

# Chapter 210-02 WAC

## SCHOOL BOND GUARANTEE PROGRAM

**WAC**

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**GENERAL**

**WAC 210-02-010 Definitions.** For purposes of this rule, the following definitions shall apply:

**"Act"** means the Washington State School District Credit Enhancement Program Act, pursuant to chapter 39.98 RCW.

**"Authorized district official"** means the chairperson of the board, the superintendent, or business manager for the school district, or other designee of the board, as designated by resolution provided for in WAC 210-02-020.

**"Bond"** means any voted general obligation bond issued by a school district holding a certificate issued pursuant to the act, and any general obligation bond issued by a school district holding a certificate issued pursuant to the act to refund outstanding voted general obligation bonds of that school district.

**"Certificate of eligibility"** means a certificate issued by the state treasurer pursuant to RCW 39.98.040.

**"Credit enhancement program"** means the school district bond guarantee program established by the act.

**"County assessor"** means the county assessor(s) in the county or counties in which the requesting school district is located.

**"County treasurer"** means the county treasurer of the requesting school district.

**"Fiscally solvent,"** when used for the purposes of any certification required by the act and these rules with respect to the financial condition of a school district seeking to participate in the guarantee program, means that, in the opinion of the person making such certification after giving due consideration to:

- The principal and interest requirements of all outstanding voted general obligation bonds of the school district and of all outstanding bonds issued to refund voted general obligation bonds of the school district;

- The school district's past record of collecting voter-approved excess property taxes and reasonable expectations concerning future collections of voter-approved excess property taxes as required to meet those principal and interest requirements; and

- Such additional financial circumstances, if any, of the school district that such person considers to be material, it is reasonably expected that the school district will be able to satisfy all principal and interest requirements of bonds guaranteed and proposed to be guaranteed by the state under the guarantee program.

**"Guarantee program"** means the Washington state school district credit enhancement program established by the act.

**"Nationally recognized bond counsel firm"** means a bond counsel firm listed in the most recent publication of *The Bond Buyer's Municipal Market Place*.

**"Paying agent"** means the paying agent selected, from time to time, for a bond issue pursuant to state law.

**"School district"** or **"district"** means any school district or its successor under the laws of the state.

**"State"** means the state of Washington.

Terms not otherwise defined shall have the meanings ascribed to them in the act.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-010, filed 5/9/00, effective 6/9/00.]

**APPLYING TO THE PROGRAM**

**WAC 210-02-020 Request for certificate of eligibility.** School districts may request a certificate of eligibility at any time during the year by filing the request. Such requests, however, must be submitted no less than thirty days prior to sale of bonds for which the guarantee, if granted, will apply. Requests, and all other written communications pursuant to the guarantee program, shall be addressed to the Debt Man-

agement Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200. The request shall include:

- The name, county, and district number (if applicable) of the requesting school district;
- The name of the authorized district official for the requesting school district;
- The name of the underwriter, if known, financial advisor (if any) and bond counsel assigned to the financing of the requesting school district to which the guarantee will apply;
- The mailing address, phone number, fax number, and e-mail address (if applicable) of the requesting school district;
- A statement of whether any of the school district's previously issued debt is covered by the guarantee program;
- A copy of the district's ballot proposition resolution, showing details of the special election (date, amount, ballot title) at which the bonds were or are expected to be approved by the voters;
- A copy of the resolution passed by the requesting school district's board of directors (which may be the same resolution as the district's ballot proposition resolution) authorizing the request for a certificate of eligibility;
- A certificate signed by an authorized district official:
  - Stating whether the requesting school district has any bonds, the principal of or interest on which has been paid by the state under the act, and for which there remain outstanding any payment obligations of the district to the state;
  - Stating that the requesting school district is, and will remain, in compliance with these administrative rules; and
  - Attesting to the accuracy and completeness of the materials provided.
- A nonrefundable application processing fee of one hundred dollars; and
- Any additional materials that may be required by the office of the state treasurer in support of the request for participation in the guarantee program.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-020, filed 5/9/00, effective 6/9/00.]

