

First Extraordinary Session, 2006

ACT No. 41

HOUSE BILL NO. 93

BY REPRESENTATIVES HAMMETT, DORSEY, AND SALTER AND SENATORS
BAJOIE, HINES, AND MOUNT

1 AN ACT

2 To enact the Supplemental Omnibus Bond Authorization Act, relative to an omnibus bond
3 authorization; to provide for the issuance of bonds of the state to provide relief from
4 natural catastrophes; to provide for implementation of certain bond provisions of the
5 Gulf Opportunity Zone Act of 2005; to provide a program to provide relief from
6 natural catastrophes to certain affected political subdivisions of the state; to provide
7 procedures for the issuance of the bonds; to authorize the Department of Economic
8 Development to formulate a program for certain businesses for small business
9 recovery; to provide for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. (A) The legislature hereby finds that Hurricanes Katrina and Rita resulted
12 in natural catastrophes severely impacting the state of Louisiana and many of its political
13 subdivisions. The affected political subdivisions have suffered catastrophic or substantial
14 losses of tax and other revenues which have, or may, restrict the ability of the affected
15 political subdivisions to pay existing debt obligations and which may adversely affect the
16 credit rating of the state, the affected political subdivisions, and those political subdivisions
17 which were not directly affected by Hurricane Katrina or Rita.

18 (B) The legislature further determines that the issuance of bonds of the state is
19 necessary to provide immediate relief from the natural catastrophes of Hurricanes Katrina
20 and Rita and the consequences of such hurricanes on the state and the affected political
21 subdivisions including the resulting fiscal emergency caused to exist in the state and in the
22 affected political subdivisions.

23 (C) It is hereby determined that the issuance of the bonds authorized in this Act and
24 the payment of debt service on existing qualified bonds, notes, certificates of indebtedness,

1 and other debt obligations for the repayment of borrowed money of the affected political
2 subdivisions or the state is in all respects a public and governmental purpose to protect the
3 credit rating of the state and all political subdivisions of the state which may be impacted by
4 defaults of the affected political subdivisions, that said purposes are public purposes, that the
5 state will be performing an essential governmental function and meeting a public obligation
6 in the exercise of the powers conferred upon it by this Act, is a permitted use of the funds
7 and credit of the state, is a cooperative endeavor for a public purpose of the state and the
8 affected political subdivisions, will result in economic and financial benefits to the state and
9 the political subdivisions of the state, and will provide relief from the natural catastrophe.

10 (D) In response to Hurricane Katrina and Hurricane Rita, the United States Congress
11 adopted, and the President signed into law, the Gulf Opportunity Zone Act of 2005 that,
12 among other things, provides tax relief and bond-related provisions that will aid in recovery
13 efforts in the state, including and in accordance with the conditions and procedures set forth
14 in the Gulf Opportunity Zone Act of 2005, authorizing the state to issue not more than two
15 hundred million dollars in Gulf Tax Credit Bonds if matched with state funds and
16 authorizing the opportunity to advance refund, on a tax-exempt basis, certain bonds which
17 have previously been advance refunded.

18 Section 2. It is the intent of the legislature that this Act shall constitute the
19 Supplemental Omnibus Bond Authorization Act and, together with Act No. 36 of the 2005
20 Regular Session of the Louisiana Legislature, and any act authorizing the issuance of
21 refunding bonds, and in accordance with Article VII, Section 6 of the Constitution of
22 Louisiana, the State Bond Commission is hereby authorized in accordance with this Act to
23 issue general obligation bonds or other general obligations of the state to take advantage of
24 the provisions of the Gulf Opportunity Zone Act of 2005.

25 Section 3. Definitions. For purposes of this Supplemental Omnibus Bond
26 Authorization Act, the following words and phrases shall have the following meanings:

27 (A) "Affected political subdivision" shall include political subdivisions of every type
28 located in the Gulf Opportunity Zone.

29 (B) "Bonds" shall mean general obligation bonds, bond anticipation notes, notes,
30 reimbursement agreements, or other evidences of indebtedness of the state issued pursuant
31 to the provisions of this Act and Article VII, Section 6 of the Constitution of Louisiana.

