



Important Changes to the Local Finance Law in New York

It has been more than 15 years since New York's State Legislature enacted important reforms to the Local Finance Law (LFL). The LFL prescribes the rules under which municipalities, school districts and fire districts in New York (local governments) authorize and issue tax-supported debt.

On August 13, 2010 Chapter 386 of the New York Laws, introduced by the Office of the State Comptroller, was signed into law. The new legislation affects a number of LFL sections. Here are the highlights:

1. As a general rule, bond anticipation notes (BANs) must be paid off or rolled into serial bonds within five years of their date of issue (except for BANs issued for "assessable" improvements, which may be rolled for the period of probable usefulness of the object or purpose financed – i.e., water and sewer projects). Chapter 386 permits BANs first issued in calendar years 2004 and 2005 to be rolled for **seven** years before being paid off or rolled into serial bonds. The extra two years allows local governments to take advantage of the very low interest rates in 2010 and expected short-term rates in 2011 before bonding out the project.
2. The maximum principal amount of serial bonds that may be sold at a negotiated sale is increased from \$1 million to \$5 million per year until June 1, 2012. This will give local governments the choice to sell bonds competitively or negotiate with an investment bank for a better deal for most projects.

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As your bond counsel and finance law advisor, we will help you make good choices in selecting an underwriter for a negotiated sale of bonds.

3. At long last, deficiency notes may be issued by local governments during any fiscal year to finance a deficiency in any fund or funds arising from revenues being less than the amount estimated in the budget for the current fiscal year.
4. Chapter 386 shortens the minimum notice of a change in the time or date for the opening of bids on bond sales from one day to one hour prior to the time scheduled for the opening of bids.
5. Chapter 386 expands options for good faith deposits in competitive bond sales by permitting cash remitted by wire transfer to a specified account to be furnished as security as a condition precedent to the consideration of bids.

The above amendments will have a significant impact on future debt issuances by local governments. The ability to extend short-term debt financings for two additional years and target the best time to enter uncertain long-term capital markets creates another option for local governments to save money. Additionally, the issuance of deficiency notes will help local governments respond to declines in revenues and possibly obviate the build-up of a structural deficit or the need to engage in long-term deficit financing. Finally, the flexibility to do larger negotiated sales will open the door to investment banks to offer better-than-market terms.

We encourage you to contact us regarding the above changes to the LFL. Please contact your principal Squire Sanders lawyer or any of the lawyers listed in this Alert to explore the new and improved financing options available under Chapter 386.

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