

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-238
HOUSE BILL 1117**

**AN ACT TO MAKE CHANGES TO STATE AND LOCAL GOVERNMENT
FINANCE LAWS AND TO AUTHORIZE PUBLIC HOSPITAL AUTHORITIES
TO GRANT MORTGAGES TO FINANCE OR REFINANCE HOSPITAL
FACILITIES AND EQUIPMENT.**

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 158-7.3(c) reads as rewritten:

"(c) Development Financing District. – A development financing district created pursuant to this section must be comprised of property that is one or more of the following:

- (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.
- (2) Appropriate for rehabilitation or conservation activities.
- (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. For the purposes of this section, land in a district created by a county that subsequently becomes part of a city, town, or incorporated village does not count against the five-percent (5%) limit for the city, town, or incorporated village unless the city, town, or incorporated village and the county have entered into an agreement pursuant to G.S. 159-107(e). 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."

SECTION 2. G.S. 159-29(a) reads as rewritten:

"(a) The finance officer shall give a true accounting and faithful performance bond with sufficient sureties in an amount to be fixed by the governing board, not less than ~~ten thousand dollars (\$10,000) nor more than two hundred fifty thousand dollars (\$250,000).~~ fifty thousand dollars (\$50,000). The premium on the bond shall be paid by the local government or public authority."

SECTION 3. Article 4 of Chapter 159 of the General Statutes is amended by adding a new section to read:

"§ 159-68. Certain provisions not applicable to refunding bonds.

The provisions of G.S. 159-56 and the provisions of this Article related to the holding of a public hearing prior to the adoption of the bond order do not apply to refunding bonds issued by a unit of local government so long as the refunding bonds do not extend the final maturity of the debt or obligation to be refunded and so long as the aggregate debt service over the life of the refunding bonds is less than the aggregate debt service on the debt or obligation to be refunded. When the conditions of this section are satisfied, a unit of local government may introduce a bond order, adopt a bond order, and adopt a sale resolution with respect to refunding bonds in one or more meetings of the unit's governing body."

SECTION 4. G.S. 159-83(a)(5) reads as rewritten:

- (5) To borrow money for the purpose of acquiring, constructing, reconstructing, extending, bettering, improving, or otherwise paying

the cost of revenue bond projects, ~~and to issue its revenue bonds or bond anticipation notes therefor, in the name of the State or a municipality, as the case may be, but no encumbrance, mortgage, or other pledge or real property of the State or a municipality may be created in any manner and to pledge, mortgage, or grant a security interest in all or a portion of the real and personal property, whether owned or leased, comprising any revenue-producing utility or public service enterprise facilities or systems acquired, constructed, reconstructed, extended, bettered, or improved with the proceeds of the borrowing. Property subject to a mortgage, deed of trust, security interest, or similar lien pursuant to this subdivision may be sold at foreclosure in any manner permitted by the instrument creating the encumbrance, without compliance with any other provision of law regarding the disposition of publicly owned property. The granting of a lien on, or security interest in, hospital or health-related real or tangible personal property and the conveyance of this property pursuant to the provisions of the lien or security interest are not subject to the provisions of G.S. 131E-8, 131E-13, or 131E-14.~~"

SECTION 5. G.S. 159-107(e) reads as rewritten:

"(e) Increment Agreements. – 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-subsection~~, and the annexed land in the county's district that subsequently becomes a part of the city does not count against the city's five-percent (5%) limit under G.S. 158-7.3 or G.S. 160A-515.1 unless the city and the county enter into an agreement pursuant to this section. 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."

SECTION 6. G.S. 159-111(b) reads as rewritten:

"(b) In order to provide additional security for debt instruments issued pursuant to this Article, and in lieu of pledging its faith and credit for that purpose pursuant to subsection (a) of this section, a unit of local government may ~~agree to apply to the payment of the instruments~~ pledge or grant a security interest in any available sources of revenues of the unit, including special assessments against property within the development financing district made by the unit pursuant to Article 9 of Chapter 153A of the General Statutes or Article 10 of Chapter 160A of the General Statutes, as long as the agreement to use the sources to make payment ~~doing so does not constitute a pledge of the unit's taxing power or of the unit's revenues derived from local sales taxes.~~ power. In addition, to the extent the generation of the revenues is within the power of the unit, the unit may enter into covenants to take action in order to generate the revenues, as long as the covenant does not constitute a pledge of the unit's taxing power. In addition, the unit may pledge, mortgage, or grant a security interest in all or a portion of the real and personal property being financed or improved with the proceeds of the project development financing debt instrument. Property subject to a mortgage, deed of trust, security interest, or similar lien pursuant to this subsection may be sold at foreclosure in any manner permitted by the instrument creating the encumbrance, without compliance with any other provision of law regarding the disposition of publicly owned property."

