Index

63-20 corporations, 101

A Rules, 86
Abstention doctrine, 130–131
Adequacy of representation, 134–135
Admission requests, 141
Advisors, financial, 25–26, 32n1
Affiliated Ute Citizens v. United States, 81–82
Aiding and abetting actions for securities fraud, 83–84
Alaska, 50
Amdursky, Robert, 4
American Samoa, 99
Appointed staff members, 24–25
Arbitrage bonds, 112–115
Arbitrage profits, 114–115
Arizona, 51, 61

Baker v. Carr, 61
BANs. See Bond anticipation notes (BANs)
Basic Inc. v. Levinson, 82
Blue Chip Stamps v. Manor Drug Stores, 77
Blue sky laws, 86–88
Bond anticipation notes (BANs), 14
Bond counsel, 26–27
Bond insurers, 31
Bonds. See also Municipal bonds
catastrophe, 18–19
disaster, 18–19
general obligation, 8–9
moral obligation, 13
non-ad valorem, 11
pooling of tax-exempt, 17
private activity, 12–13
put option, 17
resilience, 18–19
revenue, 9–11
special assessment, 11
special obligation, 11–12
tax increment, 12
tender option, 17
traditional, 8–15
with warrants, 16–17
zero coupon, 13–14

Borrowing, local government
debt ceilings and, 50–59
leases and, 55–56
procedural requirements for, 59–63
process requirements for, 59–60
referenda on, 60–63
regulation of, 50
sale-and-lease-back techniques in, 56–59
special fund doctrine and, 54

