

FIRST REGULAR SESSION

HOUSE BILL NO. 327

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARNES.

1163H.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 108, RSMo, by adding thereto one new section relating to nonexchange financial guarantees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 108, RSMo, is amended by adding thereto one new section, to be known as section 108.1075, to read as follows:

108.1075. 1. As used in this section, the following terms shall mean:

(1) “Government”, the governing body of any political subdivision in this state as defined in section 70.120 or any department or entity of state government that participates in a nonexchange financial guarantee;

(2) “Make public” or “publicly disclose”, make available for public inspection according to the requirements of section 610.023;

(3) “More likely than not”, a likelihood of more than fifty percent;

(4) “Nonexchange financial guarantee”, a financial guarantee extended to cover an obligation of a legally separate entity, which guarantee requires the guarantor to indemnify a third-party obligation holder, under specified conditions;

2. The provisions of this section shall apply to financial statements of all entities of state government and all political subdivisions that participate in nonexchange financial guarantees.

3. This section does not apply to guarantees related to special assessment debt within the scope of Governmental Accounting Standards Board Statement No. 6, Accounting and Financial Reporting for Special Assessments as of January 1, 2013.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **4. A government that has extended a nonexchange financial guarantee shall**
18 **consider and make public qualitative factors in assessing the likelihood that the**
19 **government will make a payment in relation to the guarantee, including but not limited to**
20 **the following:**

21 **(1) Initiation of the process of entering into bankruptcy or a financial**
22 **reorganization;**

23 **(2) Breach of a debt contract in relation to the guaranteed obligation, including but**
24 **not limited to a failure to meet rate covenants, failure to meet coverage ratios, or default**
25 **or delinquency in interest or principal payments; and**

26 **(3) Indicators of significant financial difficulty, including but not limited to:**

27 **(a) The failure to transfer deposits from debt service funds to paying agents or**
28 **trustees;**

29 **(b) The draw on a debt service reserve fund;**

30 **(c) The initiation of the process by a creditor to intercept receipts to make a debt**
31 **service payment;**

32 **(d) Debt holder concessions;**

33 **(e) Significant investment losses;**

34 **(f) Loss of a major revenue source;**

35 **(g) Significant increase in noncapital disbursements in relation to operating or**
36 **current revenues; or**

37 **(h) Commencement of financial supervision by another government.**

38 **5. When a government extends similar guarantees to more than one individual or**
39 **entity, the government shall consider and make public applicable qualitative factors in**
40 **relation to the issuers in the group of individuals or entities or shall consider relevant**
41 **historical data to assess the likelihood that the government will make a payment in relation**
42 **to those guarantees. A government that has historical data on the default frequency of a**
43 **group of guarantees shall consider that data in relation to its outstanding guarantees to**
44 **assess the likelihood that it will make a payment on one or more of the guarantees within**
45 **the group.**

46 **6. When qualitative factors or historical data indicate that it is more likely than not**
47 **that a government will make a payment on nonexchange financial guarantees it extended,**
48 **the government shall recognize a liability and an expense in financial statements prepared**
49 **using the economic resources measurement focus and make public such a change in**
50 **finances. The amount recognized shall be the best estimate of the discounted present value**
51 **of the future outflows expected to be incurred as a result of the guarantee. If there is no**
52 **best estimate of the future outflows expected to be incurred but a range of estimated future**

53 outflows can be established in which no amount within that range appears to be a better
54 estimate than any other amount, the minimum amount in that range shall be recognized.

55 7. When qualitative factors or historical data indicate that it is more likely than not
56 that a government will make a payment on nonexchange financial guarantees it extended,
57 the government shall recognize a fund liability and an expenditure in financial statements
58 prepared using the current financial resources measurement focus to the extent the liability
59 is normally expected to be liquidated with expendable available financial resources and
60 shall make the information public. Liabilities for nonexchange financial guarantees
61 extended are expected to be liquidated with expendable available financial resources when
62 payments are due and payable on the guaranteed obligation.

63 8. When a government is required to repay a guarantor for payments made on the
64 government's obligations, the government shall reclassify that portion of its liability for the
65 guaranteed obligation as a liability to the guarantor and shall make the reclassification
66 information public. The government that issued the guaranteed obligation shall continue
67 to report the obligation as a liability until all or a portion of the liability is legally released,
68 including but not limited to when a plan of adjustment is confirmed by the court in the case
69 of bankruptcy. Interest expense or expenditures reported shall be reduced by the interest-
70 related payments made by the guarantor that are not required to be repaid.

71 9. When a government is legally released as an obligor from its own obligations and
72 from any liability to the guarantor, the government shall recognize revenue to the extent
73 of the reduction of guaranteed liabilities.

74 10. A government that extends nonexchange financial guarantees shall publicly
75 disclose the following information about the guarantees by type of guarantee:

76 (1) A description of the obligations that are guaranteed identifying:

77 (a) The legal authority and limits for providing financial guarantees;

78 (b) The relationship to the entities issuing the obligations that are guaranteed;

79 (c) The length of time of the guarantees; and

80 (d) A description of arrangements for recovering payments from the issuers of the
81 obligations that are guaranteed;

82 (2) For guarantees extended that have been recognized as liabilities in the financial
83 statements, a brief description of the timing of recognition and measurement of the
84 liabilities and a table presenting the changes in recognized guarantee liabilities, including
85 the following:

86 (a) Beginning-of-year balances;

87 (b) Increases, including initial recognition and adjustments increasing estimates;

88 (c) Guarantee payments made and adjustments decreasing estimates; and

- 89 (d) End-of-year balances;
90 (3) The amount of outstanding guarantees; and
91 (4) For outstanding guarantees in which indemnification payments have been made:
92 (a) Cumulative amounts that have been paid; and
93 (b) Amounts expected to be recovered.

94 **11. A government that has outstanding obligations that have been guaranteed by**
95 **another entity shall publicly disclose the following information about the guarantees by**
96 **type of guarantee:**

- 97 (1) The name of the entity providing the guarantee;
98 (2) The amount of the guarantee;
99 (3) The length of time of the guarantee;
100 (4) The amount paid by the entity extending the guarantee on obligations of the
101 **government during the current reporting period;**
102 (5) The cumulative amount paid by the entity extending the guarantee on
103 **outstanding obligations of the government;**
104 (6) A description of requirements to repay the entity extending the guarantee; and
105 (7) The amount required to repay the entity providing the guarantee.

106 **12. The provisions of this section are effective for periods beginning after August**
107 **28, 2013. In the first accounting period that this section is applied, changes made to comply**
108 **with this section shall be treated as an adjustment of prior accounting periods, and**
109 **financial statements presented for the periods affected shall be restated. If restatement of**
110 **the financial statements for prior periods is not practical, the cumulative effect of applying**
111 **this section shall be reported as a restatement of beginning net position, or fund balance**
112 **or fund net position, as appropriate, for the earliest accounting period restated. In the first**
113 **accounting period that this section is applied, the financial statements shall disclose the**
114 **nature of the restatement and its effect.**

115 **13. The requirements for disclosure of cumulative amounts in subsections 10 and**
116 **11 of this section may be applied prospectively. If applied prospectively, the disclosure shall**
117 **state the date through which the cumulative amounts are determined.**

✓