GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 452

Short Title: Development Financing Bonds. (Public)

Sponsors: Senator Odom.

Referred to: Local Government and Regional Affairs.

April 1, 1991

A BILL TO BE ENTITLED

AN ACT TO PERMIT NORTH CAROLINA CITIES AND COUNTIES TO ISSUE BONDS TO FINANCE ECONOMIC DEVELOPMENT AND URBAN REDEVELOPMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 6 of Chapter 159 of the General Statutes is reenacted and is rewritten to read:

"ARTICLE 6.

"DEVELOPMENT FINANCING ACT.

"§ 159-101. Short title.

This article may be cited as the 'North Carolina Development Financing Act.'

"§ 159-102. Definitions.

The following definitions apply in this Article:

(1) Costs. Capital costs, as defined in G.S. 159-48(h). The term also includes (i) interest on the bonds being issued or on notes issued in anticipation of the bonds during construction and for a period not exceeding four years after the estimated date of completion of construction and (ii) the establishment of debt service reserves.

(2) Unit of local government. A county or city.

"§ 159-103. Authorization of development financing bonds; purposes.

Each unit of local government may issue development financing bonds pursuant to this Article and use the proceeds for one or more of the purposes for which the unit may issue general obligation bonds pursuant to G.S. 159-48. However, the proceeds of the bonds may be used only in a development financing district established pursuant to G.S.

160A-515.1 or G.S. 158-7.3 and only in that development financing district the revenue increment of which is pledged as security for the bonds.

Subject to agreement with the holders of its development financing bonds and the limitation on duration of development financing districts set out in this Article, each unit of local government may issue additional development financing bonds and bonds to refund any outstanding development financing bonds, whether or not they have matured. Development financing bonds may be issued partly for the purpose of refunding outstanding development financing bonds and partly for any other purpose under this Article. Development financing bonds issued to refund outstanding development financing bonds shall be issued under this Article and not under Article 4 of this Chapter.

"§ 159-104. Application to Commission for approval of development financing bond issue; preliminary conference; acceptance of application.

A unit of local government may not issue development financing bonds under this Article unless the issue is approved by the Local Government Commission. The governing body of the issuing unit shall file with the secretary of the Commission an application for Commission approval of the issue. The application shall include statements of facts and documents concerning the proposed bonds, development financing district, and development financing plan and the financial condition of the unit, required by the secretary. The Commission may prescribe the form of the application.

Before accepting the application, the secretary may require the governing body or its representatives to attend a preliminary conference in order to discuss informally the proposed issue, district, and plan and the timing of the steps to be taken in issuing the bonds. The development financing district need not be defined and the development financing plan need not be adopted by the governing body at the time it files the application with the secretary. However, before the Commission may enter its order approving the bonds, the governing body must define the district and adopt the plan.

After an application in proper form and order has been filed, and after a preliminary conference if one is required, the secretary shall notify the unit in writing that the application has been filed and accepted for submission to the Commission. The secretary's statement is conclusive evidence that the unit has complied with this section.

"§ 159-105. Approval of application by Commission.

(a) In determining whether a proposed development financing bond issue shall be approved, the Commission may inquire into and consider any matters that it may believe to have a bearing on whether the issue should be approved, including:

(1) Whether the projects to be financed from the proceeds of the development financing bond issue are necessary or expedient.

(2) Whether the proposed projects are feasible.

(3) The unit of local government's debt management procedures and policies.

(4) Whether the unit is in default in any of its debt service obligations.

(5) Whether the private development forecast in the development financing plan would be likely to occur without the public project or projects to be financed by the development financing bonds.

(6) Whether taxes on the incremental valuation accruing to the development financing district, together with any other revenues available, will be sufficient to service the proposed development financing bonds.

(7) The ability of the Commission to market the proposed development financing bonds at reasonable rates of interest.

(b) The Commission shall approve the application if, upon the information and evidence it receives, it finds that:

(1) The proposed development financing bond issue is necessary or expedient.

(2) The amount proposed is adequate and not excessive for the proposed purpose of the issue.

(3) The proposed projects are feasible.

(4) The unit of local government's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law.

(5) The private development forecast in the development financing plan would not be likely to occur without the public projects to be financed by the development financing bonds.

(6) The proposed development financing bonds can be marketed at reasonable interest cost to the issuing unit.

(7) The issuing unit has, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, adopted a development financing plan for the development financing district for which the bonds are to be issued.

"**§ 159-106. Order approving or denying the application.**

(a) After considering an application, the Commission shall enter its order either approving or denying the application. An order approving an issue is not an approval of the legality of the bonds in any respect.

(b) Unless the bonds are to be issued for a development financing district for which a development financing bond issue has already been approved, the day upon which the Commission enters its order approving an application for development financing bonds is also the effective date of the development financing district for which the bonds are issued.

(c) If the Commission enters an order denying the application, the proceedings under this Article are at an end.

