



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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DATE: March 10, 2005

TO: Bond Counsel, Financial Consultants, Certified Public Accountants, Municipal Organizations, and State Agencies

FROM: Scott Lonberger, Municipal Finance Division

SUBJECT: **Public Comment Period for Proposed Bulletin** regarding revisions to the qualifying statement, the electronic filing of security reports, and reduction in post-issuance filing requirements

I. Notice of 30-day Public Comment Period for Proposed Bulletin

As provided by section 307 of the Revised Municipal Finance Act (Public Act 34 of 2001), before any bulletin issued by the Department that addresses filings or approvals can take effect, there must be not less than a 30-day public comment period. This proposed bulletin is being distributed in fulfillment of that requirement. Additional copies may be obtained through the Department's website at www.michigan.gov/treasury by selecting "Local Government" then "Municipal Finance" and finally, reviewing the "What's New" section.

II. Elements of Proposed Bulletin

In general, this proposed bulletin seeks to clarify and streamline several filings required to be submitted to the Department under the Revised Municipal Finance Act. More specifically and first, the proposed bulletin includes a revised qualifying statement for discussion (see attached). Secondly, it will address a revised security report (to be filed electronically) and offer a basic demonstration site where interested parties may view and get a general sense as to how the required electronic submission of that report will work. Finally, the proposed bulletin will address a reduction in the number of documents required to be filed with the Department after the issuance of a municipal security.

A. Revised Qualifying Statement: the online qualifying statement form will undergo minor revisions in an effort to clarify certain questions, add some new questions to better mirror the statutory qualification criteria, and overall, become more user-friendly. Some of the specific proposed changes include:

1. Adding an additional instruction link directly to the form
2. Eliminating some of the initial fields pertaining to SEV and population
3. Splitting up compound questions

4. Specifically asking about debt limitation compliance as authorized by section 303(3)(f) of the Revised Municipal Finance Act
5. Specifically asking about security report and other post-issuance filing compliance stemming from the authorization granted in section 303(3)(o)

A copy of the proposed, revised qualifying statement is attached below for your review. Although the substantive information is accurate in this copy, the final version, in appearance, will look very similar to the current online qualifying statement form.

B. Online Security Report: In an effort to reduce paper filings and to create an automated system that can be used to quickly sort municipal debt data, the municipal finance security report will undergo revisions which will include the requirement that it be filed electronically (as authorized by section 321 of the Revised Municipal Finance Act) through a process similar to that of the qualifying statement. The major revisions to the form itself include:

1. Elimination of maturity schedule information
2. Addition of outstanding long-term debt itemization and the corresponding statutory authority (Public Act and year for each)
3. Generally categorizing debt into one of three options (general obligation, revenue, or tax increment backed)

The following internet address <http://136.181.128.19/munfinprototype/MF-Login.aspx> contains a basic test site, with mock-up screens, so that you can get an idea of how the electronic filing process will work and how the form itself will look. As listed above, the main change to the security report itself involves the elimination of the maturity schedule table and the addition of an itemized long-term debt table. Once a municipality enters its itemized long-term debt information, the computer system will store that data and automatically carry it forward to the next security report submitted (whenever that may be) so that subsequently, only new debt incurred or old debt retired would have to be added or edited. The same password and code a municipality uses to complete the online qualifying statement will be used to enter and submit the online security report.

C. Reduction in Post-Issuance Filings: To further streamline the post-issuance filing process, the items currently required by sections 319(1) and 319(2) of the Revised Municipal Finance Act will be reduced to the following prescribed form and manner:

1. **Qualified Status:** municipalities that have qualified status under section 303 (3) of the Revised Municipal Finance Act must submit the following information within 15 business days of completing the issuance of any municipal security:
 - (a) A security report submitted electronically through the Department's internet site
 - (b) A copy of the legal opinion that at the onset, clearly identifies the statutory authority or basis for the municipal security and relative to that authority or basis, clearly states that all applicable statutory requirements have been satisfied
 - (c) A copy of the official statement, if any
 - (d) A filing fee equal to .02% of the principal amount of the municipal security issued, but in no event shall the fee be less than \$100 or greater than \$1,000
 - (e) If the qualifying statement was received by the Department more than 6 months after the municipality's fiscal year end, a \$100 late fee with the first filing thereafter

2. Non-Qualified Status: municipalities that have received prior written approval under section 303 (7) of the Revised Municipal Finance Act must submit the following information within 15 business days of completing the issuance of the approved municipal security:

- (a) A security report submitted electronically through the Department's internet site
- (b) A copy of the legal opinion that at the onset, clearly identifies the statutory authority or basis for the municipal security and relative to that authority or basis, clearly states that all applicable statutory requirements have been satisfied
- (c) A copy of the official statement, if any

III. Application to the Agency Financing Reporting Act (Public Act 470 of 2002)

A. The Agency Financing Reporting Act requires agencies (as defined by the act) to submit certain follow-up documentation to the Department after completing the issuance of any security (as defined by the act). Section 5 of that act authorizes the Department to issue bulletins and additionally, section 7(3) provides authority for the Department to require post-issuance filings be made in an electronic format. Through this proposed bulletin, the Department serves notice that agencies will be required to submit the following items within 15 business days of completing the issuance of any security:

- 1. A security report submitted electronically through the Department's internet site
- 2. A copy of the legal opinion that at the onset, clearly identifies the statutory authority or basis for the municipal security and relative to that authority or basis, clearly states that all applicable statutory requirements have been satisfied
- 3. A copy of the official statement, if any

