

CHAPTER 172**(HB 531)**

AN ACT relating to the sale, issuance, approval, and status of funding notes with respect to the Commonwealth and its political subdivisions, and declaring an emergency.

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 official revenue estimates established pursuant to KRS 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, **or the finance or refinance of obligations owed under KRS 161.550(2) or 161.553(2)**. 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 **for the purpose of funding:**
 - (a) **Judgments**, with a final maturity of not more than ten (10) years; **and**
 - (b) **The finance or refinance of obligations owed under KRS 161.550(2) or 161.553(2)**~~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) 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 56.868 is amended to read as follows:

- (1) The commission may issue and sell funding notes for the ~~purposes~~~~{purpose}~~ of funding judgments against the Commonwealth or any state agency **and financing or refinancing obligations owed under KRS 161.550(2) or 161.553(2)**. Funding notes may be sold and issued in a manner and have terms relating to the payment of interest, principal, and premiums or discounts as market conditions warrant.
- (2) Appropriations requests for payment of principal and interest on funding notes shall be made by the state agency against which a judgment has been rendered **or, in the case of financing or refinancing obligations owed under KRS 161.550(2) or 161.553(2), to the Kentucky Teachers Retirement System**. Funding notes, together with interest thereon, shall be repaid from payments received by the commission from the cabinet under a financing agreement.
- (3) Funding notes may be issued for the following purposes:
- To pay for judgments, which shall include legal settlements, court-ordered actions against the Commonwealth or any state agency, and any part of any expense or cost incidental to legal settlements or court-ordered actions against the Commonwealth or any state agency;~~and~~
 - To finance or refinance obligations owed under KRS 161.550(2) or 161.553(2); and**
 - To refund outstanding issues of funding notes.
- (4) The issuance of funding notes shall be subject to KRS 56.870, to approval by the State Property and Buildings Commission, and to review by the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810.
- (5) The cabinet, in providing for the expenditure of funds for any of the purposes mentioned in this section, may provide by a financing agreement with the state agency so affected for the funding of the Commonwealth's or that state agency's judgment, and the state agency so affected is authorized to enter into a financing agreement with the cabinet for that purpose.
- (6) Funding notes shall not constitute a debt of the Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any political subdivision, but the notes shall be payable solely from payments received under the financing agreement relating to the funding notes.

➔Section 3. Funding notes are authorized in an amount not to exceed eight hundred seventy five million dollars (\$875,000,000) in fiscal year 2009-2010 for the Kentucky Asset/Liability Commission established in KRS 56.861 to finance or refinance obligations owed under KRS 161.550(2) or 161.553(2).

➔Section 4. Whereas time is of the essence to finance or refinance obligations owed under KRS 161.550(2) or 161.553(2) in order to take advantage of savings to be derived from the current low interest rate environment, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Signed by Governor April 26, 2010.