"**§ 159-107. Determination of incremental valuation; use of taxes levied on incremental valuation; duration of the district.**

(a) Base Valuation in the Development Financing District. After the Local Government Commission has entered its order approving a unit of local government's application for development financing bonds, the unit shall immediately notify the tax assessor of the county in which the development financing district is located of the existence of the development financing district. Upon receiving this notice, the tax assessor shall determine the base valuation of the district, which is the assessed value of taxable property located in the district on the January 1 immediately preceding the effective date of the district. If the unit or an agency of the unit acquired property within the district within one year before the effective date of the district, the tax assessor shall presume, subject to rebuttal, that the property was acquired in contemplation of the district and shall include the value of the property so acquired in determining the base valuation of the district. The unit may rebut this presumption by showing that the property was acquired primarily for a purpose other than to reduce the tax incremental base. After determining the base valuation of the development financing district, the tax assessor shall certify the valuation to the issuing unit; to the county in which the district is located if the issuing unit is not the county; and to any special district, as defined in G.S. 159-7, within which the development financing district is located.

(b) Adjustments to the Base Valuation. During the lifetime of the development financing district, the base valuation shall be adjusted as follows:

(1) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S. 158-7.3, to remove property from the development financing district, on the succeeding January 1, that property shall be removed from the district and the base valuation reduced accordingly.

(2) If the unit amends its development financing plan, pursuant to G.S. 160A-515.1 or G.S.158-7.3, to expand the district, the new property shall be added to the district immediately. The base valuation of the district shall be increased by the assessed value of the taxable property situated in the added territory on the January 1 immediately preceding the effective date of the district.

(3) If, at the time of revaluation pursuant to G.S. 105-286, of property in the county in which the district is located, it appears that, based on the schedule of values, standards, and rules approved by the board of county commissioners pursuant to G.S. 105-317, the property values of the district as they existed on the January 1 immediately preceding the effective date of the district would be increased because of the revaluation, then the base valuation shall be increased accordingly.

Each time the base valuation is adjusted, the tax assessor shall immediately certify the new base valuation to the issuing unit; to the county if the issuing unit is not the county; and to any special district, as defined in G.S. 159-7, within which the development financing district is located.

(c) Revenue Increment Fund. When a unit of local government has established a development financing district, and the development financing bonds for that district have been approved by the Commission, the unit shall establish a separate fund to account for the proceeds paid to the unit from taxes levied on the incremental valuation of the district. The unit shall also place in this fund any moneys received pursuant to an agreement entered into under G.S. 159-108.

(d) Levy of Property Taxes Within the District. Each year the development financing district is in existence, the tax assessor shall determine the current assessed value of taxable property located in the district. The assessor shall also compute the difference between this current value and the base valuation of the district. If the current value exceeds the base value, the difference is the incremental valuation of the district. In each year the district is in existence, the county, and if the district is within a city or a special district as defined by G.S. 159-7, the city or the special district shall levy taxes against property in the district in the same manner as taxes are levied against other property in the county, city, or special district. The proceeds from ad valorem taxes levied on property in the development financing district shall be distributed as follows:

(1) In any year in which there is no incremental valuation of the district, all the proceeds of the taxes shall be retained by the county, city, or special district, as if there were no development financing district in existence.

(2) In any year in which there is an incremental valuation of the district, the amount of tax due from each taxpayer on property in the district, except taxes levied to service and repay debt secured by a pledge of the faith and credit of the unit, nonschool taxes levied pursuant to a vote of the people, taxes levied for a municipal or county service district, and city taxes levied in a development financing district established by a county and for which there is no increment agreement between the city and county, shall be multiplied by a fraction, the numerator of which is the base valuation for the district and the denominator of which is the current valuation for the district. The amount shown as the product of this multiplication shall, when paid by the taxpayer, be retained by the county, city, or special district, as if there were no development financing district in existence. The net proceeds of the remaining amount shall, when paid by the taxpayer, be turned over to the issuing unit's finance officer, who shall place this amount in the special revenue increment fund required by subsection (c) of this section. The net proceeds of each debt service tax, each voted tax, each service district tax, and each tax levied by a city on property in a district that was established by a county and for which there is no increment agreement between the city and county shall be paid to the government levying the tax. ‘Net proceeds' is gross proceeds less refunds, releases, and any collection fee paid by the levying government to the collecting government.

(e) Effect of Annexation on District Established by a County. If a city annexes land in a development financing district established by a county pursuant to G.S. 158-7.3, the proceeds of all taxes levied by the city on property within the district shall be paid to the city unless the city enters into an agreement with the county pursuant to this subsection. The city and the county may enter into an increment agreement under which the city agrees that city taxes on part or all of the incremental valuation in the district shall be paid into the revenue increment fund for the district. An increment agreement may be entered into when the district is established or at any time after the district is established. The increment agreement may extend for the duration of the district or for a shorter time agreed to by the parties.

