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The Local Government Unit Debt Act (LGUDA)

December 18, 2023

What is LGUDA?

- 1968 – Constitution of the Commonwealth of PA amended to limit debt of municipalities and school districts
- 1972 – Implemented the Local Government Unit Debt Act, Act 185 of 1972
- Amended
 - 1978 (repealed and reenacted)
 - 1996 (recodified)

Why is LGUDA Necessary?

- Limits local governments from borrowing more than can be repaid
- Forces governments to consider future cashflow to cover required debt service
- Provides framework for debt limits and approval by the Commonwealth

What Can Debt Be Issued For?

- Only for capital projects except for the following:
 - Unfunded actuarial accrued pension fund liability
 - Self-insurance pools
 - Countywide reassessment of real estate
 - Unfunded debt (court approval)

“Debt” Defined by LGUDA

“The amount of all obligations for the payment of money incurred by the local government unit, whether due or payable in all events, or only upon performance of work, possession of property as lessee or rendering services”

LGUDA Exceptions

- Currently budgeted obligations
 - Tax anticipation notes (approval still needed)
 - Current payments for funding pension plans
- Obligations under contracts for supplies and services allocable to current operating expenses
- Rentals payable in future years under “true leases”
- Interest payable on bonds or notes that is not yet due

Electoral Debt

- Electoral Debt – All net debt incurred with the assent of the electors
 - Results in a majority vote of incurring debt at a general or special election
 - Not subject to debt limits
 - Not as common as nonelectoral debt

Nonelectoral Debt

“All debt determined as provided, incurred or authorized to be incurred, except electoral debt and lease rental debt”

Reclassification of Nonelectoral Debt

- Can be reclassified retroactively
 - Must be approved by majority vote by the public
 - Requires the following to be submitted to DCED:
 - Resolution for the election
 - Proof of advertisement of the election
 - Certified return of the election

Lease Rental Debt

“The principal amount of bonds or notes of another local government unit to be repaid from payments of the local government unit where those payments are or may be made out of the tax and other general revenues”

Self-Liquidating Debt

- Debt payable solely from rents, rates or other charges to the ultimate users of the project
- Includes revenue bonds
- Often includes various debt covenants
- Excluded from debt under LGUDA

Subsidized Debt

The amount of debt which is self-liquidating to the local government unit because the annual debt service on the amount for the fiscal year next following the time of determination will be covered by one of the following:

- Recurring subsidies paid by the Commonwealth and/or Federal government
- Subsidy from another local government unit
 - Lease rental debt by the subsidizing local government

Excluded from debt under LGUDA

Net Nonelectoral Debt

- $\text{Total Outstanding Debt} - \text{Electoral Debt} + \text{Lease Rental Debt} = \text{Gross Nonelectoral Debt}$
- $\text{Net Nonelectoral Debt} = \text{Gross Nonelectoral Debt}$ less the following:

Net Nonelectoral Debt

- All monies in applicable sinking funds and bond proceeds held for payment of the project financed by such debt
- Current appropriations for the payment of principal and overdue interest on nonelectoral debt or for the payment of lease rental
- Uncollected property assessments for which liens may be filed to the extent that such assessments are available for the payment of the principal amount of such debt

Net Nonelectoral Debt

- Delinquent taxes and other undisputed municipal liens filed against property
- The amount of self-liquidating and subsidized debt
- Surplus cash not appropriated to any other purpose
- Solvent debts due
- Insurance coverage against the debt

Debt Limits

- No local government unit shall incur any new nonelectoral debt if the aggregate net principal amount of such new debt together with all other net nonelectoral debt outstanding would cause the total net nonelectoral debt to exceed:

Debt Limits

- 100% of its borrowing base in the case of a school district of the first class
- 300% of its borrowing base in the case of a county
- 225% of its borrowing base in the case of a school district of the first class A through fourth class
- 250% of its borrowing base in the case of any other local government unit.

Debt Limits

- No local government unit shall incur any new lease rental debt or nonelectoral debt if the aggregate net principal amount of such new debt together with all other net nonelectoral debt and lease rental debt then outstanding would cause the total net nonelectoral debt to exceed:

Debt Limits

- 200% of its borrowing base in the case of a school district of the first class
- 400% of its borrowing base in the case of a county
- 225% of its borrowing base in the case of a school district of the first class A through fourth class
- 350% of its borrowing base in the case of any other local government unit.

