

REVISED MUNICIPAL FINANCE ACT (EXCERPT)
Act 34 of 2001

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