

**THE LOCAL GOVERNMENT CODE
OF THE PHILIPPINES**

SEC. 55. Veto Power of the Local Chief Executive. - (a) The local chief executive may veto any ordinance of the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan on the ground that it is ultra vires or prejudicial to the public welfare, stating his reasons therefor in writing.

(b) The local chief executive, except the punong barangay, shall have the power to veto any particular item or items of an appropriations ordinance, an ordinance or resolution adopting a local development plan and public investment program, **or an ordinance directing the payment of money or creating liability.** In such a case, the veto shall not affect the item or items which are not objected to. The vetoed item or items shall not take effect unless the sanggunian overrides the veto in the manner herein provided; otherwise, the item or items in the appropriations ordinance of the previous year corresponding to those vetoed, if any, shall be deemed reenacted.

(c) The local chief executive may veto an ordinance or resolution only once. The sanggunian may override the veto of the local chief executive concerned by two-thirds (2/3) vote of all its members, thereby making the ordinance effective even without the approval of the local chief executive concerned.

TITLE IV. - CREDIT FINANCING

SEC. 295. Scope. - This Title shall govern the power of local government units to create indebtedness and to enter into credit and other financial transactions.

SEC. 296. General Policy. - (a) It shall be the basic policy that any local government unit may create indebtedness, and avail of credit facilities **to finance local infrastructure and other socio-economic development projects in accordance with the approved local development plan and public investment program.**

(b) A local government unit may avail of credit lines from government or private banks and lending institutions for the purpose of stabilizing local finances.

SEC. 297. Loans, Credits, and Other Forms of Indebtedness of Local Government Units. - (a) A local government unit may contract loans, credits, and other forms of indebtedness with any government or domestic private bank and other lending institutions **to finance the construction, installation, improvement, expansion, operation, or maintenance of public facilities, infrastructure facilities, housing projects, the acquisition of real property, and the implementation of other capital investment projects,** subject to such terms and conditions as may be agreed upon by the local government unit and the lender. The proceeds from such transactions shall accrue directly to the local government unit concerned.

(b) A local government unit may likewise secure from any government bank and lending institution short, medium and long-term loans and advances against security of real estate or other acceptable assets for the establishment, development, or expansion of agricultural, industrial, commercial, house financing projects, livelihood projects, and other economic enterprises.

(c) Government financial and other lending institutions are hereby authorized to grant loans, credits, and other forms of indebtedness out of their loanable funds to local government units for purposes specified above.

SEC. 298. *Deferred-Payment and other Financial Schemes.* - Provincial, city and municipal governments may likewise acquire property, plant, machinery, equipment, and such necessary accessories under a supplier's credit, deferred payment plan, or other financial scheme.

SEC. 299. *Bonds and Other Long-Term Securities.* - Subject to the rules and regulations of the Central Bank and the Securities and Exchange Commission, provinces, cities, and municipalities are hereby authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating, income-producing development or livelihood projects pursuant to the priorities established in the approved local development plan or the public investment program. The sanggunian concerned shall, through an ordinance approved by a majority of all its members, declare and state the terms and conditions of the bonds and the purpose for which the proposed indebtedness is to be incurred.

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BOOK II

LOCAL TAXATION AND FISCAL MATTERS

TITLE FIVE. - LOCAL FISCAL ADMINISTRATION

CHAPTER 1 - GENERAL PROVISIONS

SEC. 304. *Scope.* - This Title shall govern the conduct and management of financial affairs, transactions, and operations of provinces, cities, municipalities, and barangays.

SEC. 305. *Fundamental Principles.* - The financial affairs, transactions, and operations of local government units shall be governed by the following fundamental principles:

(a) No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law;

(b) Local government funds and monies shall be spent solely for public purposes;

(c) Local revenue is generated only from sources expressly authorized by law or ordinance, and collection thereof shall at all times be acknowledged properly;

(d) All monies officially received by a local government officer in any capacity or on any occasion shall be accounted for as local funds, unless otherwise provided by law;

(e) Trust funds in the local treasury shall not be paid out except in fulfillment of the purpose for which the trust was created or the funds received;

(f) Every officer of the local government unit whose duties permit or require the possession or custody of local funds shall be properly bonded, and such officer shall be accountable and responsible for said funds and for the safekeeping thereof in conformity with the provisions of law;

(g) Local governments shall formulate sound financial plans, and the local budgets shall be based on functions, activities, and projects, in terms of expected results; pment plans, goals, and strategies in order to optimize the utilization of resources and to avoid duplication in the use of fiscal and physical resources;

- (i) Local budgets shall operationalize approved local development plans;
- (j) Local government units shall ensure that their respective budgets incorporate the requirements of their component units and provide for equitable allocation of resources among these component units;
- (k) National planning shall be based on local planning to ensure that the needs and aspirations of the people as articulated by the local government units in their respective local development plans are considered in the formulation of budgets of national line agencies or offices;
- (l) Fiscal responsibility shall be shared by all those exercising authority over the financial affairs, transactions, and operations of the local government units; and
- (m) The local government unit shall endeavor to have a balanced budget in each fiscal year of operation.

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The New Central Bank Act (RA 7653)

CHAPTER V FUNCTIONS AS BANKER AND FINANCIAL ADVISOR OF THE GOVERNMENT

ARTICLE III - FUNCTIONS AS FINANCIAL ADVISOR OF THE GOVERNMENT

SECTION 123. Financial Advice on Official Credit Operations. — Before undertaking any credit operation abroad, the Government, through the Secretary of Finance, shall request the opinion, in writing, of the Monetary Board on the monetary implications of the contemplated action. Such opinions must similarly be requested by all political subdivisions and instrumentalities of the Government before any credit operation abroad is undertaken by them.

The opinion of the Monetary Board shall be based on the gold and foreign exchange resources and obligations of the nation and on the effects of the proposed operation on the balance of payments and on monetary aggregates.

Whenever the Government, or any of its political subdivisions or instrumentalities, contemplates borrowing within the Philippines, the prior opinion of the Monetary Board shall likewise be requested in order that the Board may render an opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.

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SECTION 36. Proceedings Upon Violation of This Act and Other Banking Laws, Rules, Regulations, Orders or Instructions. — Whenever a bank or quasi-bank, or whenever any person or entity willfully violates this Act or other pertinent banking laws being enforced or implemented by the Bangko Sentral or any order, instruction, rule or regulation issued by the Monetary Board, the person or persons responsible for such violation shall unless otherwise provided in this Act be

punished by a **fine** of not less than Fifty thousand pesos (P50,000) nor more than Two hundred thousand pesos (P200,000) **or by imprisonment** of not less than two (2) years nor more than ten (10) years, **or both, at the discretion of the court.**

Whenever a bank or quasi-bank persists in carrying on its business in an unlawful or unsafe manner, the Board may, without prejudice to the penalties provided in the preceding paragraph of this section and the administrative sanctions provided in Section 37 of this Act, take action under Section 30 of this Act.

SECTION 37. Administrative Sanctions on Banks and Quasi-banks. — Without prejudice to the criminal sanctions against the culpable persons provided in Sections 34, 35, and 36 of this Act, the Monetary Board may, at its discretion, impose upon any bank or quasi-bank, their directors and/or officers, for any willful violation of its charter or by-laws, willful delay in the submission of reports or publications thereof as required by law, rules and regulations; any refusal to permit examination into the affairs of the institution; any willful making of a false or misleading statement to the Board or the appropriate supervising and examining department or its examiners; any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Monetary Board, **the following administrative sanctions**, whenever applicable:

- (a) fines in amounts as may be determined by the Monetary Board to be appropriate, but in no case to exceed Thirty thousand pesos (P30,000) a day for each violation, taking into consideration the attendant circumstances, such as the nature and gravity of the violation or irregularity and the size of the bank or quasi-bank;
- (b) suspension of rediscounting privileges or access to Bangko Sentral credit facilities;
- (c) suspension of lending or foreign exchange operations or authority to accept new deposits or make new investments;
- (d) suspension of interbank clearing privileges; and/or
- (e) revocation of quasi-banking license.

Resignation or termination from office shall not exempt such director or officer from administrative or criminal sanctions.

The Monetary Board may, whenever warranted by circumstances, preventively suspend any director or officer of a bank or quasi-bank pending an investigation: Provided, That should the case be not finally decided by the Bangko Sentral within a period of one hundred twenty (120) days after the date of suspension, said director or officer shall be reinstated in his position: Provided, further, That when the delay in the disposition of the case is due to the fault, negligence or petition of the director or officer, the period of delay shall not be counted in computing the period of suspension herein provided.

The above administrative sanctions need not be applied in the order of their severity.

Whether or not there is an administrative proceeding, if the institution and/or the directors and/or officers concerned continue with or otherwise persist in the commission of the indicated practice or violation, the Monetary Board may issue an order requiring the institution and/or the directors and/or officers concerned to cease and desist from the indicated practice or violation, and may further order

that immediate action be taken to correct the conditions resulting from such practice or violation. The cease and desist order shall be immediately effective upon service on the respondents.

The respondents shall be afforded an opportunity to defend their action in a hearing before the Monetary Board or any committee chaired by any Monetary Board member created for the purpose, upon request made by the respondents within five (5) days from their receipt of the order. If no such hearing is requested within said period, the order shall be final. If a hearing is conducted, all issues shall be determined on the basis of records, after which the Monetary Board may either reconsider or make final its order.

The Governor is hereby authorized, at his discretion, to impose upon banking institutions, for any failure to comply with the requirements of law, Monetary Board regulations and policies, and/or instructions issued by the Monetary Board or by the Governor, fines not in excess of Ten thousand pesos (P10,000) a day for each violation, the imposition of which shall be final and executory until reversed, modified or lifted by the Monetary Board on appeal.

Date Issued: 08.06.2008

CIRCULAR LETTER NO. CL-2008-050

To : **All Banks**

Subject : Monetary Board Resolution No. 579.A dated 15 May 2008

Pursuant to the instructions of the Monetary Board (MB), in its Resolution No. 579.A dated 15 May 2008, all Banks are reminded of the requirement of prior MB opinion under Section 123 of R.A. No. 7653 (The New Central Bank Act) on the monetary implications of the borrowings of the Government, or any of its political subdivisions or instrumentalities.

Section 123 of R.A. No. 7653 provides –

“Financial Advice on Official Credit Operations. — Before undertaking any credit operation abroad, the Government, through the Secretary of Finance, shall request the opinion, in writing, of the Monetary Board on the monetary implications of the contemplated action. Such opinions must similarly be requested by all political subdivisions and instrumentalities of the Government before any credit operation abroad is undertaken by them.

The opinion of the Monetary Board shall be based on the gold and foreign exchange resources and obligations of the nation and on the effects of the proposed operation on the balance of payments and on monetary aggregates.

Whenever the Government, or any of its political subdivisions or instrumentalities, contemplates borrowing within the Philippines, the prior opinion of the Monetary Board shall likewise be requested in order that the Board may render an opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.”

For your guidance and strict compliance.

NESTOR A. ESPENILLA, JR.
Deputy Governor

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Date Issued: 09.04.2003

Number: 0402

BSP CIRCULAR NO. 402
Series of 2003

**Revised Guidelines on the Flotation of Bonds
by Local Government Units (LGUs)
[Without National Government Guarantee]**

Pursuant to Monetary Board Resolution No. 1151 dated August 14, 2003, the following guidelines shall govern the flotation of bonds by local government units (LGUs) under Republic Act (RA) No. 7160 (Local Government Code of 1991) and Republic Act (RA) No. 7653 (New Central Bank Act) dated 3 July 1993.

I. Legal Basis

A. UNDER THE LOCAL GOVERNMENT CODE OF 1991 (R.A.No. 7160)

“Sec. 299. *Bonds and Other Long-Term Securities.* Subject to the rules and regulations of the Central Bank and the Securities and Exchange Commission, provinces, cities, and municipalities, are hereby authorized to issue bonds, debentures, securities, collaterals, notes and other obligations to finance self-liquidating, income-producing development or livelihood projects pursuant to the priorities established in the approved local development plan or the public investment program. The Sanggunian concerned shall, through an ordinance approved by a majority of all its members, declare and state the terms and conditions of the bonds and the purpose for which the proposed indebtedness is to be incurred.”