1 (C) "Debt service" shall mean the payment of principal, interest, premium, sinking
 2 or reserve funds or other requirements, costs or expenses due and payable on bonds, notes,
 3 certificates of indebtedness, or other written obligations for the repayment of borrowed
 4 money of the state or an affected political subdivision.

5 (D) "Fund" shall mean the "Debt Service Assistance Fund".

6 (E) "Gulf Opportunity Zone" shall mean the Hurricane Katrina disaster area and the
 7 Hurricane Rita disaster area as defined in the Gulf Opportunity Zone Act.

8 (F) "Gulf Opportunity Zone Act" or "GO Zone Act" shall mean the provisions of the
 9 "Gulf Opportunity Zone Act of 2005".

10 (G) "Natural catastrophes" shall mean the consequences of Hurricanes Katrina and
 11 Rita on the state, affected political subdivisions, and the resulting fiscal emergency caused
 12 to exist in the state and in the affected political subdivisions.

13 (H) "OCD" shall mean the office of community development in the division of
 14 administration.

15 (I) "Political subdivision" shall mean a parish, municipality, board, commission,
 16 department, or public corporation of the state created by the Constitution of Louisiana or
 17 statute, or created pursuant thereto, and any other unit of local government, including a
 18 school board and a special district, authorized by law to perform governmental functions.

19 (J) "Qualified bonds" shall mean any obligation of the state or affected political
 20 subdivision which was outstanding on August 28, 2005, as defined in the Gulf Opportunity
 21 Zone Act of 2005.

22 Section 4. Power to issue Zero Interest Gulf Tax Credit State Bonds

23 As provided in Article VII, Section 6 of the Constitution of Louisiana to provide
 24 funds for the relief of natural catastrophes through the payment of debt service of qualified
 25 bonds of affected political subdivisions in accordance with the program established in
 26 Section 7 of this Act or the state, the State Bond Commission is hereby authorized pursuant
 27 to Article VII, Section 6 of the Constitution of Louisiana to issue general obligation bonds
 28 or other general obligations of the state, in an amount not to exceed two hundred million
 29 dollars. The bonds authorized to be issued in this Section shall be issued as gulf tax credit
 30 bonds as provided in the Gulf Opportunity Zone Act of 2005, shall bear interest at a rate of
 31 zero percent, shall mature not more than two years from the date of issuance, shall be issued

1 before January 1, 2007, and shall entitle the owner of the bonds to a credit against federal
2 taxation to the extent allowed by and in accordance with the provisions of the Gulf
3 Opportunity Zone Act of 2005.

4 Section 5. Power to issue bonds to provide matching funds if required by the Gulf
5 Opportunity Zone Act of 2005

6 To provide a match to the gulf tax credit bonds authorized in Section 4 of this Act
7 as required by the provisions of the Gulf Opportunity Zone Act of 2005, and as provided in
8 Article VII, Section 6 of the Constitution of Louisiana for the purpose of providing funds for
9 the relief from the natural catastrophes through the payment of debt service of qualified
10 bonds of affected political subdivisions in accordance with the program established in
11 Section 7 of this Act or the state, the State Bond Commission is hereby authorized to issue
12 general obligation bonds or other general obligations of the state, in an amount not to exceed
13 the lesser of an amount equal to the amount issued pursuant to Section 4 of this Act or two
14 hundred million dollars.

15 Section 6. Debt Service Assistance Fund

16 (A) The proceeds of the bonds issued pursuant to Sections 4 and 5 of this Act shall
17 be deposited into the Debt Service Assistance Fund which is hereby established in the state
18 treasury. The legislature may appropriate additional monies to the fund. All unexpended
19 and unencumbered monies in the fund at the end of the state's fiscal year shall remain in the
20 fund. The monies in the fund shall be invested by the state treasurer as provided by law, and
21 interest earned on the investment of these monies shall be credited to the fund to the extent
22 permitted by federal tax law.

