

By: Harper-Brown

H.B. No. 4279

A BILL TO BE ENTITLED

AN ACT

relating to credit agreements executed in connection with the issuance of obligations for certain public improvements.

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

SECTION 1. Section 1371.001(1), Government Code, is amended to read as follows:

(1) "Credit agreement" means a loan agreement, revolving credit agreement, agreement establishing a line of credit, letter of credit, reimbursement agreement, insurance contract, commitment to purchase obligations, purchase or sale agreement, interest rate management agreement, or other commitment or agreement, including a contract or agreement of the governing body of an issuer to provide, use, or pledge any of the issuer's available revenues, resources, or assets, authorized by a governing body in anticipation of, related to, or in connection with the authorization, issuance, sale, resale, security, exchange, payment, purchase, remarketing, or redemption of some or all of an issuer's obligations or interest on obligations, or both, or as otherwise authorized by this chapter.

SECTION 2. Section 1371.053, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The governing body of an issuer that intends to purchase an obligation with the issuer's own funds must adopt and include in the obligation authorization a finding that the body is not

1 purchasing the obligation in order to extinguish the obligation.

2 SECTION 3. Sections 1371.056(d) and (e), Government Code,
3 are amended to read as follows:

4 (d) The cost to the issuer of a credit agreement or payments
5 owed by an issuer under a credit agreement may be paid from and
6 secured by any source, including:

7 (1) the proceeds from the sale of the obligation to
8 which the credit agreement relates;

9 (2) any revenue and money of the issuer that is
10 available to pay the obligation;

11 (3) any interest on the obligation or that may
12 otherwise be legally used; [~~or~~]

13 (4) ad valorem taxes if the credit agreement is
14 authorized in anticipation of, in relation to, or in connection
15 with an obligation that is wholly or partly payable from or is to be
16 wholly or partly payable from ad valorem taxes; or

17 (5) the issuer's available revenues, resources, and
18 assets, to the extent that the issuer has executed a credit
19 agreement consisting solely of the issuer's revenues, resources,
20 and assets.

21 (e) Except for a credit agreement that may be paid and
22 secured as provided under Subsection (d)(5), a [A] credit agreement
23 is an agreement for professional services but is not a contract
24 subject to Subchapter I, Chapter 271, Local Government Code.

25 SECTION 4. Subchapter D, Chapter 1371, Government Code, is
26 amended by adding Section 1371.156 to read as follows:

27 Sec. 1371.156. AFFIDAVIT OF COMPLIANCE. Before the

1 attorney general may approve an interest rate management agreement
2 under Section 1371.057, the issuer must submit an affidavit to the
3 attorney general stating that the issuer has complied with Section
4 1371.056(j) and this subchapter.

5 SECTION 5. This Act takes effect immediately if it receives
6 a vote of two-thirds of all the members elected to each house, as
7 provided by Section 39, Article III, Texas Constitution. If this
8 Act does not receive the vote necessary for immediate effect, this
9 Act takes effect September 1, 2009.