

LEGISLATIVE BILL 377

Approved by the Governor April 8, 2009

Introduced by Pankonin, 2.

FOR AN ACT relating to finance; to adopt the Nebraska Governmental Unit Credit Facility Act; to provide severability; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Nebraska Governmental Unit Credit Facility Act.

Sec. 2. The Legislature hereby finds and declares that there currently exist and may hereafter exist conditions which make it difficult for governmental units to issue and sell their bonds or other evidences of indebtedness and to obtain credit at reasonable interest rates and that the United States Government has authorized certain of its agencies and instrumentalities to provide credit support for state and local governmental units under more favorable terms.

Sec. 3. For purposes of the Nebraska Governmental Unit Credit Facility Act:

(1) Authorizing statute means any statute which authorizes the issuance of bonds by a governmental unit;

(2) Bank means any federally chartered or state-chartered bank, savings and loan association, building and loan association, insurance company, or any other public or private agency which insures or guarantees the indebtedness of other persons or governmental units;

(3) Bond means any bond, note, interim certificate, evidence of bond ownership, bond anticipation note, warrant, or other evidence of indebtedness issued under any authorizing statute;

(4) Credit facility means any agreement or other instrument providing for a guarantee or other contractual arrangement providing direct or indirect assurance for payment of principal or interest or both principal and interest on any bond issued by a governmental unit, including, but not limited to, any letter of credit, contract of guarantee, contract of insurance, standby purchase contract, or any other contract for purchase or other agreement as to assurance of payment;

(5) Governmental unit means any county, school district, city, village, public power district, public power and irrigation district, sanitary and improvement district, educational service unit, community college area, natural resources district, airport authority, fire protection district, hospital district, hospital authority, housing authority, joint entity created under the Interlocal Cooperation Act, joint public agency created under the Joint Public Agency Act, instrumentality, or any other district, authority, or political subdivision of the State of Nebraska;

(6) Measure means any ordinance, resolution, or other enactment by a governmental unit, or any amendment or supplement to any such ordinance, resolution, or other enactment authorizing the issuance of bonds or authorizing an indenture with respect to bonds pursuant to an authorizing statute;

(7) Terms and conditions means the terms and conditions of a credit facility, which may include, but are not limited to, (a) representations and warranties; (b) payment of fees and expenses; (c) reimbursement of amounts advanced and payment of interest on amounts advanced; (d) holding harmless for additional taxes or increased costs payable by the credit facility provider; (e) remarketing or resale of purchased bonds; (f) indemnification for liabilities incurred by a credit facility provider; (g) affirmative and negative covenants relating to bonds for which assurance is provided; (h) provisions relating to defaults and remedies upon default; and (i) such other provisions as may be determined by the governing body of a governmental unit to be either customary or appropriate in obtaining a credit facility; and

(8) United States governmental enterprise means any agency or instrumentality of the United States Government. For all purposes of the Nebraska Governmental Unit Credit Facility Act, the term United States governmental enterprise shall be conclusively construed as including, but not limited to, any of the Federal Home Loan Banks, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

Sec. 4. Any governmental unit in the State of Nebraska may obtain credit support for its bonds by entering into or obtaining a credit facility for any of its bonds from any United States governmental enterprise or from any bank providing a credit facility which is confirmed or otherwise supported by a credit facility provided by a United States governmental enterprise.

Any credit facility shall be approved by a measure adopted before or after issuance of any bonds. Each credit facility shall have such terms and conditions as shall be approved by a measure adopted by the governmental unit before or after the issuance of bonds.

Sec. 5. Any credit facility or related agreement may provide for payment of amounts owing by the governmental unit from any resources of the governmental unit as may be deemed appropriate by the governing body, including taxes and other revenue. Any amounts required to reimburse the provider of a credit facility for amounts advanced for payment of principal and interest or for purchase of a bond or for related fees and expenses shall have the same status under sections 13-520 and 77-3442 as the indebtedness for which the credit facility has been provided. Such indebtedness includes, without limitation, the payments of principal and interest for which the advance or purchase was made or the fees and expenses incurred.

Sec. 6. The Nebraska Governmental Unit Credit Facility Act shall be independent of and in addition to any other provision of law of the State of Nebraska or provisions of home rule charters, and any credit facility may be obtained under the act for any purpose authorized in the act even though other laws of the State of Nebraska or provisions of home rule charters may provide for the obtaining of a credit facility for the same or similar purposes. The act shall not be considered amendatory of or limited by any other law of the State of Nebraska or provisions of home rule charters, and any credit facility may be obtained under the act without complying with the restrictions or requirements of any other law of the State of Nebraska, except when specifically required by the act, or without complying with the restrictions or requirements of home rule charters. Nothing in the act shall prohibit or limit the obtaining of any credit facility in accordance with other applicable laws of the State of Nebraska or of home rule charters, if the governing body of a governmental unit determines to obtain such credit facility under such other laws or charter or otherwise limit the provisions of any home rule charter.

Sec. 7. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 8. Since an emergency exists, this act takes effect when passed and approved according to law.