

## **Law no. 448 of 28 December 2001**

### **Provisions for the formation of the one-year and multi-year State budget (Financial law of 2002)**

#### **Heading VI**

#### **Public debt management tools**

##### *41. Local authorities' Finance*

1. In order to contain the cost of debt and to monitor public finance developments, the Ministry of Economy and Finance coordinates access to capital markets of provinces, municipalities, unions of municipalities, metropolitan cities, mountain communities and island communities, referred to in article 2 of the consolidated act on the government of local authorities, referred to in Legislative Decree no. 267 of 18 August 2000, as well as consortia of local authorities and regions. To this end, these entities regularly send data on their financial situation to the Ministry. The content and data coordination and transmission methods are established by decree of the Ministry of Economy and Finance to be issued jointly with the Ministry of the Interior, after consultation with the Unified Conference referred to in article 8 of Legislative Decree no. 281 of 28 August 1997, within thirty days from the date of entry into force of this law. The same decree approves the rules on debt depreciation and on the use of derivatives by the above entities (1) (2).

2. Without prejudice to the provisions in the relevant contractual agreements, the entities may provide for the conversion of mortgages taken out after 31 December 1996, also through the placement of new bond issues or through the re-negotiation, also with other institutions, of mortgages, under refinancing conditions that allow a reduction of the financial value of total liabilities to be paid by the bodies themselves, net of fees and of the possible downgrading of the substitute tax proceeds mentioned in article 2 of Legislative Decree no. 239 of 1 April 1996, and subsequent amendments (3).

2-ii. From 1 January 2007 within the public finance coordination framework, mentioned in article 119 of the Constitution, the contracts with which the regions and entities, referred to in the consolidated act referred to in Legislative Decree no. 267 of 18 August 2000, set up debt sinking transactions with single payment at maturity, and derivative transactions, must be transmitted, by the contracting authorities, to the Ministry of Economy and Finance - Treasury Department. This transmission, which must occur before the signing of the contracts themselves, is a constitutive element of the effectiveness of the same. The provisions of the decree referred to in paragraph 1 of this article, relating to monitoring, remain valid (4).

2-iii. Transactions referred to in the preceding paragraph that are in violation of current regulations are communicated to the Court of Auditors for the adoption of measures within its competence (5).

3. The following are repealed: article 35, paragraph 6, first sentence, of Law no. 724 of 23 December 1994, article 3 of the Regulation referred to in the Treasury Minister's Decree no. 420 of 5 July 1996.

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(1) The paragraph is thus amended by article 2, Legislative Decree no. 13 of 22 February 2002, in the text supplemented by the relative law of conversion. In implementation of the provisions of this paragraph see Ministerial Decree no. 389 of 1 December 2003. See, also, paragraph 10 of article 62, Legislative Decree no. 112 of 25 June 2008, as replaced by article 3, Law no. 203 of 22 December 2008, n. 203.

(2) The Constitutional Court, in ruling no. 376 of 18-30 December 2003, (Official Gazette no. 1 of 7 January 2004, 1st Special series), has declared unfounded, in relation to the reasons given, the question of the constitutionality of article 41, paragraph 1, raised in relation to articles 117 and 119 of the Constitution; it has also declared unfounded the question of the constitutionality of article 41, paragraph 2, raised in relation to articles 117 and 119 of the Constitution.

(3) The paragraph is thus amended first by paragraph 70 of article 1, Law no. 311 of 30 December 2004, and then by paragraph 10 of article 62, Legislative Decree no. 112 of 25 June 2008, as replaced by article 3, Law no. 203 of 22 December 2008. See also paragraph 69 of the mentioned article 1.

(4) Paragraph added by paragraph 737 of article 1, Law no. 296 of 27 December 2006.

(5) Paragraph added by paragraph 737 of article 1, Law no. 296 of 27 December 2006.