§ 90.00 Refunding of bonds. a. 1. A municipality, school district or district corporation may issue serial bonds to refund bonds issued on or after January first, nineteen hundred thirty-nine, other than bonds issued to redeem notes, certificates or other evidences of indebtedness issued prior to January first, nineteen hundred thirty-nine, in anticipation of such bonds. The last installment of such refunding bonds issued to refund bonds issued pursuant to the social services law, or the former social welfare law, or the former public welfare law, for the purpose of safety net assistance, as defined in such laws, shall mature within ten years after the date of issue of the bonds to be refunded. In all other cases the last installment of such refunding bonds shall mature not later than the expiration of the maximum period of probable usefulness permitted by law at the time of the issuance of the bonds to be refunded or the refunding bonds for the object or purpose for which the bonds to be refunded were issued. Such period shall be computed from the date of issuance of the bonds to be refunded or from the date of issuance of the first bond anticipation note issued in anticipation of such bonds, whichever date is the earlier.

2. Notwithstanding the provisions of subdivision one of this paragraph, bonds issued by a school district prior to December first two thousand one, or prior to thirty days after the effective date of this subdivision, whichever is later, for the purpose of financing facilities which were eligible for building aid pursuant to section thirty-six hundred two of the education law, and for which the aid apportionments payable in two thousand two--two thousand three and/or two thousand three--two thousand four school years for approved expenditures for debt service are subsequently reduced as a result of the application of assumed amortization to unpaid principal outstanding as of July first, two thousand two, may be refunded and the refunding bonds may be sold at either public or private sale in accordance with the provisions of section 90.10 of this title; provided, however, the school district need not comply with: (i) subparagraph (a) of subdivision two of paragraph b of section 90.10 of this title; and (ii) if the bonds to be refunded are to be redeemed or paid on the same date as the refunding bonds are issued, the school district need not comply with the provisions of section 90.10 of this title relating to the escrow of the proceeds of

the sale of the refunding bonds.

3. Refunding bonds shall not be issued to refund bonds issued to finance an object or purpose which, at the time of the issuance of such bonds, had a period of probable usefulness of five years or less.

4. If a budgetary appropriation has been made for the payment of the principal on bonds, such maturity shall not be included in a refunding bond issue.

b. The maturities and amount of such refunding bonds shall be so arranged that the combined amount of:

1. The bonds of the original issue, and

2. Refunding bonds previously issued to refund bonds of the original issue, if any,
to be redeemed by an appropriation other than from the proceeds of refunding bonds during the year of refunding and the combined amount of:

1. The bonds of the original issue,

2. Such refunding bonds, and

3. Refunding bonds previously issued to refund bonds of the original issue, if any,
to be redeemed by an appropriation other than from the proceeds of refunding bonds in each succeeding year thereafter is not more than fifty per centum in excess of the combined amount of:

1. The bonds of the original issue,

2. Such refunding bonds, and

3. Refunding bonds previously issued to refund bonds of the original issue, if any,
redeemed or to be redeemed during any preceding year by an appropriation

other than from the proceeds of refunding bonds.

b-1. Refunding bonds need not comply with paragraph b of this section provided that no annual installment of each separate series of refunding bonds shall be more than fifty per centum in excess of the smallest prior installment or the finance board of the municipality, school district or district corporation issuing the bonds shall have determined to use a substantially level or declining annual debt service schedule for the refunding bonds. The amount of annual installments of the refunding bonds may be determined without reference to the stated maturities of the bonds to be refunded.

c. 1. Bonds issued on or after January first, nineteen hundred thirty-nine, shall not be refunded within five years after the date of original issue. This restriction shall not apply to bonds issued by the city of New York, bonds issued by the county of Nassau for the objects or purposes described in subdivision thirty-three-a of paragraph a of section 11.00 of this chapter or to bonds issued to refund:

(i) Bonds issued, or

(ii) Bonds issued to redeem notes, certificates or other evidences of temporary indebtedness issued prior to January first, nineteen hundred thirty-nine.

* 2. Notwithstanding the provisions of subdivision one of this paragraph and subdivision three of paragraph a of this section, bonds may be refunded and the refunding bonds may be sold at either public or private sale where the present value of the refunding bonds is less than the present value of the bonds to be refunded computed in accordance with subparagraph (a) of subdivision two of paragraph b of section 90.10 of this title and where the issuer complies with all other requirements of such section; provided, however, that if such bonds are being sold to the New York state environmental facilities corporation in connection with a hardship state revolving fund financing at a rate equal to zero percent, compliance with subparagraph (a) of subdivision two of paragraph b of section 90.10 of this title shall not be required; provided further, however, that if the bonds to be refunded are to be redeemed or paid on the same date as the refunding bonds are issued, the issuer need not comply with the provisions of section 90.10 of this

title relating to the escrow of the proceeds of the sale of the refunding bonds.

