

**T.C.A. § 9-21-133. Approval of comptroller of treasury required prior to issuance of balloon indebtedness Evaluation of plan.**

(a) As used in this section:

(1) Balloon indebtedness:

(A) Means any indebtedness that:

(i) Has a final term to maturity totaling thirty-one (31) or more years from the original date of issuance of the indebtedness to the date the indebtedness is fully amortized, including any subsequent refinancing thereof;

(ii) Delays principal repayment for more than three (3) years after the date of issuance;

(iii) Capitalizes interest beyond the later of the construction period or three (3) years from the date of issuance; or

(iv) Does not have substantially level or declining debt service; and

(B) Does not include any indebtedness that:

(i) Has at least seventy-five percent (75%) of total principal amortized within ten (10) years from the date of issuance with no more than twenty-five percent (25%) of principal subject to payment in any one (1) year;

(ii) Has a debt service schedule in which each annual principal installment is not more than fifty percent (50%) in excess of the smallest prior installment;

(iii) Has a general obligation pledge and is being issued by a local government or local government instrumentality that has some amount of long-term general obligation indebtedness outstanding or proposed to be issued that is rated in the highest rating category for long-term debt instruments (AAA/Aaa) or the first tier (AA+/Aa1) of the second highest rating category for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with such rated indebtedness;

(iv) Is secured solely by a revenue pledge and is being issued by a local government or local government instrumentality that has some amount of long-term revenue indebtedness outstanding or proposed to be issued that is rated in the highest rating category for long-term debt instruments (AAA/Aaa) or the first tier (AA+/Aa1) of the second highest rating category for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with such rated indebtedness;

(v) State or federal law requires the local government or local government instrumentality to participate in the financing program;

(vi) Is a conduit transaction for a nongovernmental entity;

(vii) Is evidenced by a loan with either the United States department of agriculture or the United States department of housing and urban development; or

(viii) Is a note the issuance of which is otherwise subject to the approval of the comptroller of the treasury;

(2) Indebtedness means:

(A) Any bond, note, loan agreement or any other evidence of a debt obligation in which a local government or local government instrumentality, either directly or indirectly, incurs a definite and absolute obligation to the payment of the principal of and interest on the debt obligation; and

(B) Does not include bonds and loan agreements authorized by title 7, chapter 53;

(3) Local government means, solely for the purposes of this section, any incorporated city or town, metropolitan government, county, or utility district; and

(4) (A) Substantially level or declining debt service means an amortization schedule in which the aggregate amount of debt service calculated as principal plus interest that is payable in each year is not in excess of the lowest aggregate amount of debt service payable in any prior year by more than the greater of five percent (5%) or ten thousand dollars (\$10,000);

(B) For purposes of determining whether debt service is substantially level or declining in accordance with the preceding sentence, the first three (3) years of debt service do not need to be taken into account. For purposes of determining whether debt service is substantially level or declining on bonds issued with a variable interest rate, the average rate of interest at which fixed interest rate bonds of the same maturities would be sold should be estimated and the total principal amount should be amortized based upon such interest rate assumption.

(b) For purposes of this section, principal of debt will be treated as being payable or amortized upon its stated maturity, upon any mandatory redemption date, and upon any date on which the holder of the debt has the option to require the debt to be prepaid, redeemed, or purchased, other than with the proceeds of a liquidity facility provided by a third party.

(c) Solely for purposes of this section, a local government may account for the amortization of principal and the payment of debt service on:

(1) A fiscal year basis;

(2) A calendar year basis; or

(3) An annual basis commencing on the date upon which debt is issued.

(d) On and after July 1, 2014, if any local government or local government instrumentality proposes to issue any balloon indebtedness, then the local government or local government instrumentality shall first obtain approval from the comptroller of the treasury in accordance with subsection (e).

(e) Prior to the adoption by the local government or local government instrumentality of any action authorizing the issuance of balloon indebtedness, the local government or local government instrumentality shall submit a plan of balloon indebtedness to the comptroller of the treasury or

the comptroller's designee for approval. The comptroller of the treasury or the comptroller's designee may request any additional information as may be required to properly review the proposed plan of balloon indebtedness. The comptroller of the treasury or the comptroller's designee shall evaluate each plan of balloon indebtedness based on the plan's particular circumstances and shall approve the plan only if a determination is made that the repayment structure is in the public's interest.

(f) The comptroller of the treasury or the comptroller's designee shall report the comptroller's approval or disapproval of the plan of balloon indebtedness to the governing body within fifteen (15) business days after receipt of the plan and all requested supplemental documentation. After receiving the approval of the comptroller of the treasury or the comptroller's designee of the plan of balloon indebtedness or after the expiration of fifteen (15) business days from the date the plan of balloon indebtedness is received by the comptroller of the treasury or the comptroller's designee and no disapproval having been reported by the comptroller of the treasury or the comptroller's designee, whichever date is earlier, the governing body may take such action with reference to the proposed plan of balloon indebtedness as it deems advisable in accordance with this part.

(g) The state funding board is authorized to establish guidelines, rules, or regulations with respect to the comptroller of the treasury's approval of balloon indebtedness and may exempt certain classes or issues of indebtedness from such approval.

Acts 2014, ch. 766, 5; 2018, ch. 498, 1.

**Code Commission Notes.**

The version of this section from Acts 2014, ch. 529, 2 has not been codified because the code commission has determined that Acts 2014, ch. 766, 5 supersedes it.

**Compiler's Notes.** Acts 2014, ch. 529, 1 provided that the act shall be known and may be cited as the Anti-Kicking the Can Act.

**Amendments.** The 2018 amendment rewrote (a)(1)(A)(i) which read: Has a final maturity date thirty-one (31) or more years after the date of issuance;.

**Effective Dates.** Acts 2014, ch. 766, 6. July 1, 2014.

Acts 2018, ch. 498, 2. February 22, 2018.