

Locke Lord QuickStudy: Changes to the Application of Bond and Note Premium Under Massachusetts Law

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The law governing the use of bond and note premium received by Massachusetts municipalities and districts, Section 20 of Chapter 44 of the Massachusetts General Laws, was recently amended. Any premium received upon the sale of bonds or notes sold after December 13, 2021, less the cost of preparing, issuing and marketing them, should be applied as follows:

1. Premium received on notes must be applied to the first payment of interest on the notes. As stated above, this requirement only applies to notes sold after December 13, 2021. Premium received on notes sold on or before December 13, 2021 that has already been reserved for capital projects cannot be used for interest.

2. Premium received on bonds for which a Proposition 2½ debt exclusion (M.G.L. Chapter 59, Section 21C) has been approved by a municipality must be used to reduce the principal amount of the bonds at the time of sale and applied to costs of the Proposition 2½ excluded project. This reduction requirement also applies to bonds issued by a school district when one or more of the district's member municipalities has excluded their share of the bonds from Proposition 2½. As before, any premium so applied will reduce the amount authorized to be borrowed for the relevant project.

3. Premium received on bonds for which a Proposition 2½ debt exclusion has not been approved can either be applied to pay costs of the project being financed by the bonds, thereby reducing the amount authorized to be borrowed for such project, or reserved and appropriated to pay costs of another capital project of the municipality or district. Notably, under the amended law, premium can now be applied to pay costs of any capital project for which the municipality or the district could authorize a borrowing, without regard to useful life.

Notwithstanding the application rules above, the amended law allows up to \$50,000 of premium received on each purpose of a bond issue to be applied to indebtedness.

In addition to the changes described above, the amendments removed the requirement that borrowing authorizations expressly provide for the application of premium to project costs. This change applies to any borrowing authorization used for a bond sale occurring after the December 13, 2021 effective date of the amended law.

We at Locke Lord would be happy to answer any questions you may have about the matters discussed above. If

you have questions, please contact Richard A. Manley Jr., Brenda M. McDonough or Michael H. Meidinger.

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