

Municipal Bankruptcy
National Association of Public Pension Attorneys
Annual Conference
June 26, 2015

State Statutes Authorizing Municipal Bankruptcy

K&L GATES

Municipal Bankruptcy Authorization Statutes

State	Authorization	Statute	Scope
Alabama	General Authorization	Ala. Code § 11-81-3	Governing body of any county, city or town, or municipal authority
Alaska	No Statute	N/A	N/A
Arizona	Authorization for Specified Entities Only	Ariz. Rev. Stat. § 35-603	Taxing districts
Arkansas	General Authorization	Ark. Code Ann. § 14-74-103	Taxing agencies and instrumentalities
California	Conditional Authorization	Cal. Gov't Code § 53760	Local public entity may file chapter 9 if it: (a) participates in neutral evaluation process or (b) declares fiscal emergency and adopts resolution by a majority of governing body.
Colorado	Authorization for Specified Entities Only	Colo. Rev. Stat. §§ 32-1-1403, 37-32-102	Taxing, irrigation and drainage districts
Connecticut	Conditional Authorization	Conn. Gen. Stat. § 7-566	Express prior written consent of governor
Delaware	No Statute	N/A	N/A
Florida	General Authorization	Fla. Stat. Ann. § 218.01	Municipalities, taxing districts and political subdivisions
Georgia	Express Prohibition	Ga. Code Ann. § 36-80-5.	Prohibits any county, municipality, school district, authority, division, instrumentality, political subdivision, or public body corporate from filing chapter 9.
Hawaii	No Statute	N/A	N/A
Idaho	Authorization for Specified Entities Only	Idaho Code Ann. § 67-3903	Taxing districts
Illinois	Conditional Authorization	50 Ill. Comp. Stat. Ann. § 320/9(b)(4)	Illinois Power Agency has authority to file chapter 9; Financial Planning and Supervision Commission has authority to recommend filing chapter 9 to “units of local government” (population under 25,000). ¹
Indiana	No Statute	N/A	N/A

¹ A “recommendation” is unlikely sufficient to authorize a filing. Illinois House Bill 0298 would allow municipalities to file chapter 9. As of June 13, 2015, this bill was re-referred to the Rules Committee.

Municipal Bankruptcy Authorization Statutes

Iowa	Prohibition With Exception	Iowa Code §§ 76.16, 76.16A.	Prohibits any city, county, or other political subdivision from filing chapter 9, except if insolvent as a result of a debt involuntarily incurred.
Kansas	No Statute	N/A	N/A
Kentucky	Conditional Authorization	Ky. Rev. Stat. Ann. § 66.400	Approved by state local debt officer and state local finance officer.
Louisiana	Conditional Authorization	La. Rev. Stat. Ann. §§ 13:4741, 39:619-620	Depending on the entity filing, the state bond and tax board or governor and AG must give written approval.
Maine	No Statute	N/A	N/A
Maryland	No Statute	N/A	N/A
Massachusetts	No Statute	N/A	N/A
Michigan	Conditional Authorization	Mich. Comp. Laws §§ 141.1558	Local units of government and school districts may only file Chapter 9 through recommendation by emergency manager and authorization of governor.
Minnesota	General Authorization	Minn. Stat. § 471.831	Municipalities
Mississippi	No Statute	N/A	N/A
Missouri	General Authorization	Mo. Stat. Ann. § 427.100	Municipalities and political subdivisions
Montana	Authorization for Specified Entities Only	Mont. Code Ann. §§ 7-7-132, 85-7-2041	Local entities and irrigation districts; excludes counties
Nebraska	General Authorization	Neb. Rev. Stat. Ann. § 13-402	County, city, village, school district, agency of the state government, drainage district, sanitary and improvement district or other political subdivision
Nevada	No Statute	N/A	N/A
New Hampshire	No Statute	N/A	N/A
New Jersey	Conditional Authorization	N.J. Rev. Stat. § 52:27-40	Approval of the municipal finance commission required before filing.
New Mexico	No Statute	N/A	N/A
New York	Authorization for Specified Entities Only	N.Y. Local Fin. Law § 85.30	County, city, town or village (“municipality”). Emergency financial control board may file on behalf of municipality.
North Carolina	Conditional Authorization	N.C. Gen. Stat. § 23-48	Approval of Local Government Commission of North Carolina required before filing.
North Dakota	No Statute	N/A	N/A

Municipal Bankruptcy Authorization Statutes

Ohio	Conditional Authorization	Ohio Rev. Code Ann. § 133.36	Approval of tax commissioner required before filing.
Oklahoma	General Authorization	Okla. Stat. tit. 62, §§ 281, 283	Municipal corporation or political subdivision
Pennsylvania	Conditional Authorization	53 P.S. § 11701.261; 72 P.S. § 1601-D.1	Municipalities are eligible to file chapter 9 if: (1) imminent jeopardy that creditor action likely to interrupt/restrict ability of municipality to provide health/safety services; (2) creditors rejected the plan and 10 days of unsuccessful negotiation; or (3) condition affecting distress is potentially solvable only through Federal Municipal Debt Readjustment Act. Filing must be approved by Department of Community and Economic Development. Third-class cities prohibited from filing before 7/1/12.
Rhode Island	Conditional Authorization	R.I. Gen. Laws § 45-9-7(b)(3)	Receivers appointed under Rhode Island's Fiscal Stability Act are authorized to file chapter 9 on behalf of municipality.
South Dakota	No Statute	N/A	N/A
South Carolina	General Authorization	S.C. Code Ann. § 6-1-10	County, municipal corporation, township, school district, drainage district or other taxing or governmental unit
Tennessee	No Statute	N/A	N/A
Texas	General Authorization	Tex. Local Gov't Code § 140.001	Municipality, taxing district or other political subdivision
Utah	No Statute	N/A	N/A
Vermont	No Statute	N/A	N/A
Virginia	No Statute	N/A	N/A
Washington	Authorization for Specified Entities Only	Wash. Rev. Code Ann. § 39.64.040	Taxing districts
West Virginia	No Statute	N/A	N/A
Wisconsin	No Statute	N/A	N/A
Wyoming	No Statute	N/A	N/A