#### STATE REVIEW AND APPROVAL UNDER THE PROGRAM

**WAC 210-02-030 Review of request for certificate of eligibility.** Upon receipt of a request for a certificate of eligibility, the state treasurer shall determine whether all items listed in WAC 210-02-020 have been provided. In determining the school district's eligibility under the guarantee program, the office of the state treasurer may request additional information from the school district, as well as from any other person or entity that collects information pertaining to an evaluation that the requesting school district is fiscally solvent.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-030, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-040 Issuance of certificate of eligibility.** Upon determining that a school district is eligible to participate in the guarantee program, the state treasurer shall issue a certificate of eligibility to the school district, no later than one

business day prior to the bond sale. The certificate of eligibility shall:

- Evidence the school district's immediate qualification for the guarantee program for each bond issue contemplated for guarantee under the act;
- Be valid for one year from the date of its issuance; and
- Be applied only to the bonds approved under the special election specified by the school district in its request for a certificate of eligibility.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-040, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-050 Denial of eligibility/determination of ineligibility.** The state treasurer may deny a school district's request for a certificate of eligibility and issue a determination of ineligibility pursuant to RCW 39.98.040, if:

- The school district fails to meet the provisions outlined in the act or any of the requirements outlined in this rule;

The state treasurer may also deny a school district's request for a certificate of eligibility and issue a determination of ineligibility pursuant to RCW 39.98.040, if the state has ever paid, pursuant to the guarantee program, any principal of or interest on any of the school district's bonds and:

- The associated payment obligations of the district to the state are not satisfied; or
- The state treasurer or the state superintendent of public instruction are unable to certify, in writing, that the school district is fiscally solvent.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-050, filed 5/9/00, effective 6/9/00.]

#### USING THE CERTIFICATE TO ISSUE BONDS

**WAC 210-02-060 Using the certificate of eligibility to obtain the state guarantee.** The school district shall provide to the state treasurer at the time of closing:

- A copy of the bond resolution as adopted by the board of directors of the school district;
- A copy of the final official statement for the bonds to which the guarantee was applied, promptly upon its publication;
- A letter addressed to the state treasurer signed by the school district's nationally recognized bond counsel firm stating that the state treasurer may rely upon such firm's approving legal opinion with respect to the bonds as if that opinion were addressed to the state treasurer.

On the date of the bond closing, the treasurer will provide a certificate evidencing the state's guarantee for use by the school district.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-060, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-070 Guarantee final upon issuance.** Pursuant to RCW 39.98.040, if the state treasurer at any time denies a school district a certificate of eligibility in response to a request, such denial shall not affect the validity of the state's guarantee of any outstanding bonds issued pursuant to WAC 210-02-060.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-070, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-080 Reference to guarantee in school district bond documents.** School districts with a valid certificate of eligibility, and that have complied with WAC 210-02-060 and all other sections of this rule, shall evidence the state's guarantee of the school district's bonds by including a description of the state's guarantee in a form to be provided by the state treasurer:

- On the cover of the school district's preliminary official statement(s) and official statement(s), or other offering document(s), for the applicable bond(s); and
- On the face of the school district's applicable bond(s).
- The description of the state's guarantee supplied by the state treasurer must be used in its entirety and may not be modified or amended.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-080, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-090 Ratings.** The office of the state treasurer will undertake to have the Washington school bond guarantee program rated by Standard & Poor's, Moody's Investors Service, and Fitch IBCA. Any school district proposing to issue bonds under the guarantee program may:

- Engage, at its own expense, one or more of the rating agencies to apply the rating of the guarantee program to its bonds; and
- At its discretion, and at its own expense, choose to obtain an underlying rating on the bonds.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-090, filed 5/9/00, effective 6/9/00.]

## REPAYMENT OF SCHOOL DISTRICT DEBT ISSUED UNDER THE PROGRAM

**WAC 210-02-100 County assessor to levy taxes.** In accordance with applicable law, the county assessor for each school district with outstanding, unpaid bonds issued with the state guarantee provided under the act shall levy property taxes approved by the voters for repayment of the bonds.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-100, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-110 County treasurer to collect taxes and transfer money to paying agent.** In accordance with applicable law, the county treasurer for each school district with outstanding, unpaid bonds issued with the state guarantee provided under the act shall collect property taxes approved by the voters for repayment of the bonds. The county treasurer shall transfer money sufficient for each scheduled debt service payment to its paying agent on or before any principal or interest payment date for the bonds.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-110, filed 5/9/00, effective 6/9/00.]

## STATE PAYMENT ON BONDS

**WAC 210-02-120 County treasurer notice to state treasurer of insufficient funds.** A county treasurer who is unable to transfer to the paying agent funds required to make scheduled debt service payments on guaranteed bonds of a school district on or prior to the payment date, due to the lack of adequate funds, shall immediately provide notice to the

(5/9/00)

state treasurer and to the paying agent pursuant to RCW 39.98.050. Such notice shall be made to the office of the state treasurer as follows:

- By telephone: (360) 902-9050; and
- By facsimile: (360) 902-9045; and
- By first class mail: Attn: Deputy Treasurer, Debt Management Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-120, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-130 Paying agent notice to state treasurer of insufficient funds.** If sufficient funds are not transferred to the paying agent at the time or times required to make scheduled debt service payments on guaranteed bonds of a school district, the paying agent shall immediately notify the state treasurer as follows:

- By telephone: (360) 902-9050; and
- By facsimile: (360) 902-9045; and
- By first class mail: Attn: Deputy Treasurer, Debt Management Division, Office of the State Treasurer, Legislative Building, 2nd Floor, P.O. Box 40200, Olympia, Washington 98504-0200.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-130, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-140 Payment by the state treasurer for bonds issued under the act.** Pursuant to RCW 39.98.070:

- The legislature shall appropriate, in each and every biennial appropriations act, such amount as may be required to make timely payment on school district bonds guaranteed by the state under chapter 39.98 RCW;
- If sufficient money to make any scheduled debt service payment on guaranteed bonds of a school district has not been transferred to the paying agent in a timely manner, the paying agent shall make such scheduled debt service payment and the state treasurer shall transfer sufficient money to the paying agent for such payment.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-140, filed 5/9/00, effective 6/9/00.]

## SCHOOL DISTRICT REPAYMENT TO STATE

**WAC 210-02-150 Repayment to the state by school districts.** Each school district is responsible for paying in full the principal of and interest on its bonds guaranteed by the state under the guarantee program. The state treasurer shall recover from the district any funds paid by the state on behalf of a school district under the guarantee program in a manner consistent with chapter 39.98 RCW.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-150, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-160 Interest on school district obligations to state.** The state treasurer will charge interest in connection with the recovery of funds under chapter 39.98 RCW. Any interest charged will be in a manner consistent with chapter 39.98 RCW. The interest charged will be what the funds used to make the guarantee payment would otherwise earn in the state treasury.

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[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-160, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-170 Penalty for state payment under guarantee program.** In addition to charging interest, the state treasurer may impose a penalty on a school district for which the state made a payment under the guarantee program, which penalty shall not be more than five percent of the amount paid by the state pursuant to its guarantee for each instance in which a payment by the state is made. Any penalty imposed will be consistent with chapter 39.98 RCW.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-170, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-180 Other costs.** The district shall pay the fees, expenses and costs incurred by the state in recovering amounts paid under the guarantee.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-180, filed 5/9/00, effective 6/9/00.]

**WAC 210-02-190 Restructure/revision of tax collection.** If the state has made all or part of a debt service payment on behalf of a district that has issued bonds under chapter 39.98 RCW, the state treasurer may:

- Direct the district and the county treasurer to restructure and revise, to the extent permitted by law, the collection of excess levy taxes for the payment of bonds on which the state treasurer has made payments under chapter 39.98 RCW to the extent necessary to obtain repayment to the state treasurer; and
- Require, to the extent permitted by law, that the proceeds of such taxes be applied to the district's obligations to the state if all outstanding obligations of the school district payable from such taxes are fully paid or their payment is fully provided for.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-190, filed 5/9/00, effective 6/9/00.]

## OTHER

**WAC 210-02-200 Exceptions.** The state treasurer may, in his or her discretion, waive any or all provisions of this rule to the extent provided by law.

[Statutory Authority: Chapter 39.98 RCW. 00-11-023, § 210-02-200, filed 5/9/00, effective 6/9/00.]