Bulman v. McCrane, 66n63

California, 51
Case or controversy requirement, 129
Catastrophe bonds, 18–19
Central Bank of Denver, N.A. v. First Interstate Bank of Denver, 83
Certificates of participation (COPs), 55, 59
Cipriano v. City of Houma, 61
Citizen approval, of government debt, 60–63
City of Phoenix v. Kolodziejski, 61
Class Action Fairness Act, 147n79
Class actions, 133–138
Cohen, Benjamin, 70
Commerce Clause, 96
Commercial paper, 14
tax-exempt, 16
Commissioner of Internal Revenue v. Shamberg's Estate, 99
Commonality, 134
Connecticut, 50
Constituted authorities, 100–101
Contract debt, 56
Convention Ctr. Auth. v. Anzai, 65n55
COPs. See Certificates of participation (COPs)
Corcoran, Thomas, 70
Council of City of Charleston, State ex rel., v. Hall, 66n56
Counsel, bond, 26–27
Cox, Christopher, 35
Creative financing, 7, 15–18
Credit default swaps, 19–21
Credit Rating Agency Reform Act, 35–36
Credit ratings. See Rating agencies
D Rules, 86
Damages, in municipal securities regulation, 82–83
Dean v. Kuchel, 66n63
Debt ceilings, 50–59
Debt factor, 42
Debt limitations, 50–59
Defaults, insuring against, 19–21
Department of Revenue of Kentucky v. Davis, 96
Deposition, 140
Detroit, 36–37
Disaster bonds, 18–19
Disclosure, in municipal finance law, 72–73
Discovery, 138–141
Drew v. United States, 98
Due diligence defense, 78
Due Process Clause, 126
Eakin v. State ex rel. Capital Improvement Bd., 65n55
Elected officials, 24–25
Enterprise zone facility bonds, 108
Ernst & Ernst v. Hochfelder, 81
Establishment Clause, 96
Exempt facility bonds, 107
Expected loss, 40
Fabozzi, Frank, 4
Fair Labor Standards Act, 74–75
Federal securities law, 70–75
Federal Trade Commission, 70
Feldstein, Sylvan, 4
Fifth Amendment, 126
Financial advisors, 25–26, 32n1
Financial crisis, 19–21, 34–35, 73–74
Financing, creative, 7, 15–18
First Amendment, 95–96
Floating rate securities, 17
Fourteenth Amendment, 126
Frankfurter, Felix, 70
Fraud, municipal securities regulation and, 76–88
G Rules, 86
GAAP. See Generally accepted accounting principles (GAAP)
Gamer, W. Michael, 144n1
Garcia v. San Antonio Metropolitan Transit Authority, 75, 94
Gelfand, M. David, 4
General obligation bond, 8–9
Generally accepted accounting principles (GAAP), 42
GFOA. See Government Finance Officers Association (GFOA)
Gillette, Clayton, 4
Government Finance Officers Association (GFOA), 42
Government purpose bonds, 103–104
Graves v. New York ex rel. O’Keefe, 116n9
Great Depression, 73
Great Recession, 19–21, 34–35
Guam, 52, 99
Gulf opportunity zone bonds, 108
Hall v. Geiger-Jones Co., 86
Handbook of Municipal Bonds, The (Feldstein and Fabozzi), 4
Helvering v. Gerhardt, 116n9
Hot Springs v. Creviston, 62
Insurance, against bond defaults, 19–21
Insurers, bond, 31
Iowa, 52
Issuers, of tax-exempt bonds, 98–101
Jurisdictional issues, in litigation, 124–127
Justiciability, 128–131
Kansas, 51, 62, 86
LaGuardia, Fiorello, 73
Land acquisition, 110
Landis, James, 70
Lawsuits. See Litigation
Leases, 55–56
Letters of credit, 16
Liability, secondary, 83–84
Litigation
abstention doctrine in, 130–131
case or controversy requirement in, 129
class action, 133–138
commonality in, 134
deposition in, 140
discovery in, 138–141
jurisdictional issues in, 124–127
justiciability in, 128–131
legal bases for, 122–123
mootness in, 129–130
motion practice in, 132–133
pleading in, 131
Racketeer Influenced and Corrupt Organizations Act and, 122, 125, 131
remedies in, 143–144
ripeness in, 129
standing-to-sue requirement in, 130
trial in, 141–143
typicality in, 134
venue in, 127–128
Lonegan v. State, 57
Los Angeles County v. Byram, 53
Louisiana, 60
Madison, James, 48
Maryland, 51
Maryland v. Wirtz, 75
Maturity rules, with tax-exempt bonds, 110
Metcalf & Eddy v. Mitchell, 116n9
Meyers v. Kansas City, 62
Michigan, 60
Minnesota, 52
Mintz, Joel A., 4
Mississippi, 50
Missouri, 61–62
Mootness, 129–130
Moral obligation bond, 13
Motion practice, 132–133
MSRB. See Municipal Securities
Rulemaking Board (MSRB)
Municipal bonds. See also Bonds
growth of, 1–2
issuance of, key players in, 23–42
Municipal Debt Finance Law (Amdursky
and Gillette), 4
Municipal Securities Rulemaking
Board (MSRB), 34, 74, 85–86
National Association of Securities
Dealers (NASD), 74–75
National League of Cities v. Usery,
74–75, 94–95
Nationally recognized statistical rating
organization (NRSRO), 35. See
also Rating agencies
Natural disasters, 18–19
Nebraska, 50
New Hampshire, 50
New Jersey, 57
New York, 53, 66n63
New York City default (1975), 34
New York liberty bonds, 108
New York v. United States, 75
Non-ad valorem bond, 11
Nonarbitrage certificates, 113–114
Nondeduct debt, 53
North Carolina, 60
North Dakota, 61
Notes
bond anticipation, 14
revenue anticipation, 14
short-term, 14
tax anticipation, 14
NRSRO. See Nationally recognized
statistical rating organization
(NRSRO)
Numerosity, 133–134
Officials, elected, 24–25
Ohio, 61
Oklahoma, 54–55
“On behalf of” issuers, 100–101
Paying agents, 32
Pennsylvania, 67n90
Percentage use requirements, with tax-
exempt bonds, 109
Philadelphia, 36
Philadelphia National Bank v. United
States, 99
Pleading, 131
