

The Funding Board is seeking public comment on the following “Request for Blanket Exemption” under the Anti-Kicking the Can Act (PC 766, Acts of 2014). The comment period would be for a period through December 12th.

“Indebtedness requiring comptroller approval pursuant to T.C.A. § 9-21-134(d) triggered by T.C.A. § 9-21-134(b) shall be exempt from such required approval only if the following requirements are met by that debt obligation:

1. The date(s) on which the debt holder has the option to require the issuer to take back the debt obligation (whether through early payoff, placement with another holder, or refunding) shall not occur earlier than four (4) years from the date of issuance.
2. The written evidence of the debt obligation clearly discloses in boldface, plain English that the local government¹ may be required to either pay in full or refund the outstanding amount on a certain put date or dates and the local government may also be required to incur additional expenses related to the prepayment or refunding of the debt (i.e. costs of issuance).
3. The written evidence of the debt obligation must include a provision that requires the debt holder to provide written notice of intent to exercise the put option to the local government at least one hundred and twenty (120) days prior to the put date.
4. The written evidence of the debt obligation must require that if the local government is unable to pay any amount in full at a put date and no subsequent holder can be determined, the local government will refund the debt obligation in the following manner:
 - a. The final maturity of the refunding debt obligation will not extend beyond the final maturity of the original debt obligation;
 - b. The debt service structure of the refunding debt obligation will be substantially similar to or more declining than the original debt structure; and
 - c. The local government shall submit a plan of refunding to the comptroller or the comptroller’s designee.
5. In the authorizing action or resolution, the governing body of the local government intending to enter into this type of debt obligation shall state that it is aware of the risks associated with the proposed transaction, that it is willing to pay any additional costs associated with subsequently required refunding debt, and that it understands its obligation to submit a plan of refunding.

¹ “Local government” includes the concept of local government instrumentality.