23 (B) Monies in the fund shall be used solely as provided in this Act and shall be
24 appropriated by the legislature to OCD for distribution to or on behalf of affected political
25 subdivisions pursuant to a program of loans as set forth in Section 7 of this Act.

26 (C) In lieu of depositing the proceeds of the bonds issued pursuant to Sections 4 and
27 5 of this Act into the fund, a portion of the proceeds of said bonds in the amount determined
28 by the State Bond Commission may be deposited in the Bond Security and Redemption Fund
29 to be used to pay debt service of the state.

1 Section 7. Local Debt Service Assistance Program

2 (A) Monies in the fund shall be distributed through a loan program to or on behalf
 3 of those affected political subdivisions designated by and in such amounts as determined by
 4 OCD and approved by the commissioner of administration using criteria to be developed by
 5 OCD, without the necessity for compliance with the Administrative Procedure Act. Such
 6 criteria shall be submitted to the Joint Legislative Committee on the Budget for its review
 7 and approval prior to implementation of the program. Such criteria may include:

- 8 (1) The amount of tax and other operating revenue loss.
- 9 (2) The amount of debt service due and payable on bonds, notes, certificates of
 10 indebtedness, or other written obligations for the repayment of borrowed money of the
 11 affected political subdivision.
- 12 (3) The amount of any revenues or other assets available to pay operating expenses.
- 13 (4) The displacement of revenue-producing businesses.
- 14 (5) The projected recovery of tax and other revenues.
- 15 (6) The necessity to replace or eliminate essential services.
- 16 (7) The ability to obtain financial assistance from federal agencies.

17 (B) The distribution of monies in the fund for the payment of debt service due and
 18 payable on qualified bonds, notes, certificates of indebtedness, or other written obligations
 19 for the repayment of borrowed money of an affected political subdivision shall be approved
 20 by the State Bond Commission and the Joint Legislative Committee on the Budget and shall
 21 be made with the expectation of payment thereof to the state pursuant to (1) loans evidenced
 22 by notes issued by the affected public entities pursuant to R.S. 39:1430; (2) any other
 23 evidence of indebtedness pursuant to statutory authority; or (3) cooperative endeavor
 24 agreements.

25 Section 8. Advance Refunding Bonds

26 The issuance of bonds for the refunding, readjusting, restructuring, refinancing,
 27 extending, or unifying the whole or any part of outstanding bonds of the state in accordance
 28 with the advance refunding provisions of the Gulf Opportunity Zone Act of 2005 and the
 29 provisions of this Act are hereby authorized in such amounts as determined by the State
 30 Bond Commission and shall be in furtherance of the providing of relief from the natural
 31 catastrophe and, therefore, may be issued with maturities longer than the refunded bonds and

1 without demonstrating to a lower effective interest rate, notwithstanding the provisions of
2 R.S. 39:1465 to the contrary.

3 Section 9. Procedure for Issuance of Bonds, Security, and Interest Rates

4 (A) The bonds authorized to be sold by the State Bond Commission pursuant to this
5 Act shall be issued and sold in conformity with the applicable provisions of Article VII,
6 Section 6 of the Constitution of Louisiana; R.S. 39:1361 through 1367; R.S. 39:1401 through
7 1410.66; R.S. 39:1411 through 1412; R.S. 39:1421 through 1430.1; R.S. 39:1431 through
8 1437; R.S. 39:1441 through 1443; R.S. 39:1461 through 1468; and any amendments thereto
9 adopted prior to, at the same time as, or subsequent to, the effective date of this Act.
10 However, the provisions of R.S. 39:1365(2), (11), (18), and (25), R.S. 39:1366(3), R.S.
11 39:1402(D) and (E), and R.S. 39:1465 shall not apply to any bonds issued pursuant to this
12 Act. Further, the provisions of R.S. 39:1365(9) shall not apply to any bonds issued pursuant
13 to this Act in the form of variable rate and/or tender option bonds, and the bonds need not
14 be issued in serial form and may mature in such year or years as may be specified by the
15 State Bond Commission. Bonds issued pursuant to the provisions of this Act shall not be
16 invalid because of any irregularity or defect in the proceedings or in the issuance thereof and
17 shall be incontestable in the hands of a bona fide purchaser or holder. Should any provision
18 of this Act be inconsistent with any provision of the Louisiana Revised Statutes of 1950, the
19 provisions of this Act shall govern.

