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Local Finance Notice

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Issuance of Refunding Bonds Meeting Certain Conditions without Local Finance Board Approval

This Local Finance Notice discusses the [amendment of N.J.A.C. 5:30-2.5 and the adoption of new rule N.J.A.C. 5:31-8.1](#), both of which pertain to the issuance of refunding bonds without Local Finance Board approval under certain conditions. The amendment and new rule were adopted at the Local Finance Board's April 12, 2017 meeting and effective as of May 15th.

The Local Finance Board must generally approve the issuance of refunding bonds by a municipality, county, board of education, local authority, or fire district. However, in 2012 the Board adopted [N.J.A.C. 5:30-2.5](#) which permits municipalities, counties and boards of education to issue refunding bonds on outstanding obligations without prior Board approval so long as the refunding achieves debt service savings and meets certain additional criteria. Refundings pursuant to the rule must be authorized by a resolution adopted by at least a 2/3 vote of the governing body's full membership. [N.J.S.A. 40A:5A-6](#) was amended in 2015 to authorize promulgating similar rules for authority refundings of outstanding bond debt. [N.J.A.C. 5:31-8.1](#) was adopted pursuant to this authority.

Required Conditions for Issuing Refunding Bonds without Prior Local Finance Board Approval

Under amended [N.J.A.C. 5:30-2.5](#) and newly adopted rule [N.J.A.C. 5:31-8.1](#), municipalities, counties, and boards of education, along with any entity requiring approval for financings pursuant to the Local Authorities Fiscal Control Law ([N.J.S.A. 40A:5A-1 et seq.](#)) can issue refunding bonds without prior Board approval so long as the following conditions are met:

1. The present value savings is at least 3 percent;
2. The new debt service schedule shall be structured such that no annual debt service payment is more than it was under the original debt service schedule;

3. The final maturity of the refunding bond does not extend past the budget year in which such final maturity was originally scheduled to mature;
4. The debt savings are substantially level across the life of the refunding; and
5. The resolution allowing for the refunding is adopted by at least a 2/3 vote of the full membership of the governing body.

Prior to the amendment of N.J.A.C. 5:30-2.5, section (a)3 barred the final maturity of refunding bonds issued by municipalities, counties, and boards of education from extending past the maturity date of the refunded debt. So long as the aforementioned conditions have been met, this change accommodates the issuance of refunding bonds through a pooled financing structure (i.e. a county improvement authority) without requiring prior Board approval.

The rules also provide that, within 10 days of the closing on the refunding bond sale, the local unit must file the following documents with the Local Finance Board:

- a comparison of the initial and refunding debt service schedule showing the annual present value savings;
- a summary of the refunding;
- an itemized accounting of all costs of issuance;
- a certification from the chief financial officer or equivalent that all of the conditions above have been met; and
- the resolution allowing for the refunding adopted by at least a two-thirds vote of the full membership of the governing body.

Approved: Timothy J. Cunningham, Director, Division of Local Government Services

Document	Internet Address
Notice of Adoption – Amended <u>N.J.A.C. 5:30-2.5</u> and New Rule <u>N.J.A.C. 5:31-8.1</u>	http://www.nj.gov/dca/divisions/dlgs/resources/rules_reg.html
Subchapter 2 of <u>N.J.A.C. 5:30</u>	http://www.nj.gov/dca/divisions/dlgs/resources/rules_docs/5_30/njac_5302.pdf
Subchapter 8 of <u>N.J.A.C. 5:31</u>	http://www.nj.gov/dca/divisions/dlgs/resources/rules_docs/5_31/njac_5318.pdf