

STATE OF NEW YORK

9416

IN SENATE

May 15, 2024

Introduced by Sen. SEPULVEDA -- (at request of the NYC Office of Management and Budget) -- read twice and ordered printed, and when printed to be committed to the Committee on Cities 1

AN ACT to amend the local finance law, in relation to the sale of bonds and notes of the city of New York, the issuance of bonds or notes with variable rates of interest, interest rate exchange agreements of the city of New York, the selling of bonds at private sale, the refunding of bonds, and the down payment for projects financed by bonds; to amend the New York state financial emergency act for the city of New York, in relation to a pledge and agreement of the state; and to amend chapter 142 of the laws of 2004, amending the local finance law relating to interest rate exchange agreements of the city of New York and refunding bonds of such city, in relation to the effectiveness thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The opening paragraph of paragraph (a) of section 54.10 of
2 the local finance law, as amended by chapter 152 of the laws of 2023, is
3 amended to read as follows:
4 To facilitate the marketing of any issue of bonds or notes of the city
5 of New York issued on or before June thirtieth, two thousand [~~twenty-~~
6 ~~four~~] twenty-five, the mayor and comptroller of such city may, subject
7 to the approval of the state comptroller and the limitations on private
8 sales of bonds and notes, respectively, provided by law:
9 § 2. The closing paragraph of paragraph a of section 54.90 of the
10 local finance law, as amended by chapter 152 of the laws of 2023, is
11 amended to read as follows:
12 Notwithstanding the foregoing, whenever in the judgment of the finance
13 board of the city of New York the interest of such city would be served
14 thereby, the city of New York may without further approval issue bonds
15 or notes, on or before July fifteenth, two thousand [~~twenty-four~~] twen-
16 ty-five, with interest rates that vary in accordance with a formula or
17 procedure and are subject to a maximum rate of interest set forth or
18 referred to in the bonds or notes and may provide the holders thereof
19 with such rights to require the city or other persons to purchase such

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 bonds or notes or renewals thereof from the proceeds of the resale ther-
2 eof or otherwise from time to time prior to the final maturity of such
3 bonds or notes as the finance board of the city of New York may deter-
4 mine and the city may resell, at any time prior to final maturity, any
5 such bonds or notes acquired as a result of the exercise of such rights;
6 provided, however, that at no time shall the total principal amount of
7 bonds and notes issued by the city of New York pursuant to this para-
8 graph (other than bonds and notes (1) bearing interest at rates and for
9 periods of time that are specified without reference to future events or
10 contingencies, or (2) described in section 136.00 of this article)
11 exceed twenty-five percent of the limit prescribed by section 104.00 of
12 this article.

13 § 3. The opening paragraph of subdivision 1 of paragraph d of section
14 54.90 of the local finance law, as amended by chapter 152 of the laws of
15 2023, is amended to read as follows:

16 On or before July fifteenth, two thousand [~~twenty-four~~] twenty-five
17 the mayor and comptroller of the city of New York may:

18 § 4. The opening paragraph of paragraph a of section 57.00 of the
19 local finance law, as amended by chapter 152 of the laws of 2023, is
20 amended to read as follows:

