and redemption premiums on the refunding security shall be secured by and payable from any or all of the following sources:

(a) Taxes or special assessments pledged for payment of a municipal security being refunded.

(b) The proceeds of the refunding security.

(c) The reserve, if any, established for the payment of the principal, interest, and redemption premiums on, the refunding security or the outstanding security to be refunded.

(d) The proceeds of any insurance, letter of credit, or line of credit acquired as security for the refunding security.

(e) The proceeds of any refunding securities issued to refund the refunding security.

(f) Revenues pledged for the outstanding security being refunded.

(g) Investment earnings or profits on any of the sources described in subdivisions (a) to (f).

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2603 Assumption of outstanding security by another municipality; refunding.

Sec. 603. (1) Any outstanding security of a municipality that has been assumed in part by another municipality may be refunded by the municipalities as to their respective liabilities.

(2) This act shall not be construed to prohibit a municipality from refunding any of its outstanding securities even though some other municipality may be required to contribute to the payment of those outstanding securities, and that refunding is hereby expressly authorized. Refunding authorized under this subsection does not relieve any other municipality from a pledge to make a contribution to the payment of an outstanding security.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2605 Debt as additional to statutory or charter limitation of tax rate or outstanding debt limit.

Sec. 605. The debt evidenced by a refunding security and the tax levies used to repay the refunding security shall not be deemed to be within any statutory or charter limitation of tax rate or of outstanding debt limit, but shall be deemed to be authorized in addition to any statutory or charter limitation of tax rate or outstanding debt limit.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2607 Application of refunding security proceeds and available money.

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Page 1

Michigan Compiled Laws Complete Through PA 5 of 2025

Sec. 607. (1) Money on hand applicable to the retirement of outstanding securities to be refunded, or from proceeds of revenues pledged for these purposes, or both, shall be applied as provided in the authorizing resolution.

(2) The proceeds of a refunding security and other available money may be applied to payment of the principal, interest, or redemption premiums, if any, on the refunded outstanding securities at maturity or on any prior redemption date or may be deposited in trust for use to purchase and deposit in trust direct obligations of the United States, direct noncallable and nonprepayable obligations that are unconditionally guaranteed by the United States government as to full and timely payment of principal and interest, noncallable and nonprepayable coupons from the above obligations that are stripped pursuant to United States treasury programs, and resolution funding corporation bonds and strips, the principal and interest on which when due, together with other available money, will provide funds sufficient to pay principal, interest, and redemption premiums, if any, on the refunded outstanding securities as the refunded outstanding securities become due, whether by maturity or on a prior redemption date, as provided in the authorizing resolution.

(3) The pledge and covenants of a municipality related to refunded outstanding securities for which the municipality has deposited in trust proceeds of a refunding security and other available money as described in subsection (2) is considered to have been fully and legally performed and defeased.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2609 Conditions for securing certain outstanding municipal securities.

Sec. 609. A refunding security issued to refund municipal securities issued under the terms of the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, shall be of the same character as the refunded outstanding municipal security and shall be construed to be a continuation of the refunded outstanding municipal security. A refunding security issued to refund an outstanding municipal security secured by an unlimited tax full faith and credit pledge shall be secured by an unlimited tax full faith and credit pledge. Refunding securities for outstanding securities issued under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, shall be secured by the same pledge as the outstanding securities being refunded. All other refunding securities issued under this part shall be secured by a limited tax full faith and credit pledge of the issuing municipality.

History: 2001, Act 34, Eff. Mar. 1, 2002.

141.2611 Refund of outstanding securities by issuance of refunding security; prohibition; exception; procedures; reasonable basis.

Sec. 611. (1) Except as provided in section 515 or subsection (2), a municipality shall not refund all or any part of its outstanding securities by issuing a refunding security unless the net present value of the principal and interest to be paid on the refunding security, including the cost of issuance, and taking into account an agreement entered into pursuant to section 317, is less than the net present value of the principal and interest to be paid on the outstanding security being refunded as calculated using a method approved by the department. However, when a municipality is issuing refunding securities for outstanding variable interest rate securities, as determined by the department the net present value calculation shall use the appropriate current fixed interest rate and the fixed interest rate that would have been available for the outstanding variable interest rate securities when originally issued if the outstanding variable interest rate securities had been issued as fixed interest rate securities or shall use another procedure determined by the department.

(2) A municipality may, under procedures established by the department, obtain an exception from the requirements of subsection (1) if the department determines a reasonable basis for that exception exists. As used in this subsection, reasonable basis means 1 or more of the following:

- (a) The refunding is required by a state or federal agency.
- (b) The refunding is necessary to reduce or eliminate requirements of ordinances or covenants applicable to the existing outstanding security.
- (c) The refunding is necessary to avoid a potential default on an outstanding security.
- (d) The refunding of a short-term municipal security issued under section 413.
- (e) A municipality may issue a refunding security to refund all or any part of its outstanding securities before December 31, 2012 if those securities are not secured by the unlimited full faith and credit pledge of the municipality and the refunding is approved by the department. The municipality shall hold a public hearing before submitting a request to the department pursuant to this subdivision. The municipality shall publish notice of the hearing in a newspaper of general circulation in the municipality not less than 30 days before the hearing. After the hearing, the municipality may prepare and submit to the department a request to issue a refunding security pursuant to this subdivision. The department shall not unreasonably withhold approval. The department shall have 90 days from the date it receives a completed request to issue a refunding

security pursuant to this subdivision to approve or deny the request. If the department fails to approve or deny the request within 90 days of receiving the completed request, the municipality's request is deemed approved by the department. If the department denies the request, it shall advise the municipality in writing of the reasons for the denial.

History: 2001, Act 34, Eff. Mar. 1, 2002;—Am. 2002, Act 500, Imd. Eff. July 3, 2002;—Am. 2010, Act 321, Imd. Eff. Dec. 21, 2010

141.2613 Refunding securities; effect of 141.2503.

Sec. 613. Refunding securities are not subject to section 503(1), (2), and (3).

History: 2001, Act 34, Eff. Mar. 1, 2002.