* NB Effective until September 30, 2029

* 2. Notwithstanding the provisions of subdivision one of this paragraph and subdivision three of paragraph a of this section, bonds may be refunded and the refunding bonds may be sold at either public or private sale where the present value of the refunding bonds is less than the present value of the bonds to be refunded computed in accordance with subparagraph (a) of subdivision two of paragraph b of section 90.10 of this title and where the issuer complies with all other requirements of such section; provided, however, that if the bonds to be refunded are to be redeemed or paid on the same date as the refunding bonds are issued, the issuer need not comply with the provisions of section 90.10 of this title relating to the escrow of the proceeds of the sale of the refunding bonds.

* NB Effective September 30, 2029

d. With the approval of and on terms and conditions prescribed by the state comptroller, a municipality, school district or district corporation may issue bonds to refund:

1. Bonds issued,

2. Bonds issued to redeem notes, certificates or other evidences of temporary indebtedness issued, or

3. Bonds issued to refund bonds issued prior to January first, nineteen hundred thirty-nine, but in no event shall such refunding bonds mature later than twenty years after the date thereof. The provisions of section 21.00 of this chapter shall not apply to this paragraph.

e. The issuance of refunding bonds shall be authorized by a "refunding bond resolution". The title of such resolution shall state that the bonds to be authorized thereby are "refunding bonds".

f. Such a resolution shall contain, in substance, the following

provisions:

1. The amount of refunding bonds to be issued.

2. A description and the date of the bonds to be refunded.

3. If the bonds to be refunded are bonds which were issued on or after January first, nineteen hundred thirty-nine, other than bonds issued to redeem notes, certificates or other evidences of temporary indebtedness issued prior to January first, nineteen hundred thirty-nine, in anticipation of such bonds, a statement of the maximum period of probable usefulness, at the time of the issuance of the bonds to be refunded, of the object or purpose for which such bonds were issued.

4. A statement of the proposed maturities of such refunding bonds.

g. The provisions of this chapter relating to the authorization, form and contents, sale, execution and issuance of bonds other than refunding bonds, shall apply to the authorization, form and contents, sale, execution and issuance of refunding bonds, except that:

1. The provisions of section 107.00 of this chapter shall not apply to the issuance of refunding bonds.

2. The authorization of the issuance of refunding bonds shall not be subject to a mandatory or permissive referendum.

3. Outstanding bonds may, pursuant to a power to recall and redeem or with the consent of the holders thereof, be exchanged for refunding bonds (i) if the refunding bonds are to bear interest at a rate equal to or lower than that borne by the bonds to be refunded or (ii) if, in the case of the city of New York prior to July first, two thousand twenty-seven, the annual payment required for principal and interest on the refunding bond is less than the annual payment required for principal and interest on the bond to be refunded, in each case such annual payments to be determined by dividing the total principal and interest payments due over the remaining life of the bond by the number

of years to maturity of the bond or (iii) if the bonds to be refunded were issued by the city of New York after June thirtieth, nineteen hundred seventy-eight and prior to July first, two thousand twenty-seven and contain covenants referring to the existence of the New York state financial control board for the city of New York or any other covenants relating to matters other than the prompt payment of principal and interest on the obligations when due and the refunding bond omits or modifies any such covenant.

4. All refunding bonds shall contain a recital that they are issued pursuant to this chapter, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

h. The authority herein granted to authorize the issuance of refunding bonds shall in no way be affected by the invalidity of or any irregularity in any proceedings authorizing the issuance of the bonds to be refunded, except that refunding bonds shall not be issued to refund bonds adjudged invalid by the final judgment of a court of competent jurisdiction.

i. 1. Refunding bonds issued subsequent to January first, nineteen hundred thirty-nine to refund:

(a) Bonds issued, or

(b) Bonds issued to redeem notes, certificates or other evidences of temporary indebtedness issued

prior to January first, nineteen hundred thirty-nine, may be refunded by the issuance of refunding bonds, but such refunding bonds shall mature not later than twenty years from the date of the original refunding bonds. Such refunding bonds shall be issued only with the approval of and on terms and conditions prescribed by the state comptroller.

2. All other refunding bonds issued on or after January first, nineteen hundred thirty-nine, shall not be refunded.

j. Bond anticipation notes shall not be issued in anticipation of the sale of refunding bonds.

k. The premium, if any, resulting from the public sale of refunding bonds may be expended for (1) the payment of the costs of the issuance of such refunding bonds, including, but not limited to, legal fees, printing or engraving and publication of notices, and (2) the payment of the principal of and interest on such refunding bonds.