21 Bonds shall be sold only at public sale and in accordance with the
22 procedure set forth in this section and sections 58.00 and 59.00 of this
23 title, except as otherwise provided in this paragraph. Bonds may be sold
24 at private sale to the United States government or any agency or instru-
25 mentality thereof, the state of New York municipal bond bank agency, to
26 any sinking fund or pension fund of the municipality, school district or
27 district corporation selling such bonds, or, in the case of sales by the
28 city of New York prior to July first, two thousand [~~twenty-four~~] twen-
29 ty-five, also to the municipal assistance corporation for the city of
30 New York or to any other purchaser with the consent of the mayor and the
31 comptroller of such city and approval of the state comptroller, or, in
32 the case of sales by the county of Nassau prior to December thirty-
33 first, two thousand seven, also to the Nassau county interim finance
34 authority with the approval of the state comptroller, or, in the case of
35 sales by the city of Buffalo prior to June thirtieth, two thousand thir-
36 ty-seven, also to the Buffalo fiscal stability authority with the
37 approval of the state comptroller, or, in the case of bonds or other
38 obligations of a municipality issued for the construction of any sewage
39 treatment works, sewage collecting system, storm water collecting
40 system, water management facility, air pollution control facility or
41 solid waste disposal facility, also to the New York state environmental
42 facilities corporation, or, in the case of bonds or other obligations of
43 a school district or a city acting on behalf of a city school district
44 in a city having a population in excess of one hundred twenty-five thou-
45 sand but less than one million inhabitants according to the latest
46 federal census, issued to finance or refinance the cost of school
47 district capital facilities or school district capital equipment, as
48 defined in section sixteen hundred seventy-six of the public authorities
49 law, also to the dormitory authority of the state of New York. Bonds of
50 a river improvement or drainage district established by or under the
51 supervision of the department of environmental conservation may be sold
52 at private sale to the state of New York as investments for any funds of
53 the state which by law may be invested, provided, however, that the rate
54 of interest on any such bonds so sold shall be approved by the water
55 power and control commission and the state comptroller. Bonds may also
56 be sold at private sale as provided in section 63.00 of this title. No

1 bonds shall be sold on option or on a deferred payment plan, except that
2 options to purchase, effective for a period not exceeding one year, may
3 be given:

4 § 5. Subdivision 3 of paragraph g of section 90.00 of the local
5 finance law, as amended by chapter 152 of the laws of 2023, is amended
6 to read as follows:

7 3. Outstanding bonds may, pursuant to a power to recall and redeem or
8 with the consent of the holders thereof, be exchanged for refunding
9 bonds (i) if the refunding bonds are to bear interest at a rate equal to
10 or lower than that borne by the bonds to be refunded or (ii) if, in the
11 case of the city of New York prior to July first, two thousand [~~twenty-~~
12 ~~four~~] twenty-five, the annual payment required for principal and inter-
13 est on the refunding bond is less than the annual payment required for
14 principal and interest on the bond to be refunded, in each case such
15 annual payments to be determined by dividing the total principal and
16 interest payments due over the remaining life of the bond by the number
17 of years to maturity of the bond or (iii) if the bonds to be refunded
18 were issued by the city of New York after June thirtieth, nineteen
19 hundred seventy-eight and prior to July first, two thousand [~~twenty-~~
20 ~~four~~] twenty-five and contain covenants referring to the existence of
21 the New York state financial control board for the city of New York or
22 any other covenants relating to matters other than the prompt payment of
23 principal and interest on the obligations when due and the refunding
24 bond omits or modifies any such covenant.

25 § 6. Subdivision 8 of paragraph d of section 107.00 of the local
26 finance law, as amended by chapter 152 of the laws of 2023, is amended
27 to read as follows:

28 8. Notwithstanding any other provision of law, the financing by the
29 city of New York prior to July first, two thousand [~~twenty-four~~] twen-
30 ty-five of any object or purpose which has a period of probable useful-
31 ness determined by law by the issuance of any bonds or notes, including
32 (i) the issuance of bonds or notes to obtain reimbursement for funds
33 heretofore advanced for the object or purpose for which the bonds or
34 notes are being issued, (ii) the issuance of bonds or notes to redeem
35 notes previously issued for the object or purpose for which the bonds or
36 notes are being issued or (iii) the issuance of bonds to refund bonds
37 previously issued for the object or purpose for which bonds are being
38 issued.

39 § 7. Subdivision 1 of section 10-a of section 2 of chapter 868 of the
40 laws of 1975, constituting the New York state financial emergency act
41 for the city of New York, as amended by chapter 152 of the laws of 2023,
42 is amended to read as follows:

43 1. In the event that after the date on which the provisions of this
44 act become operative, any notes or bonds are issued by the city prior to
45 July 1, [~~2024~~] 2025, or any bonds are issued by a state financing agen-
46 cy, the state of New York hereby authorizes the city and authorizes and
47 requires such state financing agency to include a pledge and agreement
48 of the state of New York in any agreement made by the city or such state
49 financing agency with holders or guarantors of such notes or bonds that
50 the state will not take any action which will (a) substantially impair
51 the authority of the board during a control period, as defined in subdi-
52 vision twelve of section two of this act as in effect on the date such
53 notes or bonds are issued (i) to approve, disapprove, or modify any
54 financial plan or financial plan modification, including the revenue
55 projections (or any item thereof) contained therein, subject to the
56 standards set forth in paragraphs a, c, d, e and f of subdivision one of