(f) Use of Moneys in the Revenue Increment Fund. Moneys placed in the revenue increment fund may be used for any of the following purposes, without priority other than priorities imposed by the bond order authorizing the development financing bonds:

(1) To finance capital expenditures by the issuing unit in the development financing district pursuant to the development financing plan.

(2) To meet principal and interest requirements on development financing bonds and bond anticipation notes issued for the district.

(3) To meet any other requirements imposed by the bond order authorizing the development financing bonds.

If in any year there is any money remaining in the revenue increment fund after these purposes have been satisfied, the excess shall be paid to the general fund of the county and, if applicable, of the city and any special district as defined by G.S. 159-7, in proportion to their rates of ad valorem tax on taxable property located in the development financing district.

(g) Duration of District. A development financing district shall terminate at the earlier of (i) the end of the thirtieth year after the effective date of the district or (ii) the date all development financing bonds issued for the district have been fully retired or sufficient funds have been set aside, pursuant to the bond order authorizing the bonds, to meet all future principal and interest requirements on the bonds.

"**§ 159-108. Agreements with property owners.**

(a) Authorization. A unit of local government that issues development financing bonds may enter into agreements with the owners of real property in the development financing district for which the bonds were issued under which the owners agree to a minimum value at which their property will be assessed for taxation. Such an agreement may extend for the life of the development financing district or for a shorter period agreed to by the parties. The agreement may vary the agreed-upon minimum assessed value from year to year.

(b) Filing and Recording Agreement. The unit shall file a copy of any agreement entered into pursuant to this section with the tax assessor for the county in which the development financing district is located. In addition, the unit shall cause the agreement to be recorded in the office of the register of deeds of that county, and the register shall index the agreement in the grantor's index under the name of the property owner. Once the agreement has been recorded in the office of the register of deeds, as required by subsection (b) of this section, it is binding, according to its terms and for its duration, on any subsequent owner of the property.

(c) Minimum Assessment of Property. An agreement entered into pursuant to this section establishes a minimum assessment of the real property subject to the agreement. If the county tax assessor determines that the real property has a true value less than the minimum established by the agreement, the assessor shall nevertheless assess the property at the minimum set out in the agreement. If the assessor, however, determines that the real property has a true value greater than the minimum established by the agreement, the assessor shall assess the property at the true value.

(d) Effect of Reappraisal. If an agreement entered into pursuant to this section continues in effect after a reappraisal of property conducted pursuant to G.S. 105-286, the minimum assessment established in the agreement shall be adjusted as provided in this subsection. After the issuing unit of local government has adopted its budget ordinance and levied taxes for the fiscal year that begins next after the effective date of the reappraisal, it shall certify to the county tax assessor the total rate of ad valorem taxes levied by the unit and applicable to the property subject to the agreement. It shall also certify to the assessor the total rate of ad valorem taxes levied by the unit and applicable to the property in the immediately preceding fiscal year. The assessor shall determine the total amount of ad valorem taxes levied by the unit on the property in the immediately preceding fiscal year, based on the tax rate certified by the issuing unit. The assessor shall then determine a value of the property that would provide the same total amount of ad valorem taxes based on the tax rate certified for the fiscal year beginning next after the effective date of the reappraisal. The value so determined is the new minimum assessment for the property subject to the agreement.

(e) Agreement Effective Regardless of Improvements. An agreement entered into pursuant to this section remains in effect according to its terms regardless whether the improvements anticipated in the development financing plan are completed or whether those improvements continue to exist during the duration of the agreement. However, if any part of the property subject to the agreement is acquired by a public agency, the agreement is automatically modified by removing the acquired property from the agreement and reducing the minimum assessment accordingly.

"**§ 159-109. Special covenants.**

A development financing bond order or a trust agreement securing development financing bonds may contain covenants regarding:

(1) The pledge of all or any part of the taxes received or to be received on the incremental valuation in the development financing district during the life of the bonds.

(2) Rates, fees, rentals, tolls, or other charges to be established, maintained, and collected, and the use and disposal of revenues, gifts, grants, and funds received or to be received.

(3) The setting aside of debt service reserves and the regulation and disposition of these reserves.

(4) The custody, collection, securing, investment, and payment of any moneys held for the payment of development financing bonds.

(5) Limitations or restrictions on the purposes to which the proceeds of sale of development financing bonds may be applied.

(6) Limitations or restrictions on the issuance of additional development financing bonds or notes for the same development financing district, the terms upon which additional development financing bonds or notes

may be issued or secured, or the refunding of outstanding development financing bonds or notes.

(7) The acquisition and disposal of property for development financing bond projects.

(8) Provision for insurance and for accounting reports, and the inspection and audit of accounting reports.

(9) The continuing operation and maintenance of projects financed with the proceeds of the development financing bonds.

"**§ 159-110. Security of development financing bonds.**

Development financing bonds are special obligations of the issuing unit. Except as provided in G.S. 159-111, the unit may pledge the following sources of funds to the payment of the bonds, and no other sources: All or a portion of the moneys in the revenue increment fund required by G.S. 159-107(c); the proceeds from the sale of property in the development financing district; net revenues from any public facilities, other than portions of public utility systems, in the development financing district financed with the proceeds of the development financing bonds; and, subject to G.S. 159-47, net revenues from any other public facilities, other than portions of public utility systems, in the development financing district constructed or improved pursuant to the development financing plan.

