

CHAPTER 318

S.B. No. 901

An Act amending Section 7A, Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), relating to refunding bonds, and providing alternate and additional authority, procedures, and methods to governmental entities for issuing and selling refunding bonds and/or making deposits in connection with paying or redeeming revenue, tax, or other obligations so as to cause the discharge and final payment or redemption of revenue, tax, or other obligations with or without the issuance of refunding bonds.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 7A, Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 7A. Notwithstanding any provision of this Act or any other law to the contrary, any issuer may, at its option, in lieu of making any deposit with the State Treasurer hereunder, deposit proceeds from the sale of refunding bonds issued hereunder, and/or any other available funds or resources, directly with any place of payment (paying agent) for any obligations payable from revenues or from *ad valorem taxes or from both, or from any other source, [other than ad valorem tax revenues]* which it wishes to refund, or to pay or redeem in whole or in part without the issuance of refunding bonds, or with the trustee under any trust indenture, deed of trust, or similar instrument securing such *[revenue]* obligations, in an amount sufficient to provide for the payment and/or redemption of any such *[revenue]* obligations of the issuer, including assumed obligations, which are to be refunded, or to be paid or redeemed in whole or in part without the issuance of refunding bonds; and such deposit, if made on or before such payment and/or redemption date, shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the *[revenue]* obligations being refunded, or being paid or redeemed in whole or in part without the issuance of refunding bonds; and any issuer is authorized to enter into an escrow or similar agreement with any such place of payment (paying agent) or trustee with respect to the safekeeping, investment, reinvestment, administration, and disposition of any such deposit, upon such terms and conditions as the parties may agree, provided that such deposits may be invested and reinvested only in direct obligations of the United States of America, including obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, and which may be in book entry form, and which shall mature and/or bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment and/or redemption of such *[revenue]* obligations, and further provided that if any such *[revenue]* obligations are scheduled to be paid and/or redeemed on a date later than the next succeeding scheduled interest payment date thereon, the issuer shall be required to enter into an appropriate escrow or similar agreement as described above. *It is hereby made the statutory duty of any place of payment (paying agent) or trustee which enters into any such escrow or similar agreement with any issuer to comply with the terms of such agreement and timely make available to any other place or places of payment (paying agent or agents) or trustee or trustees for any of the obligations of the same or different series of obligations being refunded, paid, or redeemed, the amounts required to provide for the payment or redemption of the principal of and interest on such obligations when due, and in accordance with their terms, but solely from the funds, in the manner, and to the extent provided in such agreement.* Notwithstanding any provisions of this Act or any other law to the contrary, refunding bonds may be issued under this Act to refund any *[revenue]* obligations which are scheduled to mature, or which are subject to redemption prior to maturity, not more than 20 years from the date of the refunding bonds, and refunding bonds issued under this Act may be sold at public or private sale, under such procedures, at any price (at a premium, at par, or at a discount), upon such terms, and bear interest at such rate or rates, and mature not more than 40 years after their date, all as shall be determined within the discretion of the governing body of the issuer; provided that Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as now or hereafter amended (Article 717k-2, Vernon's Texas Civil Statutes), which pertains generally to the sale price and interest rates of all public securities, shall be applicable to said refunding bonds; and any issuer is further authorized to pledge to the payment of any refunding bonds issued hereunder (i) any surplus income to be available from the investment or reinvestment of any deposit made as authorized in this Section 7A and/or (ii) any other available revenues, income, or resources. The refunding bonds also may be issued in an additional amount sufficient to pay the costs and expenses of issuing said bonds and sufficient to fund any debt service reserve, contingency, or other similar fund deemed

necessary or advisable by the issuer. *Bonds for purposes authorized by other laws applicable to an issuer may be issued, sold, and delivered by an issuer in combination with refunding bonds issued under this Section 7A in accordance with the procedures authorized herein. All bonds permitted to be issued under Section 7A of this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized to be issued in accordance with the Texas Constitution and this Act he shall approve them, and thereupon such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas, without the surrender, exchange, or cancellation of the obligations being refunded; and notwithstanding any provisions of this Act to the contrary, such bonds shall be so approved and registered before the making of the deposit with any place of payment (paying agent), escrow agent, or trustee as required hereunder, and such refunding bonds may be sold and delivered to the purchaser thereof after such approval and registration in order to permit the issuer, in timely manner determined by the issuer, to use the proceeds from such sale and delivery to make all or any part of said deposit. After the approval and registration of such bonds and the sale and delivery of such bonds to the purchaser thereof, such bonds and the proceedings authorizing same, and any escrow agreement pertaining thereto, and any contract providing security or payments with respect to such bonds shall be incontestable in any court or other forum for any reason and shall be valid and binding obligations in accordance with their terms for all purposes.*"

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 2, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 21, 1985, by the following vote: Yeas 139, Nays 0, six present not voting.

Approved: June 8, 1985

Effective: Immediately