IV. Written Comments to Proposed Bulletin

A. All comments in response to this proposed bulletin must be received by the Department, in writing, on or before April 10, 2005. Your written comments may be sent to the Department through any of the following means:

- 1. **U.S. Postal Service:** Local Audit and Finance Division, attention Scott Lonberger, Michigan Department of Treasury, P.O. Box 30728, Lansing, Michigan, 48909-8228
- 2. **Facsimile:** (517) 373-0633, attention Scott Lonberger
- 3. **E-mail:** lonbergers@michigan.gov

ATTACHMENT

Municipal Finance Qualifying Statement

General Instructions and Information: Unless otherwise directed, complete and enter information for all parts of the qualifying statement. Submit, online, only one qualifying statement per fiscal year. To avoid a one-time \$100 late fee, the qualifying statement must be submitted online within 6 months of the municipality's fiscal year end. The Department of Treasury (the Department) will electronically post a written approval or denial response letter within 30 business days of submission. If a municipality is denied qualified status for a particular fiscal year, that municipality may request ONE reconsideration. Reconsideration requests must also be submitted online and the Department's reconsideration approval or denial response letter will be electronically posted within 30 business days of submission as well. The Department will determine whether the action taken in the reconsideration request CORRECTS the noncompliance. A reconsideration approval WILL NOT be granted for late audit reports. For additional instructions, please click on the link appearing below.

[Additional instructions link \(nonfunctioning at this point\)](#)

Municipality Information

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|--|
| 1. Legal name of municipality: (auto populated based on password / code) |
| 2. County in which municipality is located: (auto populated based on password / code) |
| 3. Fiscal year for which this qualifying statement is being submitted (auto populated based on log in) |

Qualifying Statement Questions

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| 1. Is the municipality operating under the provisions of the Local Government Fiscal Responsibility Act (Public Act 72 of 1990)? |
| 2. Did the municipality issue securities in the immediately preceding 5 fiscal years or its current fiscal year that were authorized by either the Emergency Municipal Loan Act (Public Act 243 of 1980) OR the Fiscal Stabilization Act (Public Act 80 of 1981)? |
| 3. During the fiscal year for which this qualifying statement is being submitted, was the municipality required by the terms of a court order or judgment to levy a tax? |
| 4. Did the municipality file its most recent audit report (as required by statute) with the Department within 6 months from the end of its fiscal year? |
| 5. Enter the total fund balance remaining in all <u>unlimited</u> tax levy funded debt retirement funds at the end of the most recently completed fiscal year (if the municipality does not have any outstanding municipal securities funded from an unlimited tax levy, please enter "0.") |
| 6. Enter the total amount of principal and interest payments due in the next fiscal year for all outstanding municipal securities funded from an unlimited tax levy (if the municipality does not have any outstanding municipal securities funded from an unlimited tax levy, please enter "0.") |
| 7. Did the municipality submit a qualifying statement or an application for any other municipal security to the Department in the preceding 18 months that was materially false or incorrect? |
| 8. Is the municipality currently exceeding its statutory or constitutional debt limits? |
| 9. Are all outstanding securities of the municipality authorized by statute? (If there are no outstanding securities, answer "YES.") |

10. Is the municipality currently in violation of any provision in the covenants for an outstanding security, including but not limited to short-term municipal security set-aside requirements; statutory debt limitations for short-term municipal securities; and required funding levels for revenue bond reserve accounts? (If there are no outstanding securities, answer "NO.")

11. During the fiscal year for which this qualifying statement is being submitted, was the municipality delinquent (greater than 30 days beyond the due date) more than one time in transferring employee taxes withheld to the appropriate agency? (If question does not apply, answer "NO.")

12. During the fiscal year for which this qualifying statement is being submitted, was the municipality delinquent (greater than 30 days beyond the due date) more than one time in transferring taxes collected as an agent for another taxing entity to that taxing unit? (If question does not apply, answer "NO.")

13. During the fiscal year for which this qualifying statement is being submitted, was the municipality delinquent (greater than 30 days beyond the due date) more than one time in making all required pension, retirement, or benefit plan contributions? (If question does not apply, answer "NO.")

14. Enter the total dollar amount of property taxes that were levied by the municipality in the last completed calendar year. (If no taxes are levied, enter "0")

15. Enter the total dollar amount of those property taxes levied that became delinquent as of the following March 1. (If no taxes are levied, enter "0")

16. Is the municipality in default on the payment of any debt that it is financially liable for?

17. During the fiscal year for which this qualifying statement is being submitted, did the municipality issue a refunding security to avoid a potential default on an outstanding security?

18. Did the municipality file, with the Department, a security report and other required documentation for each municipal security issued during the fiscal year for which this qualifying statement is being submitted? (If no municipal securities were issued, answer "YES.")

19. Did the municipality end the fiscal year for which this qualifying statement is being submitted with a deficit in any fund? (If "NO", you may leave question #20 blank)

20. For each fund deficit, did the municipality file a deficit elimination plan with the Department (or with the Department of Education as applicable)?

21. As determined by a court of competent jurisdiction, did the municipality violate any State or Federal finance or tax related statutes during the fiscal year for which this qualifying statement is being submitted?

CERTIFICATION

I certify that this statement is complete and accurate in all respects. I understand that providing false information in this qualifying statement represents the commission of a misdemeanor pursuant to the Michigan Penal Code, MCL 750.489.

1. Contact Name:

2. Contact Telephone Number: