



**House
Legislative
Analysis
Section**

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ALLOW INVESTMENT IN U.S. SECURITIES

House Bill 5610 with committee amendments
First Analysis (5-11-88)

Sponsor: Rep. Alvin Hoekman
Committee: Towns and Counties

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H.B. 5610 (5-11-88)

THE APPARENT PROBLEM:

Public Act 20 of 1943 limits the investment of surplus municipal funds to certain investments generally considered to be the safest. These investments allow the political subdivisions of the state to raise money much in the same way a private investment firm might do so, except that they are prohibited from making investments considered high-risk or which are not guaranteed by the U.S. government. Currently, there are a number of municipalities that have invested in various securities, specifically, mortgage-backed certificates guaranteed by the Government National Mortgage Association (GNMA), which is an agency of the federal government. Because the act does not specifically allow municipalities to invest in these types of securities, a number of municipalities have found themselves to be inadvertently in violation of the act, and fear that they could be forced to sell these investments if pressed to do so — which could result in a significant loss in revenue. A 1987 attorney general opinion, in fact, addressed the issue of whether townships are allowed to invest in GNMA mortgage-backed certificates under the act and concluded that the act does not allow it. However, in his opinion the attorney general quoted a ruling by the U.S. Supreme Court which stated that, although the U.S. does not bear "the primary obligation to make timely payments [for GNMA mortgage-backed certificates]," it does have a "secondary and contingent" obligation as the "guarantor." Since GNMA certificates have been recognized as U.S. "guaranteed" securities, some feel the act should be amended to allow municipalities to invest in those securities which are guaranteed by the U.S. government or one of its agencies.

THE CONTENT OF THE BILL:

The bill would amend Public Act 20 of 1943 to include in a list of types of investments which can be made by local governments (townships, villages, cities or counties) securities of the United States or this state in which the principal and interest are fully guaranteed by the United States or this state. The bill would include the following in the list of specific investments that could be made:

- securities offered and sold pursuant to the federal Securities Act of 1933;
- mortgage-related securities as defined in the federal Securities Exchange Act of 1934; and
- securities issued or guaranteed by the federal Home Loan Mortgage Corporation, the federal National Mortgage Association or the Government National Mortgage Association.

MCL 129.91

FISCAL IMPLICATIONS:

According to the Department of Treasury, the bill would not affect state expenditures. (5-10-88)

ARGUMENTS:

For:

The bill would allow local governments to make investments in certain securities generally considered safe. A number of municipalities already have invested in securities guaranteed by the Government National Mortgage Association (securities known as "Ginnie Maes") and currently are in violation of the law. Because the GNMA is an agency of the federal government, these investments present little or no risk to municipalities since the U.S. government "guarantees" the timely payment of these securities. Municipalities, however, if not allowed to keep these investments, could stand to lose a significant amount of revenue.

SUGGESTED AMENDMENTS:

According to the Department of Treasury, the bill is too specific in the types of security investments it would allow and, in fact, would allow some types of security investments that are not guaranteed either by the U.S. or one of its agencies. The department, therefore, has requested that the bill be amended to only permit security investments by municipalities that are issued or guaranteed by the U.S. government or one of its agencies, and that references to specific types of securities be deleted from the bill. The department also has requested that the bill be amended to delete a provision which would allow investments in obligations guaranteed by "this state." (In essence, the department's amendments would allow municipalities, in addition to other investments they are allowed to make, to invest only in those securities guaranteed by the GNMA — an agency of the U.S.).

POSITIONS:

The Department of Treasury would support the bill if its proposed amendments to the bill were adopted. (5-10-88)

The Michigan Municipal League supports the concept of the bill. (5-10-88)