§ 2926. Interest rate exchange or similar agreements for court facilities and combined occupancy structures and health facilities. 1. In connection with the issuance of bonds, notes, or other obligations, or in connection with such bonds, notes, or other obligations already outstanding, for court facilities and combined occupancy structures pursuant to section sixteen hundred eighty-b of this chapter, and health facilities pursuant to paragraph (b) of subdivision one of section eight of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three, the dormitory authority shall have the power to:

(a) enter into interest rate exchange or similar agreements with any person under such terms and conditions as the dormitory authority may determine, including provisions as to default or early termination and indemnification by the dormitory authority or any other party thereto for loss of benefits as a result thereof; and

(b) procure insurance, letters of credit or other credit enhancement with respect to agreements described in paragraph (a) of this subdivision; and

(c) provide security for the payment or performance of its obligations with respect to agreements described in paragraph (a) of this subdivision from such sources and with the same effect as authorized by applicable law with respect to security for its bonds, notes or other obligations; and

(d) modify, amend, replace, or enter into new agreements, for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty downgrade, default, or other potential economic loss.

2. Any interest rate exchange or similar agreement entered into pursuant to subdivision one of this section shall be subject to the following limitations:

(a) any such agreement shall be in the form of a written contract with a counterparty to provide for an exchange of payments based upon interest rates, and shall be for exchanges in currency of the United States of America only; and

(b) the counterparty thereto shall have credit ratings from at least two nationally recognized statistical rating agencies that are within

the three highest investment grade categories, or the payment obligations of the counterparty shall be unconditionally guaranteed by an entity with such credit ratings; and

(c) the written contract shall require that, should the rating of the counterparty, if its payment obligations are not unconditionally guaranteed by another entity, or should the rating of the entity unconditionally guaranteeing the payment obligations of the counterparty, if so secured, fall below the rating required by paragraph (b) of this subdivision, that the obligations of such counterparty shall be fully and continuously collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America, with a net market value of at least one hundred two percent of the net market value of the contract to the dormitory authority, and such collateral shall be deposited with the dormitory authority or an agent thereof; and

(d) the total notional amount of such interest rate exchange or similar agreements entered into by the dormitory authority shall not exceed an amount equal to twenty per centum of the total amount of bonds, notes or other obligations outstanding or to be issued on behalf of a participating municipality pursuant to section sixteen hundred eighty-b of this chapter; provided, however, that such total notional amount shall not include the notional amount of interest rate exchange or similar agreements entered into for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty downgrade, default, or other potential economic loss; and

(e) the total notional amount of such interest rate exchange or similar agreements entered into by the dormitory authority shall not exceed an amount equal to twenty per centum of the total amount of bonds, notes or other obligations outstanding or to be issued on behalf of a participating municipality pursuant to paragraph (b) of subdivision one of section eight of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three; provided, however, that such total notional amount shall not include the notional amount of interest rate exchange or similar agreements entered into for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty

downgrade, default, or other potential economic loss.

3. (a) Prior to authorizing the approval of any contract for interest rate exchange or similar agreement pursuant to subdivision one of this section, the board of the dormitory authority shall adopt written guidelines addressing the following:

(i) the conditions under which such contracts can be entered into;

(ii) the methods by which such contracts are to be solicited and procured;

(iii) the form and content such contracts shall take;

(iv) the aspects of risk exposure associated with such contracts;

(v) standards and procedures for counterparty selection;

(vi) the procurement of credit enhancement, liquidity facilities, or the setting aside of reserves in connection with such contracts;

(vii) collateralization or other requirements for securing the financial interest in such contracts;

(viii) the methods to be used to reflect such contracts in the dormitory authority's financial statements;

(ix) financial monitoring and periodic assessment of such contracts by the dormitory authority; and

(x) such other matters relating thereto as the board of the dormitory authority shall deem necessary and proper.

(b) The dormitory authority shall issue a report to the director of the budget, the chairpersons of the senate finance committee and the assembly ways and means committee, and the state comptroller, on or before March first in any state fiscal year in which it enters into or continues to be a party to a contract for interest rate exchange or similar agreement. Such report shall list all such contracts entered into pursuant to this section, and shall include, but not be limited to, the following information for each such contract, as applicable:

(i) a description of the contract, including a summary of the terms and conditions thereof and the method of procurement;

(ii) any amounts which were required to be paid and received, and any amounts which actually were paid and received thereunder;

(iii) any credit enhancement, liquidity facility or reserves associated therewith including an accounting of all costs and expenses incurred, whether or not in conjunction with the procurement of credit

enhancement or liquidity facilities;

(iv) a description of each counterparty;

(v) an assessment of the counterparty risk, termination risk, and other risks associated therewith.

4. The dormitory authority shall not enter into any interest rate exchange or similar agreement pursuant to this section unless the lease, sublease, or other agreement between the participating municipality and the dormitory authority:

(a) expressly authorizes the dormitory authority to enter into such agreements with respect to bonds, notes or other obligations outstanding or to be issued in connection with court facilities and combined occupancy structures or health facilities for that participating municipality; and

(b) further obligates the participating municipality to pay to the dormitory authority any and all amounts payable by the authority under, or as a result of, such interest rate exchange or similar agreement.