SECTION 7. G.S. 159-125 reads as rewritten:

"§ 159-125. **Bid instructions; bid deposit.**

(a) Except for revenue bonds, no bid for less than the 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 years, and~~ different rates of interest may ~~not~~ be bid for bonds maturing in the same year ~~year unless the Secretary of the Commission requires one interest rate per maturity in connection with the sale of the bonds. This subsection applies to public sale of bonds only.~~

~~(b) Each bid shall be~~ The Secretary of the Commission may require that bids be accompanied by a bid deposit ~~equal to two percent (2%) of the aggregate principal amount of the bond issue. The~~ in an amount prescribed by the Secretary of the Commission or may determine that no bid deposit is required. If required, the bid deposit shall be made in a form approved by the Secretary of the Commission, and shall secure the issuing unit against loss resulting from the bidder's failure to comply with the terms of ~~the bid, his bid. This subsection shall not apply to bids entered by a State or federal agency.~~

(c) When a State or federal agency has agreed to purchase the bonds at a stated rate of interest unless more favorable bids are received, bids may be entertained from other purchasers for less than all of the bonds."

SECTION 8. G.S. 159-127 reads as rewritten:

"§ 159-127. Award of bonds.

All bids received pursuant to a public sale shall be opened in public on a date and at a time and place to be specified in the notice of sale. ~~The bond~~ Bonds sold at public sale shall be awarded to the bidder offering to purchase the bonds at the lowest interest cost to the issuing unit. ~~In calculating such interest cost, the amount of any premium bid shall be deducted from the aggregate amount of interest on the entire issue until maturity.~~ unit calculated in the manner established by the Secretary of the Commission in the notice of sale."

SECTION 9. G.S. 159-139 reads as rewritten:

"§ 159-139. Destruction of cancelled bonds, notes, and coupons.

(a) All cancelled bonds, notes, and interest coupons of a unit may be destroyed in one of the following ways, in the discretion of the governing board:

(1) Method 1. – The finance officer shall make an entry in ~~a substantially bound book kept by him for the purpose of recording the destruction of bonds, notes, and coupons, showing~~ the official records of the unit, which may include the register for the bonds, notes, and coupons, showing:

- a. With respect to bonds and notes, the purpose of issuance, the date of issue, serial numbers (if any), denomination, maturity date, and total principal amount.
- b. With respect to coupons, the purpose of issue and date of the bonds to which the coupons appertain, the maturity date of the coupons and, as to each maturity date, the denomination, quantity, and total amount of coupons.

After this entry has been made, the paid bonds, notes, and coupons shall be destroyed or marked cancelled in the manner determined by the finance officer, who shall make an entry of the destruction or cancellation in the official records of the unit. by either burning or shredding, in the presence of the mayor or chairman of the governing board, the finance officer, the unit's attorney, and the clerk to the governing board, or any three of them, each of whom shall certify under his hand in the book kept by the finance officer that he saw the bonds and coupons destroyed. Cancelled bonds, notes, or coupons shall not be destroyed until after one year from the date of payment.

- (2) Method 2. – The governing board may contract with the bank, trust company or other person acting as fiscal agent for a bond issue for the destruction of bonds and interest coupons which have been cancelled by the fiscal agent. The contract shall require that the fiscal agent give the unit a written certificate of each destruction containing the same information required by Method 1 to be entered in the record of destroyed bonds and coupons. The certificates shall be filed among the permanent records of the finance officer's office. Cancelled bonds or coupons shall not be destroyed until one year from the date of payment.

(b) The provisions of G.S. 121-5 and G.S. 132-3 ~~shall do not apply to paid bonds, notes, and coupons. The information required to be entered in a substantially bound book recorded~~ prior to destruction under either Method 1 or Method 2 may as an alternative, be shown by photocopying, microfilming or other similar method of recording the information by directly reproducing the cancelled documents."

SECTION 10. G.S. 159C-3(15a) reads as rewritten:

"§ 159C-3. Definitions.

