

## CHAPTER 107

**AN ACT** requiring State entities to examine the opportunity of minority and women-owned financial institutions to serve as senior managing underwriters for State debt transactions, imposing reporting requirements, and enabling the establishment of aspirational levels of utilization and relative compensation, supplementing chapter 32 of Title 52 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.52:32-48 Qualified minority, women-owned financial institutions, service as senior managing underwriters, certain transactions; report; definitions.

1. a. For each State fiscal year commencing after the effective date of P.L.2010, c.107, a State entity which engages in debt transactions shall examine the opportunity of qualified minority and women-owned financial institutions to serve as senior managing underwriters for such transactions. The State entity shall report the findings of the examination to the State Treasurer, and to the Legislature upon the explicit request thereof.

b. The report required by subsection a. of this section shall include:

(1) the total number of the State entity's debt transactions in which qualified minority and women-owned financial institutions served as senior managing underwriters;

(2) the total number of qualified minority and women-owned financial institutions which sought unsuccessfully to serve as senior managing underwriters for the State entity's debt transactions;

(3) the total number of qualified minority and women-owned financial institutions available to serve as senior managing underwriters for the State entity's debt transactions;

(4) the total number of qualified minority and women-owned financial institutions available to serve as senior managing underwriters for the State entity's debt transactions whose primary trading, underwriting or investment banking activities were located within the State;

(5) the total number of State entity debt transactions in which a qualified minority and women-owned financial institution served as senior managing underwriters, relative to the total number of debt transactions undertaken by the State entity;

(6) the total value of the State entity's debt transactions in which a qualified minority and women-owned financial institution served as senior managing underwriters, relative to the total value of debt transactions undertaken by the State entity; and

(7) the total and per transaction value of the compensation provided to qualified minority and women-owned financial institutions who serve as senior managing underwriters for the State entity's debt transactions relative to the total and per transaction value of compensation provided to financial institutions, other than qualified minority and women-owned financial institutions, who serve as senior managing underwriters for the State entity's debt transactions.

c. A report owed pursuant to this section shall be due on the first business day after the January 1 immediately following the end of the State fiscal year for which the report is due. The State Treasurer shall determine uniform methods of data collection and reporting to effectuate this section. The State Treasurer may provide for a reporting method in which the requirements of subsection b. of this section are reported within categories defined by intervals of debt transaction valuations.

d. The State Treasurer may establish an aspirational level of utilization and relative compensation of qualified minority and women-owned financial institutions serving as senior managing underwriters in the State entity's debt transactions if such an aspirational level of

utilization and relative compensation can be established in a manner consistent with the responsibility to seek out the most economically optimal arrangements available for debt transactions, in accordance with the requirement that all persons shall have the full and equal benefit of all laws, and in the presence of a gross statistical disparity in the utilization and relative compensation of qualified minority and women-owned financial institutions serving as senior managing underwriters for a State entity's debt transactions as evidenced in a report due under subsection a. of this section. An aspirational level of utilization and relative compensation shall not be construed as a mandated quota and shall not be enforceable, but shall be considered as a goal that the State entity is encouraged to achieve. The State Treasurer shall suspend an aspirational level of utilization and relative compensation upon finding the conditions which lead to its establishment are no longer present.

e. A State entity, having been assigned an aspirational level of utilization and relative compensation of minority and women-owned financial institutions serving as senior managing underwriters in the State entity's debt transactions, shall include in its report due under subsection a. of this section a listing of impediments to the utilization and comparable compensation of minority and women-owned financial institutions serving as senior managing underwriters for the State entity's debt transactions and proposals to enhance the utilization and compensation of qualified minority and women-owned financial institutions serving as senior managing underwriters for the State entity's debt transactions.

f. In the event the State Treasurer finds and certifies that impediments to the utilization and comparable compensation of minority and women-owned financial institutions continue to exist six months before the initial expiration date of P.L.2010, c.107, the State Treasurer shall report such findings to the Legislature in accordance with section 2 of P.L.1991, c.164 (C.52:14-19.1) within 60 days thereof and P.L.2010, c.107 shall not expire but shall remain in effect for another five years, or until the State Treasurer finds and certifies that the impediments to the utilization and comparable compensation of minority and women-owned financial institutions cease to exist, whichever occurs first. P.L.2010, c.107 shall expire upon the State Treasurer notifying the Legislature that the impediments cease to exist or that the five-year period has ended, whichever occurs first.

g. As used in this section:

"Debt transaction" means the creation or refinancing of a bond, note or other financial instrument for which repayment is due.

"Qualified minority and women-owned financial institution" means a financial institution qualified to engage in State entity debt transactions that has a valid certification as a "minority business" or a "women's business" pursuant to P.L.1986, c.195 (C.52:27H-21.17 et seq.).

"Senior managing underwriter" means the lead and book running manager of the syndicate of underwriters of the State's or State entity's debt transactions.

"State entity" means a State department or agency, board, commission, corporation or authority.

h. If any section, subsection, paragraph, sentence or other part of this act is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this act, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this act directly involved in the controversy in which said judgment shall have been rendered.

2. This act shall take effect immediately and shall expire on the fifth anniversary of the effective date, except as provided for by subsection f. of section 1.

Approved January 4, 2011.