Pollock v. Farmers Loan & Trust Co.,
93–95
Pooling of tax-exempt bonds, 17
Private activity bond, 12–13, 105–106,
109–110
Private business test, 106–107
Private business use test, 106
Private loan financing test, 107
Private Securities Litigation Reform
Act of 1995, 87, 131–133,
135, 137
Private security or payment test,
106–107
Property, debt limited to value of
taxable, 52
Public purpose and private activity
government bonds, 104–105
Puerto Rico, 99
Put option bonds, 17
Qualified 501(c)(3) bonds, 107
Qualified bonds, 107–115
Qualified redevelopment bonds, 108
Racketeer Influenced and Corrupt Organizations Act (RICO), 122, 125, 131
Randall v. Loftsgaarden, 83
RANs. See Revenue anticipation notes (RANs)
Rating agencies
appeals to, 39
application to, 38–39
credibility of, 37–38
Credit Rating Agency Reform Act and, 35–36
criticism of, 35
debt factor and, 42
decision to use, 38
description of, 34
influence of, 36–37
rating process with, 38–42
role of, 33–45
Ratings definitions, 40–43
Rauh v. Hutchinson, 62
“Reasonable expectations” test, 113
Referendum, on public borrowing, 60–63
Regulation, of local government borrowing, 50
Regulation, of municipal securities, 81
anti-fraud law and, 76–88
constitutional limits on, 74–75
damages in, 82–83
deception in, 81
defrauding intent in, 81
disclosure and, 72–73
due diligence defense and, 78
federal securities law and, 70–75
manipulation in, 81
misstatement in, reliance on, 81–82
misstatement of material fact and, 80
omission in, reliance on, 81–82
omission of material facts and, 80
origins of, 69–70
secondary liability and, 83–84
state, 86–88
Remedies, in litigation, 143–144
Requests for admission, 141
Resilience bonds, 18–19
Revenue anticipation notes (RANs), 14, 53, 62
Revenue bonds, 9–11
Reynolds v. Sims, 61
RICO. See Racketeer Influenced and Corrupt Organizations Act (RICO)
Ridenour v. County of Bay, 60
Ripeness, 129
Robbins v. Koger Properties, 80
Roosevelt, Franklin D., 70
Rule 10b-5, 76–77, 79–84, 87–88, 123
Rule 15c2-12, 72, 84–85
Sale-and-lease-back techniques, 56–59
Salsich, Peter W., 4
Sarbanes-Oxley Act, 72, 83
Schnoerr v. Miller, 61
School districts, 58
SEC. See Securities and Exchange Commission (SEC)
Secondary liability, 83–84
Securities Act Amendments of 1975, 72, 122
Securities Act of 1933, 70–72, 76–78, 87, 122
Securities and Exchange Commission (SEC), 70, 85, 123
Securities Investor Protection Act of 1970, 72
Securities law, federal, 70–75
Securities Litigation Uniform Standards Act, 88
Securities regulation, origins of, 69–70
Seventh Amendment, 142
Short-term notes, 14
Single-family mortgage revenue bonds, 108
Sinking funds, 15
Sixteenth Amendment, 94–95
Small issue bonds, 107
South Carolina v. Baker, 95–96
Special assessment bond, 11
Special districts, 58
Special funds doctrine, 10–11, 54
Special obligation bonds, 11–12
Special tax bonds, 11–12
Staff members, appointed, 24–25
Standing-to-sue requirement, 130
State and Local Government Debt Financing (Gelfand), 4
State and Local Taxation and Finance in a Nutshell (Gelfand, Mintz, and Salsich), 4
State Bond Commission v. All Taxpayers of Louisiana, 62
State regulation of municipal securities, 86–88
Student loan bonds, 108
Subject-to-appropriations debt, 53, 57
Suits. See Litigation
TANs. See Tax anticipation notes (TANs)
Tax anticipation notes (TANs), 14, 53
Tax Equity and Fiscal Responsibility Act, 95
Tax immunity theory, 93–94
Tax increment bond, 12
Tax Reform Act of 1986, 12, 102, 111–112
Taxable municipal obligations, 18
Tax-exempt bonds
arbitrage bonds and, 112–115
arbitrage profits and, 114–115
constitutional basis for, 93–97
exempt facility bonds and, 107
general rules for, 102–103
government purpose bonds and, 103–104
in Internal Revenue Code, 97–101
investment yield computation with, 114
issuers and, 98–101
land acquisition and, 110
maturity rules with, 110
percentage use requirements with, 109
post-issuance changes in use with, 111–112
practical significance of, 96–97
private activity bonds and, 105–106
private business test and, 106–107
private loan financing test and, 107
prohibited facilities with, 109–110
public approval requirements with, 110–111
public purpose and private activity government bonds and, 104–105
qualified 501(c)(3) bonds and, 107
qualified bonds and, 107–115
"reasonable expectations" test and, 113
replacement funds with, 114–115
reserve funds with, 114–115
small issue bonds and, 107
as subsidy, 92, 103–104
temporary periods with, 114–115
value of, 93
volume cap with, 108–109
Tax-exempt commercial paper, 16
Taxing districts, 58
Tender option bonds, 17
Tennessee, 50
Tenth Amendment, 74–75, 93, 95
Tower Amendment, 85
Traditional bonds, 8–15
Trial, 141–143. See also Litigation
Tweed, William, 73
Typicality, 134

Underwriters, 27–31
Uniform Securities Act, 86–87
U.S. Virgin Islands, 99

Variable rate securities, 17
Venue, in litigation, 127–128
Vermont, 50

Veteran mortgage bonds, 108
Virginia, 52
Volume cap, with tax-exempt bonds, 108–109

Warrants, bonds with, 16–17
Washington, 51
West Virginia, 61
Willcuts v. Bunn, 116n9
Woods v. Homes & Structures of Pittsburg, Kansas, Inc., 75

Zero coupon bond, 13–14