The following definitions apply in this Chapter:

- (15a) Special purpose project. – Any structure, equipment, or other facility for any one or more of the following purposes:
- a. Water systems or facilities, including all plants, works, instrumentalities, and properties used or useful in obtaining, conserving, treating, and distributing water for domestic or industrial use, irrigation, sanitation, fire protection, or any other public or private use.
 - b. Sewage disposal systems or facilities, including all plants, works, instrumentalities, and properties used or useful in the collection, treatment, purification, or disposal of sewage, other than facilities constituting a water pollution control facility.
 - c. Public transportation systems, facilities, or equipment, including bus, truck, ferry, and railroad terminals, depots, trackages, vehicles, and ferries, and mass transit systems.
 - d. Public parking lots, areas, garages, and other public vehicular parking structures and facilities.
 - e. Public auditoriums, gymnasiums, stadiums, and convention centers.
 - f. Recreational facilities-facilities, including museums.
 - g. Land, equipment, and facilities for the disposal, treatment, or recycling of solid or other waste that are described in G.S. 159I-8.
 - h. Facilities for the provision of rehabilitation services, education, training, and employment opportunities for persons with disabilities and the disadvantaged. The term does not include a retail facility, however, unless the proposed operator of the facility certifies that at least seventy-five percent (75%) of its employees will be disadvantaged or disabled persons and at least seventy-five percent (75%) of its inventory will be composed of used, donated items and items manufactured by disadvantaged or disabled persons.
 - i. Orphanages and similar housing facilities for children or disadvantaged or disabled persons."

SECTION 11. G.S. 159G-18(a) reads as rewritten:

"(a) Applicants may execute debt instruments payable to the State in order to obtain revolving loans provided for in this Chapter. Applicants shall pledge as security

for such obligations the user fee revenues derived from operation of the benefited facilities or systems ~~only, only;~~ or other sources of ~~revenue, revenue;~~ or their faith and ~~credit, credit;~~ or a mortgage, deed of trust, security interest, or similar lien on all or a portion of the real and personal property comprising the utility or public enterprise facility or system acquired, constructed, reconstructed, extended, bettered, or improved with the proceeds of the borrowing; or any combination thereof. The faith and credit of applicants that are local government units shall not be pledged or be deemed to have been pledged unless the requirements of Article 4, Chapter 159 of the General Statutes have been met. The State Treasurer, with the assistance of the Local Government Commission, shall develop and adopt appropriate debt instruments for use by applicants under this Chapter. The Local Government Commission shall develop and adopt appropriate procedures for the delivery of debt instruments by applicants to the State without any public bidding therefor."

SECTION 12. G.S. 160A-515.1(b) reads as rewritten:

"(b) Development Financing District. – A development financing district shall comprise all or 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. For purposes of this section, land in a district created by a county that subsequently becomes part of a city does not count against the city's five-percent (5%) limit unless the city and the county have entered into an agreement pursuant to G.S. 159-107(e)."

SECTION 13. G.S. 131A-3 reads as rewritten:

"§ 131A-3. Definitions.

As used or referred to in this Chapter, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

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(5) "Non-profit agency" means any nonprofit ~~private~~ corporation existing or hereafter created and empowered to acquire, by lease or otherwise, operate or maintain health care facilities;
- ⋮
⋮
(9) "Federally insured mortgage note" means any loan secured by a mortgage or deed of trust on any health care facilities owned or leased by any public or nonprofit agency which is insured or guaranteed, directly or indirectly, in whole or in part as to the repayment of principal and interest by the United States of America or any instrumentality thereof, or any commitment by the United States of America or any instrumentality thereof to so insure or guarantee such a loan secured by a mortgage or a deed of trust.

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SECTION 14. G.S. 131A-6 reads as rewritten:

"§ 131A-6. Additional powers of public agencies.

For the purposes of this Chapter, public agencies are authorized and empowered to enter into contracts and agreements, including loan agreements and agreements of sale or lease, with the Commission to facilitate the financing or refinancing, acquiring, constructing, equipping, providing, operating and maintaining of health care facilities and pursuant to any such loan agreement or agreement of sale or lease to operate, repair and maintain any health care facilities and, subject to the provisions of G.S. 131A-8, to pay the cost thereof and the loan repayments, purchase price payments or rent therefor from any funds available for such purposes. In addition, public agencies may mortgage, pledge, assign, grant a security interest in, or otherwise encumber a health care facility, whether owned or leased, to secure obligations under a loan agreement or similar debt instrument in connection with the issuance of bonds or notes by the Commission under this Chapter. Property subject to a mortgage, deed of trust, security interest, or similar lien pursuant to this section may be sold at foreclosure in any manner permitted by the

instrument creating the encumbrance, without compliance with any other provision of law regarding the disposition of publicly owned property. The granting of a lien on, or security interest in, a health care facility and the conveyance of this property pursuant to the provisions of the lien or security interest are not subject to the provisions of G.S. 131E-8, 131E-13, or 131E-14."

SECTION 15. The General Assembly finds that the provisions of this act are necessary for the health and welfare of the State and as such finds that the act shall be construed liberally to effect its purposes.

SECTION 16. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 17. This act becomes effective August 1, 2005.

In the General Assembly read three times and ratified this the 21st day of July, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:02 p.m. this 29th day of July, 2005