Except as provided in G.S. 159-111, the principal and interest on development financing bonds are not payable from the general funds of the issuing unit of local government and the bonds do not constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of the unit's property or upon any of its income, receipts, or revenues, except as may be provided pursuant to this section. Except as provided in G.S. 159-107 and G.S. 159-111, neither the credit nor the taxing power of the unit is pledged for the payment of the principal or interest of development financing bonds, and no holder of development financing bonds has the right to compel the exercise of the taxing power by the unit or the forfeiture of any of its property in connection with any default on the bonds. Unless the unit's taxing power has been pledged pursuant to G.S. 159-111, every development financing bond shall contain recitals sufficient to show the limited nature of the security for the bond's payment and that it is not secured by the full faith and credit of the unit.

"**§ 159-111. Development financing bonds secured by a pledge of the issuing unit's faith and credit.**

In order to provide additional security for bonds issued pursuant to this Article, the issuing unit of local government may pledge its faith and credit for the payment of the principal of and interest on the bonds. Before such a pledge may be given, the unit shall follow the procedures for and meet the requirements for approval of general obligation bonds under Article 4 of this Chapter. The unit shall also follow the procedures and meet the requirements of this Article. If bonds are issued pursuant to this Article and are also secured by a pledge of the issuing unit's faith and credit, the bonds are subject to G.S. 159-112 rather than G.S. 159-65.

"**§ 159-112. Limitations on details of bonds.**

In fixing the details of development financing bonds, the governing body of the issuing unit of local government is subject to these restrictions and directions:

(1) The maturity date shall not exceed the shorter of (i) the longest of the various maximum periods of usefulness for the projects to be financed with bond proceeds, as prescribed by the Local Government Commission pursuant to G.S. 159-122, or (ii) the end of the thirtieth year after the effective date of the development financing district.

(2) The first payment of principal shall be payable not more than four years after the date of the bonds.

(3) No bonds may be made payable on demand, but any bond may be made subject to redemption prior to maturity, with or without premium, on such notice, at such times, and with such redemption provisions as may be stated. Interest on the bonds shall cease when the bonds have been validly called for redemption and provision has been made for the payment of the principal of the bonds, any redemption, any premium, and the interest on the bonds accrued to the date of redemption.

(4) The bonds may bear interest at such rates payable semiannually or otherwise, may be in such denominations, and may be payable in such kind of money and in such place or places within or without this State, as the issuing unit may determine.

"**§ 159-113. Annual report.**

In July of each year, each unit of local government with outstanding development financing bonds shall make a report to any other unit, and to any special district as defined in G.S. 159-7, in which the development financing district for which the bonds were issued is located. This report shall set out the base valuation for the development financing district, the current valuation for the district, the amount of remaining development financing debt for the district, and the unit's estimate of when the debt will be retired."

Sec. 2. G.S. 159-48(b) is amended by adding a new subsection to read:

"(26) Undertaking public activities in a development financing district pursuant to a development financing plan."

Sec. 3. G.S. 159-55 reads as rewritten:

"**§ 159-55. Sworn statement of debt; debt limitation.**

(a) After the bond order has been introduced and before the public hearing thereon, the finance officer (or some other officer designated by the governing board for this purpose) shall file with the clerk a statement showing the following:

(1) The gross debt of the unit, excluding therefrom debt incurred or to be incurred in anticipation of the collection of taxes or other revenues or in anticipation of the sale of bonds other than funding and refunding bonds. The gross debt (after exclusions) is the sum of (i) outstanding debt evidenced by bonds, (ii) bonds authorized by orders introduced but not yet adopted, (iii) unissued bonds authorized by adopted orders, and (iv) outstanding debt not evidenced by bonds. However, for

purposes of the sworn statement of debt and the debt limitation, revenue bonds <u>and development financing bonds (unless additionally secured by a pledge of the issuing unit's faith and credit)</u> shall not be considered debt and such bonds shall not be included in gross debt nor deducted from gross debt.

(2) The deductions to be made from gross debt in computing net debt. The following deductions are allowed:

a. Funding and refunding bonds authorized by orders introduced but not yet adopted.

b. Funding and refunding bonds authorized but not yet issued.

c. The amount of money held in sinking funds or otherwise for the payment of any part of the principal of gross debt other than debt incurred for water, gas, electric light or power purposes, or sanitary sewer purposes (to the extent that the bonds are deductible under subsection (b) of this section), or two or more of these purposes.

d. The amount of bonded debt included in gross debt and incurred, or to be incurred, for water, gas, or electric light or power purposes, or any two or more of these purposes.

e. The amount of bonded debt included in the gross debt and incurred, or to be incurred, for sanitary sewer system purposes to the extent that the debt is made deductible by subsection (b) of this section.

f. The amount of uncollected special assessments theretofore levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the assessments will be applied, when collected, to the payment of any part of the gross debt.

g. The amount, as estimated by the governing board of the issuing unit or an officer designated by the board for this purpose, of special assessments to be levied for local improvements for which any part of the gross debt (that is not otherwise deducted) was or is to be incurred, to the extent that the special assessments, when collected, will be applied to the payment of any part of the gross debt.

