

A BILL TO BE ENTITLED

AN ACT

relating to financial advisors and investment advisors retained by bond issuers for the issuance of bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 1371, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ADVISORS RETAINED FOR THE ISSUANCE OF PUBLIC SECURITIES AND RELATED MATTERS

Sec. 1371.151. DEFINITIONS. In this subchapter:

(1) "Interest rate management agreement" means an agreement that provides for an interest rate transaction, including:

(A) a swap, basis, forward, option, cap, collar, floor, lock, or hedge; or

(B) any combination of these types of agreements or transactions.

(2) "Public security" has the meaning assigned by Section 1202.001.

Sec. 1371.152. EXEMPTION FOR CERTAIN ISSUERS AND NONPROFIT CORPORATIONS. This subchapter does not apply to an issuer who has more than \$3 billion in outstanding obligations or to a nonprofit corporation investing funds on behalf of such an issuer.

Sec. 1371.153. FINANCIAL ADVISOR OR INVESTMENT ADVISOR QUALIFICATIONS AND REQUIREMENTS FOR CERTAIN AGREEMENTS AND

1 TRANSACTIONS. (a) This section applies to a financial advisor or
2 an investment advisor, other than a person employed by the issuer or
3 another issuer, who advises the issuer in connection with:

- 4 (1) an interest rate management agreement;
- 5 (2) the execution or delivery of a public security; or
- 6 (3) the investment of the public security proceeds.

7 (b) To be eligible to be a financial advisor or an
8 investment advisor under this section, the advisor must:

9 (1) be a dealer or investment advisor registered in
10 accordance with Section 12 or 12-1, The Securities Act (Article
11 581-12 or 581-12-1, Vernon's Texas Civil Statutes);

12 (2) have relevant experience in providing advice to
13 issuers in connection with:

- 14 (A) the issuance of public securities;
- 15 (B) the valuation of interest rate management
16 agreements; or
- 17 (C) the investment of public security proceeds;

18 and

19 (3) acknowledge in writing to the issuer that in
20 connection with the transaction for which the advisor is providing
21 advice the advisor:

- 22 (A) is acting as the issuer's agent; and
- 23 (B) has complied with rules adopted under this
24 subchapter.

25 Sec. 1371.154. RULES. The State Securities Board shall
26 adopt rules relating to public securities, interest rate management
27 agreements, and investment of bond proceeds applicable to financial

1 advisors and investment advisors under this subchapter. The board
2 shall base the rules on principles stated, as of May 1, 2007, in the
3 Municipal Securities Rulemaking Board's rules G-17, G-19(c), G-20,
4 G-37, and G-38, as those rules may apply to financial advisors and
5 investment advisors.

6 SECTION 2. Not later than January 1, 2008, the State
7 Securities Board shall adopt the rules required by Section
8 1371.154, Government Code, as added by this Act.

9 SECTION 3. (a) Except as provided by Subsection (b) of this
10 section:

11 (1) this Act takes effect immediately if it receives a
12 vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution; and

14 (2) if this Act does not receive the vote necessary for
15 immediate effect, this Act takes effect September 1, 2007.

16 (b) Section 1371.153, Government Code, as added by this Act,
17 takes effect January 1, 2008.