



BULLETIN

No. B-89-3
(Supersedes B-87-5, dated 9-3-87)

June 14, 1989

This Bulletin will supersede Bulletin No. B-87-5, dated September 3, 1987. The subject of this Bulletin is the making of loans to local governmental entities in Tennessee. This Bulletin reports changes made in the law, which were enacted by the 95th General Assembly.

The Department of Audit of the Tennessee Comptroller of the Treasury audits or reviews the audits of all county and municipal governmental accounts. The Department of Audit has determined that certain governmental entities have occasionally borrowed funds without first having the transaction approved by the State Director of Local Finance.

State law requires that the State Director of Local Finance approve the borrowing authority of a municipality before it incurs indebtedness on capital outlay expenditures, grant anticipation notes, bond anticipation notes, or tax anticipation notes; or before a county incurs indebtedness on capital outlay notes, grant anticipation notes, and tax anticipation notes. Under prior law, failure to comply with the requirements provided in the above statutes, including the lack of approval from the State Director of Local Finance, rendered the note illegal and void as to municipalities and counties. In such cases, under prior law, any payments received by the lender on those notes were deemed a misappropriation of public funds and might be recovered from the lender for the use and benefit of the appropriate local governmental body.

Public Chapter 750 was signed into law by Governor McWherter on April 14, 1988, and was effective July 1, 1988. The new law amended the Local Government Public Obligations Law to permit local governments, cities and counties, to correct procedural defects in the issuance of notes or other short term obligations. Under prior law, the defects were being corrected by this method but there was no statutory authority for doing so. Under prior law, any loan which did not strictly conform to the correct procedure was void.