

CHAPTER 99**(HB 418)**

AN ACT relating to the Kentucky Asset/Liability Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.8605 is amended to read as follows:

As used in KRS 56.860 to 56.869:

- (1) "Authorized project" means:
 - (a) Any project approved by the General Assembly and included in an enacted budget; or
 - (b) Any project approved by the General Assembly that is certified by the secretary of the Finance and Administration Cabinet in accordance with the provisions of KRS 56.870, to be of a type that will independently produce revenues ***or will be payable from receipts of federal transportation funds that are projected by the commission to be sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures necessary for financing so that no appropriation of state funds is required;***
- (2) "Cabinet" means the Finance and Administration Cabinet;
- (3) "Commercial paper" means obligations that by their terms mature not more than three hundred sixty-six (366) days from the date of their issuance and that may be refunded;
- (4) "Commission" means the Kentucky Asset/Liability Commission;
- (5) "Estimated revenues" means the detailed revenue estimate or revised revenue estimate as certified by the secretary of the Finance and Administration Cabinet pursuant to KRS 48.115 and 48.120 on or before the dates on which tax and revenue anticipation notes are awarded to the purchaser;
- (6) "Financial agreements" means interest rate swaps, options, or other agreements between two (2) parties to exchange or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate, or to provide other economic benefit to an issuance of notes or a portfolio of notes, or to hedge the net interest margin of the Commonwealth;
- (7) "Financing agreement" means an agreement between the commission and the cabinet, or between the cabinet and a state agency, relating to the funding of projects or items associated with projects as described in KRS 56.867(3), or a judgment against a state agency or the Commonwealth. The provisions of a financing agreement shall require either the cabinet to make payments to the commission relating to the commission's issuance of notes, or the state agency to make payments to the cabinet reimbursing the cabinet for its payments to the commission on the agency's behalf. The obligations of the cabinet or the state agency under a financing agreement shall be contingent upon appropriations by the General Assembly to the cabinet or to the agency for the payment of those obligations;
- (8) "Fixed-rate obligations" means obligations on which the interest rate remains constant to maturity;
- (9) "Funding notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than ten (10) years for the purpose of funding judgments;

- (10) "Interest-sensitive assets" means tangible and intangible property held by the Commonwealth whose market value is dependent upon the level of interest rates;
- (11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of the Commonwealth or a state agency;
- (12) "Multimodal obligations" means obligations for which the time period for establishing the rate of interest may be selectively determined and altered;
- (13) "Net interest margin" means the net income or expense associated with the difference between the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;
- (14) "Project notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than *twenty (20)*~~ten (10)~~ years for the purpose of funding authorized projects, which may include bond anticipation notes;
- (15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, and set out in KRS Chapter 12, or any board, commission, institution, state university, or division exercising any function of the Commonwealth;
- (16) "Tax and revenue anticipation notes" means notes that are issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity that is no later than the last day of the fiscal year during which the tax and revenue anticipation notes are issued and that are issued in anticipation of estimated revenues to be received in that fiscal year; and
- (17) "Variable-rate demand obligations" means obligations on which the rate of interest is set by reference to a predetermined index or formula, by auction, by an agent that, in the sole judgment of the commission, has the financial expertise to establish market interest rates, or by similar means.

Section 2. KRS 56.863 is amended to read as follows:

The commission shall have the power and duty to:

- (1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of KRS 56.860 to 56.869;
- (2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;
- (3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, and the resulting change in the net interest margin on the budget of the Commonwealth;
- (4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;
- (5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;
- (6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

- (7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under KRS 56.860 to 56.869 to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;
- (8) Designate individual employees or officers of the Office of Financial Management as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;
- (9) Enter into financial agreements for the purpose of hedging *its current or projected*~~{a portfolio of}~~ interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;
- (10) Deposit net interest payments and premiums received by the commission under financial agreements~~{relating to funding notes, project notes, and tax and revenue anticipation notes}~~ into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to *interest-sensitive liabilities*~~{tax and revenue anticipation notes, project notes, and funding notes}~~; and
- (11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:
 - (a) A description of the Commonwealth's investment and debt structure;
 - (b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;
 - (c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year; and
 - (d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include

information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

Approved April 7, 2004