B. UNDER THE NEW CENTRAL BANK ACT (R.A. No. 7653)

“Section 123. *Financial Advice on Official Credit Operations.* – Before undertaking any credit operation abroad, the Government, through the Secretary of Finance, shall request the opinion, in writing, of the Monetary Board on the monetary implications of the contemplated action. Such opinions must similarly be requested by all political subdivisions and instrumentalities of the Government before any credit operation abroad is undertaken by them.

“The opinion of the Monetary Board shall be based on the gold and foreign exchange resources and obligations of the nation and on the effects of the proposed operation on the balance of payments and on monetary aggregates.

“Whenever the Government, or any of its political subdivisions or instrumentalities, contemplates borrowing within the Philippines, the prior opinion of the Monetary Board shall likewise be requested in order that the Board may render an opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.”

II. Coverage

This Circular shall govern the issuance of bonds by provinces, cities, and municipalities which do not carry the guarantee of the National Government. The LGUs concerned are advised to observe the existing rules and regulations of other government agencies (Department of Finance, Securities and

Exchange Commission) relating to LGU bond flotation.

III. Procedures and Documentary Requirements

A. Manner of Request

An LGU proposal to issue bonds shall be submitted to the Bangko Sentral ng Pilipinas (BSP), through the Secretary of Finance with a formal request for the Monetary Board's opinion on the probable effects of the proposed operation on monetary aggregates, the price level, and the balance of payments.

B. Documentary Requirements

The proposal shall be accompanied by the following documents:

1. An original copy (or a certified true copy) of the ordinance duly signed by the appropriate officers pursuant to the Local Government Code. In accordance with the Local Government Code, the ordinance authorizing the bond flotation should:
 - a) state the specific purpose/project(s) for which the proposed indebtedness is to be incurred;
 - b) certify that the project(s) to be financed by the bond flotation is/are a self-liquidating, income-producing development or livelihood project/s pursuant to the priorities established in the approved local development program or the public investment program; and
 - c) state the terms and conditions of the bond flotation, including sinking fund or other funding arrangements.
2. A copy of the resolution designating the LGU representative, including the specific acts/services that the representative has been authorized to perform.
3. A waiver letter on the confidentiality of information (Annex 1) under Sections 2 and 3 of Republic Act No. 1405, as amended, authorizing all banks and financial institutions under the supervision of the BSP and which have transactions with the concerned LGU to disclose to the BSP all information pertaining to the deposits, investments, loans and other transactions of the concerned LGU (including the history or status of the LGU's dealings with said banks and financial institutions); the waiver letter should be duly executed by the mayor or governor as the case may be.
4. A Department of Finance (DOF) certification that the debt service and borrowing capacity of the proponent LGU satisfies the legal requirements for a bond issue.

C. Monetary Board Opinion

1. Upon submission of all the above requirements, including other additional data or information it may deem necessary in the issuance of its opinion, and if the same are found to be in order, the Monetary Board shall, within a reasonable period of time, render an opinion on the probable effects of the proposed indebtedness on monetary aggregates, the price level, and the balance of payments.
2. The opinion of the Monetary Board shall be forwarded to the concerned LGU through the DOF.

3. The opinion of the Monetary Board does not constitute an endorsement by the BSP of the project since it is limited to the assessment of the monetary implications of the bond flotation. The said opinion is based on: (a) the information contained in the documents submitted by the LGU; and (b) the assumption that the proceeds of the bond flotation will actually be used for the intended projects described in the documents submitted. Hence, investors shall be responsible for assessing the quality of the bonds in terms of risks and returns.

D. Post-Issuance Reports

The LGU or its representative or its trustee bank, as the case may be, shall submit to the BSP a post flotation report (Annex 2) that will indicate the actual amount of the issue as well as the final terms and conditions of the issue within 30 days from the date of the flotation; and such other reports as may be required by the BSP.

IV. Sanctions

Any violation of this Circular shall be subject to the sanctions provided under Sections 36 and 37 of Republic Act No. 7653.

V. Repealing Clause

All BSP regulations or issuances or any provision thereof that may be inconsistent with the provisions of this Circular, including Circular No. 41, dated August 29, 1994, are hereby repealed and superseded accordingly.

VI. Effectivity

This Circular shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

FOR THE MONETARY BOARD:

RAFAEL B. BUENAVENTURA
Governor