1 section eight of this act as in effect on the date such notes or bonds
2 are issued and paragraph b of such subdivision as in effect from time to
3 time, (ii) to disapprove a contract of the city or a covered organiza-
4 tion if the performance of such contract would be inconsistent with the
5 financial plan or to approve or disapprove proposed short-term or long-
6 term borrowing of the city or a covered organization or any agreement or
7 other arrangement referred to in subdivision four of section seven of
8 this act, or (iii) to establish and adopt procedures with respect to the
9 deposit in and disbursement from the board fund of city revenues; (b)
10 substantially impair the authority of the board to review financial
11 plans, financial plan modifications, contracts of the city or the
12 covered organizations and proposed short-term or long-term borrowings of
13 the city and the covered organizations; (c) substantially impair the
14 independent maintenance of a separate fund for the payment of debt
15 service on bonds and notes of the city; (d) alter the composition of the
16 board so that the majority of the voting members of the board are not
17 officials of the state of New York elected in a state-wide election or
18 appointees of the governor; (e) terminate the existence of the board
19 prior to the time to be determined in accordance with section thirteen
20 of this act as in effect on the date such notes or bonds are issued; (f)
21 substantially modify the requirement that the city's financial state-
22 ments be audited by a nationally recognized independent certified public
23 accounting firm or consortium of firms and that a report on such audit
24 be furnished to the board; or (g) alter the definition of a control
25 period set forth in subdivision twelve of section two of this act, as in
26 effect on the date such notes or bonds are issued, or substantially
27 alter the authority of the board, as set forth in said subdivision to
28 reimpose or terminate a control period; provided, however, that the
29 foregoing pledge and agreement shall be of no further force and effect
30 if at any time (i) there is on deposit in a separate trust account with
31 a bank, trust company or other fiduciary sufficient moneys or direct
32 obligations of the United States or obligations guaranteed by the United
33 States, the principal of and/or interest on which will provide moneys to
34 pay punctually when due at maturity or prior to maturity by redemption,
35 in accordance with their terms, all principal of and interest on all
36 outstanding notes and bonds of the city or such state financing agency
37 containing this pledge and agreement and irrevocable instructions from
38 the city or such state financing agency to such bank, trust company or
39 other fiduciary for such payment of such principal and interest with
40 such moneys shall have been given, or (ii) such notes and bonds, togeth-
41 er with interest thereon, have been paid in full at maturity or have
42 otherwise been refunded, redeemed, defeased, or discharged; and provided
43 further that the foregoing pledge and agreement shall be of full force
44 and effect upon its inclusion in any agreement made by the city or state
45 financing agency with holders or guarantors of such notes or bonds.

46 Upon payment for such obligations issued pursuant to this act by the
47 original and all subsequent holders inclusion of the foregoing covenant
48 shall be deemed conclusive evidence of valuable consideration received
49 by the state and city for such covenant and of reliance upon such pledge
50 and agreement by any such holder. The state hereby grants any such bene-
51 fited holder the right to sue the state in a court of competent juris-
52 diction and enforce this covenant and agreement and waives all rights of
53 defense based on sovereign immunity in such an action or suit.

54 § 8. Section 5 of chapter 142 of the laws of 2004, amending the local
55 finance law relating to interest rate exchange agreements of the city of

1 New York and refunding bonds of such city, as amended by chapter 152 of
2 the laws of 2023, is amended to read as follows:

3 § 5. This act shall take effect immediately, provided, that section
4 three of this act shall expire and be deemed repealed July 15, [~~2024~~
5 2025].

6 § 9. Separability. If any clause, sentence, paragraph, section or part
7 of this act shall be adjudged by any court of competent jurisdiction to
8 be invalid, such judgment shall not affect, impair or invalidate the
9 remainder thereof, but shall be confined in its operation to the clause,
10 sentence, paragraph, section or part thereof directly involved in the
11 controversy in which such judgment shall have been rendered.

12 § 10. This act shall take effect immediately.