

§ 159B-16. Resolution or trust agreement.

In the discretion of the governing board of the issuer, any bonds issued under the provisions of this Chapter may be secured by a trust agreement by and between the issuer and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. Such trust agreement or the resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders and of the trustee as may be reasonable and proper and not in violation of law, and may restrict the individual right of action by bondholders. The trust agreement or the resolution providing for the issuance of such bonds may contain covenants including, but not limited to, the following:

- (1) The pledge of all or any part of the revenues derived or to be derived from the project or projects to be financed by the bonds, or from the sale or other disposition of power and energy and services and facilities related to the utilization of power and energy, or from other services or activities permitted in this Chapter, or from payments derived from support contracts authorized by G.S. 159B-12, or from contributions and advances from members of a joint agency, or from the electric system or other facilities of a municipality or a joint agency.
- (2) The rents, rates, fees and charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants and funds received or to be received by the municipality or joint agency.
- (3) The setting aside of reserves and the investment, regulation and disposition thereof.
- (4) The custody, collection, securing, investment, and payment of any moneys held for the payment of bonds.
- (5) Limitations or restrictions on the purposes to which the proceeds of sale of bonds then or thereafter to be issued may be applied.
- (6) Limitations or restrictions on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; or the refunding of outstanding or other bonds.
- (7) The procedure, if any, by which the terms of any contract with bondholders may be amended, the percentage of bonds the bondholders of which must consent thereto, and the manner in which such consent may be given.
- (8) Events of default and the rights and liabilities arising thereupon, the terms and conditions upon which bonds issued under this Chapter shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived.
- (9) The preparation and maintenance of a budget.
- (10) The retention or employment of consulting engineers, independent auditors, and other technical consultants.
- (11) Limitations on or the prohibition of free service to any person, firm or corporation, public or private.
- (12) The acquisition and disposal of property, provided that no project or part thereof shall be mortgaged by such trust agreement or resolution.
- (13) Provisions for insurance and for accounting reports and the inspection and audit thereof.
- (14) The continuing operation and maintenance of the project or other facilities.
- (15) For bonds that are not issued to pay the cost of a project, the pledge, assignment, mortgage, or grant of a security interest in any real or personal property or interest in real or personal property, including the pledge,

assignment, or grant of a security interest in money, rents, charges, or other revenues or proceeds derived by the joint agency from the sale of property, from insurance, or from a condemnation award. In the event of default on a bond secured by a pledge, assignment, mortgage, or grant of a security interest, the rights of the bond holders and the liabilities arising from the default shall be limited, except to the extent provided in a pledge of revenues, to the specific property or interest in property pledged, assigned, or mortgaged or in which a security interest was granted to secure the bonds, and no claim for any deficiency shall be made nor any deficiency judgment entered as a result of the pledge, assignment, mortgage, or grant of a security interest in the property or the interest in property. (1975, c. 186, s. 1; 1983, c. 574, s. 8; 1991, c. 513, ss. 4, 5; 1995, c. 412, s. 12; 2015-3, s. 6.)