(3) The net debt of the issuing unit, being the difference between the gross debt and deductions.

(4) The appraised value of property subject to taxation by the issuing unit before the application of any assessment ratio. The appraised value of property subject to taxation by the issuing unit is the value from which the assessed value last fixed for taxation by the issuing unit was computed, as revealed by the county tax records and certified to the issuing unit by the county tax supervisor. <u>In calculating the appraised value, the incremental valuation of any development financing district</u>

located in the unit, as determined pursuant to G.S. 159-107, shall not be included.

(5) The percentage that the net debt bears to the appraised value of property subject to taxation by the issuing unit.

(b) Debt incurred or to be incurred for sanitary sewer system purposes is deductible from gross debt when the combined revenues of the water system and the sanitary sewer system (whether or not the water and sewer system are operated separately or as a consolidated system) were sufficient to pay all operating, capital outlay, and debt service expenditures attributable to both systems in each of the three complete fiscal years immediately preceding the date on which the sworn statement of debt is filed. For the purposes of this subsection, the ‘revenues' of a water system and a sanitary sewer system include:

(1) Rates, fees, rentals, charges, and other receipts and income derived from or in connection with the system.

(2) Fees, rents, or other charges collected from other offices, agencies, institutions, and departments of the issuing unit at rates not in excess of those charged to other consumers, customers, or users.

(3) Appropriations from the fund balance of the prior fiscal year from the fund or funds established to account for the revenues and expenditures of the water system or sewer system pursuant to G.S. 159-13(a) of the Local Government Budget and Fiscal Control Act.

Before the sworn statement of debt is filed, the secretary shall determine to what extent debt incurred or to be incurred for sanitary sewer system purposes qualifies for deduction from gross debt pursuant to this subsection, and shall give his certificate to that effect. The secretary's certificate shall be filed with and deemed a part of the sworn statement of debt. The secretary's certificate shall be conclusive in the absence of fraud.

(c) No bond order shall be adopted unless it appears from the sworn statement of debt filed in connection therewith that the net debt of the unit does not exceed eight percent (8%) of the appraised value of property subject to taxation by the issuing unit before the application of any assessment ratio as determined under subsection (a)(4) of this section. This limitation shall not apply to:

(1) Funding and refunding bonds.

(2) Bonds issued for water, gas, or electric power purposes, or two or more of these purposes.

(3) Bonds issued for sanitary sewer system purposes when the bonds are deductible pursuant to subsection (b) of this section.

(4) Bonds issued for sanitary sewers, sewage disposal, or sewage purification plants when the construction of these facilities has been ordered by the Environmental Management Commission, which Commission is hereby authorized to make such an order, or by a court of competent jurisdiction.

(5) Bonds or notes issued for erosion control purposes.

(6) Bonds or notes issued for the purpose of erecting jetties or other protective works to prevent encroachment by the ocean, sounds, or other bodies of water."

Sec. 4. G.S. 159-120 reads as rewritten:

"**§ 159-120. Definitions.**

As used in this Article, unless the context clearly requires another meaning, the words 'unit' or 'issuing unit' mean 'unit of local government' as defined in G.S. ~~159-44~~ 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina, and the words 'governing body,' when used with respect to the State of North Carolina, mean the Council State."

Sec. 5. G.S. 159-122(a) reads as rewritten:

"(a) Except as provided in this subsection, the last installment of each bond issue shall mature not later than the date of expiration of the period of usefulness of the capital project to be financed by the bond issue, computed from the date of the bonds. The last installment of a refunding bond issue issued pursuant to G.S. 159-48(a)(4) or (5) shall mature not later than either (i) the shortest period, but not more than 40 years, in which the debt to be refunded can be finally paid without making it unduly burdensome on the taxpayers of the issuing unit, as determined by the Commission, computed from the date of the bonds, or (ii) the end of the unexpired period of usefulness of the capital project financed by the debt to be refunded. The last installment of bonds issued pursuant to G.S. 159-48(a)(1), (2), (3), (6), or (7) shall mature not later than 10 years after the date of the bonds, as determined by the Commission. The last installment of bonds issued pursuant to G.S. 159-48(c)(5) shall mature not later than eight years after the date of the bonds, as determined by the Commission. The last installment of development financing bonds shall mature on the earlier of 30 years after the effective date of the development financing district for which the bonds are issued or the longest of the various maximum periods of usefulness for the projects to be financed with bond proceeds, as prescribed by the Commission pursuant to this section."

Sec. 6. G.S. 159-123(b) reads as rewritten:

"(b) The following classes of bonds may be sold at private sale:

(1) Bonds that a State or federal agency has previously agreed to purchase.

(2) Any bonds for which no legal bid is received within the time allowed for submission of bids.

(3) Revenue bonds, including any refunding bonds issued pursuant to G.S. 159-84, and special obligation bonds issued pursuant to Chapter 159I of the General Statutes.

(4) Refunding bonds issued pursuant to G.S. 159-78.

(5) Refunding bonds issued pursuant to G.S. 159-72 if the Local Government Commission determines that a private sale is in the best interest of the issuing unit.

(6) Development financing bonds."

Sec. 7. G.S. 159-125(a) reads as rewritten:

"(a) Except for revenue ~~bonds,~~ bonds and development financing bonds, no bid for less than ninety-eight percent (98%) of the face value of the bonds plus one hundred percent (100%) of accrued interest may be entertained.

Different rates of interest may be bid for bonds maturing in different years, but different rates of interest may not be bid for bonds maturing in the same year."

Sec. 8. G.S. 159-129 reads as rewritten:

"**§ 159-129. Obligations of units certified by Commission.**

Each bond or bond anticipation note that is represented by an instrument shall bear on its face or reverse a certificate signed by the secretary of the Commission or an assistant designated by him that the issuance of the bond or note has been approved under the provisions of The Local Government Bond ~~Act of~~ Acts, the Local Government Revenue Bond ~~Act.~~ Act, or the North Carolina Development Financing Act. Such signature may be a manual or facsimile signature as the Commission may determine. Each bond or bond anticipation note that is not represented by an instrument shall be evidenced by a writing relating to such obligation, which writing shall identify such obligation or the issue of which it is part, bear such certificate and be on file with the Commission. The certificate shall be conclusive evidence that the requirements of this Subchapter have been observed, and no bond or note without the Commission's certificate or with respect to which a writing bearing such certificate has not been filed with the Commission shall be valid."

Sec. 9. G.S. 159-132 reads as rewritten:

"**§ 159-132. State Treasurer to deliver bonds and remit proceeds.**

When the bonds are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then pay from the proceeds any notes issued in anticipation of the sale of the bonds, deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The proceeds of funding or refunding bonds may be deposited at the place of payment of the indebtedness to be refunded or funded for use solely in the payment of such indebtedness. The proceeds of revenue bonds shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them. Unless otherwise provided in the trust agreement or resolution securing the bonds, the proceeds of development financing bonds shall be remitted in the manner provided by this section for the remission of the proceeds of general obligation bonds."

Sec. 10. G.S. 159-160 reads as rewritten:

"**§ 159-160. Definitions.**

As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government' as defined in G.S. ~~159-44,~~ 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, and the State of North Carolina."

Sec. 11. G.S. 159-163.1 is reenacted and is rewritten to read:

"**§ 159-163.1. Security of development financing bond anticipation notes.**

Notes issued in anticipation of the sale of development financing bonds are special obligations of the issuing unit. Except as provided in G.S. 159-107 and G.S. 159-110, neither the credit nor the taxing power of the issuing unit may be pledged for the payment of notes issued in anticipation of the sale of development financing bonds; and no holder of a development financing bond anticipation note shall have the right to compel the exercise of the taxing power by the issuing unit or the forfeiture of any of its property in connection with any default thereon. Notes issued in anticipation of the sale of development financing bonds may be secured by the same pledges, charges, liens, covenants, and agreements made to secure the development financing bonds. In addition, the proceeds of each development financing bond issue are pledged for the payment of any notes issued in anticipation of the sale thereof, and any such notes shall be retired from the proceeds of the sale as the first priority."

Sec. 12. G.S. 159-165(b) reads as rewritten:

"(b) When the bond anticipation notes are executed, they shall be delivered to the State Treasurer who shall deliver them to the order of the purchaser and collect the purchase price or proceeds. The Treasurer shall then deduct from the proceeds the Commission's expense in connection with the issue, and remit the net proceeds to the official depository of the unit after assurance that the deposit will be adequately secured as required by law. The net proceeds of revenue bond anticipation ~~notes or~~ notes, special obligation bond anticipation ~~notes~~ notes, or development financing bond anticipation notes shall be remitted to the trustee or other depository specified in the trust agreement or resolution securing them. If the notes have been issued to renew outstanding notes, the Treasurer, in lieu of collecting the purchase price or proceeds, may provide for the exchange of the newly issued notes for the notes to be renewed."

Sec. 13. G.S. 159-176 reads as rewritten:

"§ 159-176. Commission to aid defaulting units in developing refinancing plans.

If a unit of local government or municipality ~~(as defined in G.S. 159-44 or 159-81)~~ (as defined in G.S. 159-44, 159-81, or 159-102) fails to pay any installment of principal or interest on its outstanding debt on or before the due date (whether the debt is evidenced by general obligation bonds, revenue bonds, development financing bonds, bond anticipation notes, tax anticipation notes, or revenue anticipation notes) and remains in default for 90 days, the Commission may take such action as it deems advisable to investigate the unit's or municipality's fiscal affairs, consult with its governing board, and negotiate with its creditors in order to assist the unit or municipality in working out a plan for refinancing, adjusting, or compromising the debt. When a plan is developed that the Commission finds to be fair and equitable and reasonably within the ability of the unit or municipality to meet, the Commission shall enter an order finding that it is fair, equitable, and within the ability of the unit or municipality to meet. The Commission shall then advise the governing board to take the necessary steps to implement it. If the governing board declines or refuses to do so within 90 days after receiving the Commission's advice, the Commission may enter an order directing the governing board to implement the plan. When this order is entered, the members of the governing board and all officers and employees of the unit or municipality shall be under an affirmative duty to do all things necessary to implement the plan. The Commission may apply to the appropriate division of the General Court of Justice for a court order to the governing board and other officers and employees of the unit or municipality to enforce the Commission's order."

Sec. 14. G.S. 160A-505(a) reads as rewritten:

"(a) In lieu of creating a redevelopment commission as authorized herein, the governing body of any municipality may, if it deems wise, either designate a housing authority created under the provisions of Chapter 157 of the General Statutes to exercise the powers, duties, and responsibilities of a redevelopment commission as prescribed herein, or undertake to exercise such powers, duties, and responsibilities itself. Any such designation shall be by passage of a resolution adopted in accordance with the procedure and pursuant to the findings specified in G.S. 160A-504(a) and (b). In the event a governing body designates itself to perform the powers, duties, and responsibilities of a redevelopment ~~commission,~~ <u>commission under this subsection, or exercises those powers, duties, and responsibilities pursuant to G.S. 153A-376 or G.S. 160A-456,</u> then where any act or proceeding is required to be done, recommended, or approved both by a redevelopment commission and by the municipal governing body, then the performance, recommendation, or approval thereof once by the municipal governing body shall be sufficient to make such performance, recommendation, or approval valid and legal. In the event a municipal governing body designates itself to exercise the powers, duties, and responsibilities of a redevelopment commission, it may assign the administration of redevelopment policies, programs and plans to any existing or new department of the municipality."

Sec. 15. G.S. 160A-512(6) reads as rewritten:

"(6) Within its area of operation, to purchase, obtain options upon, acquire by gift, grant, bequest, devise, eminent domain or otherwise, any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear or prepare for redevelopment any such property, and ~~notwithstanding the provisions of G.S. 160-59 but~~ subject to the provisions of G.S. 160A-514, and with the approval of the local governing body sell, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate or otherwise encumber or dispose of any real or personal property or any interest therein, either as an entirety to a single 'redeveloper' or in parts to several redevelopers; provided that the commission finds that the sale or other transfer of any such part will not be prejudicial to the sale of other parts of the redevelopment area, nor in any other way prejudicial to the realization of the redevelopment plan approved by the governing body; to enter into ~~contracts~~ <u>contracts, either before or after the real property that is the subject of the contract is acquired by the commission (although disposition of the property is still subject to G.S. 160A-514),</u> with 'developers' of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions and conditions as the commission may deem necessary to prevent a recurrence of blighted areas or to effectuate the purposes of this Article; to make any of the covenants, restrictions or conditions of the foregoing contracts covenants running with the land, and to provide appropriate remedies for any breach of any such covenants or conditions, including the right to terminate such contracts and any interest in the property created pursuant thereto; to borrow money and issue bonds therefor and provide security for bonds; to insure or provide for the insurance of any real or personal property or operations of the commission against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this Article;".

Sec. 16. G.S. 160A-515.1 is reenacted and is rewritten to read:

"**§ 160A-515.1. Development financing.**

(a) Authorization. A city may finance a redevelopment project and any related public improvements with the proceeds of development financing bonds, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the city. Before it receives the approval of the Local Government Commission for issuance of development financing bonds, the city's governing body must define a development financing district and adopt a development financing plan for the district.

(b) Development Financing District. A development financing district shall comprise all of portions of one or more redevelopment areas defined pursuant to this Article. The total land area within development financing districts in a city, including development financing districts created pursuant to G.S. 158-7.3, may not exceed five percent (5%) of the total land area of the city.

(c) Development Financing Plan. The development financing plan shall be compatible with the redevelopment plan or plans for the redevelopment area or areas included within the district. The development financing plan shall include:

(1) A description of the boundaries of the development financing district;

(2) A description of the proposed development of the district, both public and private;

(3) The costs of the proposed public activities;

(4) The sources and amounts of funds to pay for the proposed public activities;

(5) The base valuation of the development financing district;

(6) The projected incremental valuation of the development financing district;

(7) The estimated duration of the development financing district.

(d) County Review. Before adopting a plan for a development financing district, the city council shall cause notice of the plan to be mailed, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the city council, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the city council may proceed to adopt the plan.