Special Debt Limits

- Counties assuming countywide responsibility for specified programs allows for additional debt in the amount of 100% of its borrowing base.
- The following programs include:
 - Hospitals and other public health services
 - Air and water pollution control
 - Flood control
 - Environmental protection
 - Water distribution and supply systems
 - Sewage and refuse collection and disposal systems
 - Education at any level
 - Highways
 - Public transportation or port operations

Unfunded Debt

- Obligations incurred for current expenses in which funds on hand are not sufficient without an endangerment of the public
- Does not include debt incurred for a project
- Funding debt may be approved if levying additional taxes is not feasible
- Is not included in nonelectoral debt limits (if nonelectoral)

Unfunded Debt Examples

- To replace assets lost as result of flood, storm, war, riot
- To replace or improve facilities to protect the public health or safety
- To pay a liability settlement not covered by insurance
- To meet costs complying with federal or state mandates

Debt Statement

DEBT STATEMENT PURSUANT TO SECTION 8110

LOCAL GOVERNMENT UNIT DEBT ACT

Local Government Unit _____

_____ County

Statement as of _____

(Date – within 60 days of filing date)

Section 8002 I. GROSS INCURRED DEBT

	Electoral	Nonelectoral	Lease Rental
A. Bonds outstanding	\$ _____	\$ _____	\$ _____
List and identify	\$ _____	\$ _____	\$ _____
by year of issue	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____
B. Notes Outstanding	\$ _____	\$ _____	\$ _____
List and identify	\$ _____	\$ _____	\$ _____
by year of issue	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____
	\$ _____	\$ _____	\$ _____
TOTAL	\$ _____	\$ _____	\$ _____

II. CREDITS & EXCLUSIONS

Section 8028(b)

Less:

(where applicable)

1. Sinking Funds, reserve accounts, bond proceeds	\$ _____	\$ _____	\$ _____
2. Current appropriations	\$ _____	\$ _____	\$ _____
3. Uncollected special assessments	\$ _____	\$ _____	\$ _____
4. Delinquent taxes and liens	\$ _____	\$ _____	\$ _____
5. Surplus cash	\$ _____	\$ _____	\$ _____
6. Solvent debts due	\$ _____	\$ _____	\$ _____
7. Indemnifying insurance	\$ _____	\$ _____	\$ _____
8. Self-liquidating and self-sustaining debt (Excluded under Sections 8024, 8025, 8026)	\$ _____	\$ _____	\$ _____
TOTAL NET INDEBTEDNESS	\$ _____	\$ _____	\$ _____

Debt Statement

- III. The aggregate principal amount of bonds or notes being issued or evidencing lease rental debt \$ _____
- IV. The principal amount of bonds or notes which will no longer be deemed to be outstanding pursuant to Section 8250 after settlement of the issue.
(Refunding issues only) \$ _____
- The borrowing base as shown by appended borrowing base certificate \$ _____
- Applicable debt limitations
- (a) nonelectoral
(250% of the borrowing base; 300% for counties) \$ _____
- (a)(1) nonelectoral plus lease rental debt limit for school district borrowings**
(225% of the borrowing base) \$ _____
- (b) nonelectoral plus lease rental
(350% of the borrowing base; 400% for counties) \$ _____

Section 8110(a) IN WITNESS WHEREOF, we, _____,
_____, and _____,

being authorized to prepare, certify and file the foregoing statement, have hereunto set out hands and affixed the seal
of the _____, this _____ day of _____,
(Name of Local Government Unit)

20 ____.

(SEAL)

Secretary

Borrowing Base Defined

“The annual average of total revenues for the three full fiscal years immediately preceding the incurring of nonelectoral debt or lease rental debt”

Borrowing Base Exclusions

- Subsidies or reimbursements from the Federal or State government measured by the cost or given on account of a particular project financed by debt
- Revenues, rates, receipts, user charges, special assessments and special levies pledged for self-liquidating debt

Borrowing Base Exclusions

- Interest on moneys in sinking funds or reserves which are pledged for the payment or security of outstanding debt
- Grants and gifts designed for specified projects
- Nonrecurring receipts such as bond and note proceeds and sale of capital assets or items not considered income under GAAP

Borrowing Base Certificate

BORROWING BASE CERTIFICATE

Prepared as of
(Date)

FISCAL YEAR

(Three prior fiscal years)

Total Revenues Received (money from all sources) \$ _____ \$ _____ \$ _____

Less:

(1) State and Federal subsidies and reimbursements
related to a particular project financed by debt \$ _____ \$ _____ \$ _____

(2) Revenues, receipts, assessments, etc., pledged for
self-liquidating debt \$ _____ \$ _____ \$ _____

(3) Interest on moneys in sinking funds pledged for debt \$ _____ \$ _____ \$ _____

(4) Grants and gifts-in-aid measured by construction or
acquisition of specific projects \$ _____ \$ _____ \$ _____

(5) Nonrecurring receipts \$ _____ \$ _____ \$ _____

SUBTOTAL \$ _____ \$ _____ \$ _____

TOTAL NET REVENUES \$ _____

BORROWING BASE
(Total Net Revenues divided by 3) \$ _____

Borrowing Base Calculation

- Exclude trust and agency funds
- Exclude interfund transfers
- Exclude nonrecurring receipts
 - COVID-19 funding
 - Project grants
 - Insurance reimbursements

Small Borrowing Exception

- Can incur debt without filing for approval if:
 - Debt is issued to provide funds for a capital project
 - The aggregate of debt incurred outstanding at any one time does not exceed the lesser of \$125,000 or 30% of the nonelectoral debt limit
 - The principal shall mature within 5 years
 - The debt is within the overall nonelectoral and nonelectoral plus rental debt limit

Tax Anticipation Notes

- May not exceed 85% in one fiscal year of the tax or revenue pledged
- Must mature on or before the last day of the fiscal year in which the note was issued
- Are not subject to the nonelectoral debt limit
- Still require authorization

Intergovernmental Loans

- Does the agreement meet the definition of debt?
- Is the term long or short?
- Does not need to be externally issued
- Consult with legal counsel

LGUDA Database

<http://www.dced.state.pa.us/lguda/opinions/DebtReports.aspx>

Debt Statement as of: 11/1/2023						
LGU: ABBOTTSTOWN BOROUGH		Class: Borough		County: ADAMS		
Date Application Received:		11/22/1989		Application Amount: \$1,120,000.00		
Debt Type	Issue Type	Amount	Balance	Status	Approval #	Date
Lease-Rental		\$1,120,000.00	\$0.00	Inactive	LRA-1912	12/13/1989
	Total:	\$1,120,000.00	\$0.00			
*Exclusion		(\$1,120,000.00)	(\$0.00)	Inactive	E-1234	12/13/1989
	Total:	(\$1,120,000.00)	(\$0.00)			
	Application Total:	\$1,120,000.00	\$0.00			
Date Application Received:		07/19/1993		Application Amount: \$110,000.00		
Debt Type	Issue Type	Amount	Balance	Status	Approval #	Date
Non-Electoral		\$110,000.00	\$0.00	Inactive	GON-8705	08/05/1993
	Total:	\$110,000.00	\$0.00			
	Application Total:	\$110,000.00	\$0.00			
Date Application Received:		02/13/2002		Application Amount: \$1,720,000.00		
Debt Type	Issue Type	Amount	Balance	Status	Approval #	Date
Lease-Rental		\$1,720,000.00	\$162,028.88	Approved	LRA-3737	03/05/2002
	Total:	\$1,720,000.00	\$162,028.88			
*Exclusion		(\$1,720,000.00)	(\$1,720,000.00)	Approved	E-3048	03/05/2002
	Total:	(\$1,720,000.00)	(\$1,720,000.00)			
	Application Total:	\$1,720,000.00	\$162,028.88			
Date Application Received:		09/29/2015		Application Amount: \$650,000.00		
Debt Type	Issue Type	Amount	Balance	Status	Approval #	Date
Non-Electoral		\$650,000.00	\$500,000.00	Approved	GON-15101501	10/15/2015
	Total:	\$650,000.00	\$500,000.00			
	Application Total:	\$650,000.00	\$500,000.00			
TOTALS		Amount	Balance			
Non-Electoral:		\$760,000.00	\$500,000.00			
Lease-Rental:		\$2,840,000.00	\$162,028.88			
LGU Total:		\$3,600,000.00	\$662,028.88			

Debt Issuance in 2023

- Refundings are not happening
- Debt is expensive, even short-term
- Can't hold out forever!
 - May be 12 months until rates decrease
- Arbitrage is real for the first time in years

Sources

- Local Government Unit Debt Act, Act 177 of 1996, as amended
- An Introduction to the Local Government Unit Debt Act
- DCED Debt Management Handbook, Seventh Edition, January 2020

Questions? Contact Me!



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