20 (B) In connection with the issuance of the bonds authorized by this Act, the State
21 Bond Commission may, without regard to any other laws of the state relating to the
22 procurement of services, insurance, or facilities, enter into contracts upon such terms as it
23 deems advantageous to the state for (1) the obtaining of credit enhancement or liquidity
24 devices designed to improve the marketability of the bonds and (2) if the bonds are
25 structured as variable rate and/or tender option bonds, to provide the services and facilities
26 required for or deemed appropriate by the State Bond Commission for such type of bonds,
27 including those of tender agents, placement agents, indexing agents, remarketing agents,
28 and/or standby bond purchase facilities. The cost of obtaining credit enhancement or
29 liquidity devices and the fees and costs of issuing the bonds, including any credit
30 enhancement devices, shall, if authorized by the State Bond Commission, be paid from the

1 Bond Security and Redemption Fund as a requirement with respect to the issuance of the
2 bonds authorized hereby.

3 (C) The issuance of bonds for the refunding, readjusting, restructuring, refinancing,
4 extending, or unifying the whole or any part of outstanding bonds issued pursuant to the
5 provisions of this Act shall be in furtherance of the providing of relief from the natural
6 catastrophe and, therefore, may be issued with maturities longer than the refunded bonds and
7 without demonstrating a lower effective interest rate.

8 (D) The bonds shall be general obligations of the state of Louisiana, to the payment
9 of which, as to principal, premium, if any, and interest, as and when the same become due,
10 the full faith and credit of the state is hereby irrevocably pledged. These bonds shall be
11 secured by monies in the Bond Security and Redemption Fund and shall be payable on a
12 parity with bonds and other obligations heretofore and hereafter issued which are secured
13 by the Bond Security and Redemption Fund. The maximum interest rate or rates on such
14 bonds, and their maturities, shall be determined by the State Bond Commission.

15 (E) At the discretion of the State Bond Commission, the bonds authorized to be
16 issued in Sections 4, 5, and 8 of this Act may be sold at par, or at any discount or premium,
17 as the resolution authorizing them provides.

18 (F) The State Bond Commission shall obtain information from the Louisiana
19 Municipal Association, the Louisiana Police Jury Association, and the Louisiana School
20 Board Association in determining the amount of bonds to be issued pursuant to Sections 4
21 and 5 of this Act.

22 Section 10. Construction of Act

23 Bonds issued pursuant to the provisions of this Act shall not be invalid because of
24 any irregularity or defect in the proceedings or in the issuance thereof and shall be
25 incontestable in the hands of a bona fide purchaser or holder. The provisions of this Act
26 shall be liberally construed for the accomplishment of its purposes.

27 Section 11.A. The Department of Economic Development is hereby authorized to
28 formulate a program for small businesses, including any child care business, attempting to
29 recover from damage or destruction caused by wind, water, fire, business interruption, or
30 criminal acts as a result of Hurricane Katrina or Rita. Such program may provide loan
31 guarantees or credit enhancements of up to fifty percent of each loan amount and may use

1 proceeds from funds received or appropriated, not to exceed a total liability of seventy
2 million dollars to the state.

3 B. The program shall be developed by the Secretary of the Department of Economic
4 Development in consultation with the Commissioner of Administration for final approval
5 by the State Bond Commission. However, prior to implementation of the program, the
6 program shall be approved by the House Ways and Means and the Senate Revenue and
7 Fiscal Affairs committees meeting jointly.

8 Section 12. This Act shall become effective upon signature by the governor or, if not
9 signed by the governor, upon expiration of the time for bills to become law without signature
10 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
11 vetoed by the governor and subsequently approved by the legislature, this Act shall become
12 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____