(e) Plan Adoption. Before adopting a plan for a development financing district, the city council shall hold a public hearing on the plan. The council shall, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the city clerk. At the public hearing, the council shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners has disapproved the plan pursuant to subsection (d) of this section, the council may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the city's application to issue development financing bonds has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(f) Plan Modification. Subject to the limitations of this subsection, a city council may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the city council shall follow the procedures and meet the requirements of subsections (d) and (e) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the city may agree with the holders of any development financing bonds to restrict its power to reduce district boundaries.

(g) Plan Implementation. In implementing a development financing plan, a city may act directly, through a redevelopment commission, through one or more contracts with private agencies, or by any combination thereof."

Sec. 17. Article 1 of Chapter 158 of the General Statutes is amended by adding a new section to read:

"**§ 158-7.3. Development financing.**

(a) Definitions. As used in this section:

(1) ‘Economic development project' means a capital project that includes capital expenditures by both private persons and one or more units of local government and that increases employment opportunities, local government tax base, or both.

Of the private development forecast for an economic development project by the development financing plan for the district in which the project will occur, a maximum of twenty percent (20%) may be used for retail sales, hotels, banking and financial services offered directly to consumers, and other commercial uses other than office space.

(2) ‘Publish' means insertion in a newspaper qualified under G.S. 1-597 to public legal advertisements in the county or counties in which the unit is located.

(3) ‘Unit' or ‘unit of local government' means a county, city, town, or incorporated village.

(b) Authorization. A unit of local government may finance public improvements that are part of an economic development project with the proceeds of development financing bonds, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the unit. Before it receives the approval of the Local Government Commission for issuance of development financing bonds, the unit's governing body must define a development financing district and adopt a development financing plan for the district.

(c) Development Financing District. A development financing district created pursuant to this section must be comprised of property that is either:

(1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(2) Appropriate for rehabilitation or conservation activities; or

(3) Appropriate for the economic development of the community.

The total land area within development financing districts in a unit, including development financing districts created pursuant to G.S. 160A-515.1, may not exceed five percent (5%) of the total land area of the unit. A county may not include in a district created pursuant to this section any land that, at the time the district is created, is inside a city, town, or incorporated village.

(d) Development Financing Plan. The development financing plan shall include:

(1) A description of the boundaries of the development financing district;

(2) A description of the proposed development of the district, both public and private;

(3) The costs of the proposed public activities;

(4) The sources and amounts of funds to pay for the proposed public activities;

(5) The base valuation of the development financing district;

(6) The projected incremental valuation of the development financing district;

(7) The estimated duration of the development financing district.

(e) County Review. If the unit creating a development financing district and adopting a development financing plan is a city, town, or incorporated village, before adopting the plan the unit's governing body shall cause notice of the plan to be mailed, by first-class mail. to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the governing body, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the governing body may proceed to adopt the plan.

(f) Plan Adoption. Before adopting a plan for a development financing district, the issuing unit's governing body shall hold a public hearing on the plan. The governing body shall, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once and shall cause notice of the hearing to be mailed, by first-class mail, to the governing body of any special district, as defined by G.S. 159-7, within which the development financing district is located. The notice shall state the time and place of the hearing, shall specify its purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the unit's clerk. At the public hearing, the governing body shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners has disapproved the plan pursuant to subsection (e) of this section, the governing body may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the unit's application to issue development financing bonds has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(g) Plan Modification. Subject to the limitations of this subsection, a governing body may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the governing body shall follow the procedures and meet the requirements of subsections (e) and (f) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the unit may agree with the holders of any development financing bonds to restrict its power to reduce district boundaries.

(h) Plan Implementation. In implementing a development financing plan, a unit may act directly, through one or more contracts with other public agencies, through one or more contracts with private agencies, or by any combination thereof."

Sec. 18. G.S. 105-284 is amended by adding a new subsection (d) to read:

"(d) Property that is in a development financing district and that is subject to an agreement entered into pursuant to G.S. 159-108 shall be assessed at its true value or at the minimum value set out in the agreement, whichever is greater."

Sec. 19. Chapter 105 of the General Statutes is amended by adding after G.S. 105-277.10 a new section to read:

"**§ 105-277.11. Taxation of property subject to a development financing district agreement.**

Property that is in a development financing district, established pursuant to G.S. 160A-515.1 or pursuant to G.S. 159-108, is designated a special class of property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be assessed for taxation in accordance with this section. The property shall be assessed at the greater of its true value or the minimum value established in the agreement."

Sec. 20. Liberal Construction. This act, being necessary for the prosperity and welfare of the State and its inhabitants, shall be liberally construed to effect these purposes.

Sec. 21. Severability. If any clause or other portion of this act is held invalid, that decision shall not affect the validity of the remaining portions of this act, which are severable.

Sec. 22. This act becomes effective upon the certification by the State Board of Elections that an amendment to the North Carolina Constitution authorizing the enactment of general laws dealing with the transactions of the type contemplated by this act has been approved by the people of the State.