

Sec. 2. **EFFECTIVE DATE.** This act is effective the day following final enactment.

Approved May 25, 1977.

**CHAPTER 259—S.F.No.1023**

[Coded]

*An act relating to public indebtedness; regulating the sale of securities by municipalities subject to reverse repurchase agreements; providing penalties for misconduct of municipal officers in the execution of agreements; amending Minnesota Statutes 1976, Section 475.51, by adding a subdivision; and Chapter 475, by adding a section.*

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

Section 1. Minnesota Statutes 1976, Section 475.51, is amended by adding a subdivision to read:

**Subd. 12. PUBLIC INDEBTEDNESS; REVERSE REPURCHASE AGREEMENTS.** "Reverse repurchase agreement" means an obligation incurred by a municipality to repurchase at a fixed future date and price a security sold by it to a financial institution on the date of the agreement, or another security identical as to the issuer, source of payment, principal amount, interest rate, maturity, and redemption provisions. The principal amount of the obligation is the sale price of the security, excluding any accrued interest thereon paid to the municipality. The interest payable by the municipality on the obligation is the difference between the sale price and the repurchase price of the security, excluding any accrued interest thereon received by the financial institution.

Sec. 2. Minnesota Statutes 1976, Chapter 475, is amended by adding a section to read:

**[475.76] REVERSE REPURCHASE AGREEMENTS.** Subdivision 1. A reverse repurchase agreement may be entered into by a municipality, subject to the provisions of this section, only with a bank qualified as depository of funds of the municipality, or with any national or state bank in the United States which is a member of the federal reserve system and whose combined capital and surplus equals or exceeds \$10,000,000, or with a reporting dealer to the federal reserve bank of New York.

Subd. 2. Reverse repurchase agreements shall not be included in computing the net debt of a municipality, and may be made without an election or public sale, and the interest payable thereon shall not be subject to the limitation in section 475.55. The interest shall not be deducted or excluded from gross income of the recipient for the purpose of state income, corporate franchise, or bank excise taxes or, if so provided by federal law, for the purpose of federal income tax.

Subd. 3. Reverse repurchase agreements shall be made on behalf of the  
Changes or additions indicated by underline deletions by strikethrough

municipality only by its treasurer or other officer designated pursuant to law or charter as custodian of funds and securities held by it, or by a deputy of the officer, when authorized by a resolution of its governing body, and subject to any limitations imposed by the governing body. They may be made in writing or orally, provided that confirmation of an oral agreement is made by the other party by wire or in writing transmitted or mailed within one business day thereafter. The agreement or confirmation shall state the sale date and price, the repurchase date and price, and the issuer, designation, principal amount, coupon interest rate, if any, maturity date, and redemption date, if any, of the security.

Subd. 4. In the event of failure by a bank or dealer to redeliver a security under a reverse repurchase agreement upon tender of the repurchase price by the municipality at the repurchase date, the obligation of the municipality to repurchase shall cease, and the bank or dealer shall be liable to the municipality for any amount by which the market price of the security at that date exceeds the repurchase price. In the event of failure by a municipality to tender the repurchase price when due under an agreement, the obligation of the bank or dealer to redeliver shall cease, and the municipality shall be liable to the bank or dealer for any amount by which the repurchase price exceeds the market price of the security at the repurchase date. The market price of a security for the purpose of this subdivision shall be deemed to be the average of bid prices quoted, as of the pertinent date, by two or more banks or dealers referred to in subdivision 1, other than the purchaser. Any amount for which either party to a reverse repurchase agreement is liable under the provisions of this subdivision shall be recoverable by action, and may be offset against any existing or subsequent liability owed to the defaulting party, other than a liability of a bank as trustee, custodian, paying agent, or other fiduciary. Any amount for which the municipality becomes liable shall be included in computing its net debt, whether or not it causes the net debt of the municipality to exceed any limit otherwise applicable.

Subd. 5. Reverse repurchase agreements entered into in accordance with the foregoing provisions shall be valid and binding, whether or not they conform to the following limitations. However, the execution of an agreement that does not conform constitutes misconduct on the part of the responsible officer, subject to a penalty as provided in section 609.43, if the term of the agreement exceeds:

(a) A period of 30 consecutive days, including the sale date but not including the repurchase date; or

(b) A period which, with the aggregate periods of all agreements made within the preceding 12 months with respect to one security or two or more identical securities, exceeds 90 days, whether or not the period from the first sale to the last repurchase exceeds 12 months.

Sec. 3. This act is effective the day following final enactment.

Approved May 25, 1977.

Changes or additions indicated by underline deletions by strikeout