

The maximum maturity date of any bond is increased from thirty to forty years, or the anticipated useful life of the building or equipment purchased, whichever is shorter.

When an advertisement is for a completed act such as an ordinance, resolution, regulation, order, rule, report, statement or certificate, it shall be published one time within 30 days after completion of the act. SB 192 GA adds language that failure to do so shall not invalidate any ordinance or resolution or subjecting a person to penalties provided in KRS 424.990 unless such failure continues for a period of 15 days (increased from 10) after notice to comply.

SB 192 GA also amends the public notice requirements for public hearings, requiring at least one notice that must be published not less than 7 days nor more than 21 days (instead of at least 20 days) before the occurrence of the hearing. It also adds language that a person who presented evidence at the public hearing, may appeal to the Circuit Court within 30 days after the decision approving the bond issuance.

Revenues resulting from taxes levied to pay the debt charges of a bond shall be deemed pledged to go towards the principal and the premium and interest on the bonds. Payments required for the payment of a lease shall be deemed pledged for the principal and interest portions of a lease payment and any prepayment penalties on the lease.

The holders of bonds issued and leaseholders shall have a first lien on those tax revenues. There shall be a statutory lien on tax revenues pledged in favor of the holders of bonds and leases that shall apply to all outstanding bonds and leases without priority of one bond or lease over another, regardless of when the bonds or lease were entered into. No filing is necessary under the Uniform Commercial Code to allow for this. The pledge of the tax is all the appropriation needed and no further appropriation is required.

Tax revenue appropriations shall be deemed pledged for renewable obligations, and the bond or lease holder shall continue to have first lien on those appropriations.

Public property and funds on deposit of any local government is exempt from seizure except for:

- When the local government has failed to comply with a court order or judgement;
- After a period of 24 months the local government did not petition the court for the payment of money damages, in whole or in part via a payment schedule;
- Has not paid in full the total damages due.

Any order of attachment, execution, garnishment, seizure of public property shall not impair the ability of the local government to continue to provide essential services to the public including meeting payroll of key personnel and those employees involved with the collection of revenues.

A local government's funds in the hands of its Treasurer or already deposited shall not be subject to garnishment except when a payment schedule has been requested by motion to

the Circuit Court, and the payment schedule is equal to or less than ten years regarding a final judgement not covered by insurance.

For any claim against any local government that is not fully covered by insurance, the local government may petition the Circuit Court to enter an order for payment through a periodic payment schedule not to exceed 10 years.

A court, when determining a local government's ability to enter into a payment schedule, shall consider:

- Available funds;
- Revenues reasonably expected to be collected in future fiscal years;
- Expenses related to essential services, debt service, and other reasonably necessary expenses for efficient operation of government.

If the award for damages exceeds 25% of the total revenues collected in the immediately preceding fiscal year, the court may consider any revenue or debt financing options reasonably available.

Any court-established payment plan must specify the total amount awarded, amount of each payment, the payment interval, and the number of payments. Any judgement shall bear interest at a 3% interest rate. The court may modify the payment schedule and terms for good cause, but in no case shall the adjustments alter the total amounts paid, exclusive of interest.

The fiscal impact of SB 192 GA on local governments as it pertains to the issuance of bonds is expected to be minimal. The changes are procedural dealing with time frames and public awareness. There may be a slight savings resulting from the posting of bond issuances over the internet as opposed to publications aimed at bond buyers.

The fiscal impact of SB 192 GA on local governments as it pertains to judgements and payment schedules is indeterminable and depends on future litigation.

Part III: Differences to Local Government Mandate Statement from Prior Versions

The LM for SB 192 GA remains the same as the LM statement for SB 192 SCS 1, as adopted by the Senate.

The LM statement to SB 192 SCS 1 is unchanged and remains the same to SB 192.

Data Source(s): LRC Staff

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