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FOR IMMEDIATE RELEASE

PUTTING TAXPAYERS AT RISK

KINGSTON, NY (March 19, 2010)... "Taxpayer interests must come first," said Ulster County Comptroller Elliott Auerbach, regarding his March 2, 2010 request of the Ulster County Legislature to table Resolution 45, entitled *Approving the Proposed Certificate of Incorporation and Consenting to the Formation of a Local Development Corporation (LDC)*.

Citing concerns about costly legal liabilities embedded in the proposal the Comptroller, a former member of the Ulster County Industrial Development Agency (IDA), said "I am a big supporter of economic development but the tax base cannot be exposed to undue liabilities and expense."

The purpose of the resolution was for the County Legislature to authorize the IDA to create a local development corporation (LDC) as a means to finance "civic facility projects" with tax-exempt bonds. Prior to January 31, 2008 State law allowed IDAs to issue such bonds for public purpose projects such as libraries and hospitals. That provision in the law has now sunset.

"IDAs across the State are looking for ways to continue to service civic facility projects," said Comptroller Auerbach, "but using LDCs to get around the law is fraught with complications and potential consequences for Ulster County."

The Comptroller has sent a letter to Chairman of the Legislature Fred Wadnola outlining a series of legal assurances it would behoove the Legislature to obtain before approving Resolution 45.

"Most important of these", said Auerbach, "is an unqualified legal opinion that the County is empowered under New York law to allow an LDC to issue tax-exempt obligations on behalf of" the County." An unqualified legal opinion is an opinion of bond counsel that does not contain any limiting conditions.

Auerbach explained that without a firm foundation for a LDC to issue tax-exempt bonds the County could face complex legal and financial entanglements.

"I understand and sympathize with the challenges faced by IDAs in the face of their rescinded powers," said Auerbach, "however, the flaw I see in Resolution 45 is that the County would be designating its municipal authority in a manner it is not at all clear is legal or appropriate."

Two years ago the so-called "civic facilities" powers of IDAs expired. Civic facilities provisions were included in the IDA statute in the mid-1990s to provide a mechanism for less credit-worthy 501 c (3) borrowers to finance their projects on a tax-exempt basis. Those civic facilities powers included issuing tax-exempt IDA bonds for educational and healthcare purposes.

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