

NORTH CAROLINA GENERAL ASSEMBLY
1967 SESSION

CHAPTER 535
HOUSE BILL 298

1 AN ACT RELATING TO INDUSTRIAL DEVELOPMENT; CREATING THE NORTH
2 CAROLINA INDUSTRIAL DEVELOPMENT FINANCING AUTHORITY; DEFINING
3 ITS DUTIES, POWERS AND RESPONSIBILITIES; AUTHORIZING SUCH
4 AUTHORITY TO FINANCE PROJECTS FOR INDUSTRIAL DEVELOPMENT AND
5 TO ADMINISTER, LEASE AND SELL SUCH PROJECTS; VESTING POWERS IN
6 STATE AGENCIES AND POLITICAL SUBDIVISIONS RESPECTING SUCH
7 PROJECTS; PROVIDING FOR THE ISSUANCE OF REVENUE BONDS AND
8 REVENUE REFUNDING BONDS AND FOR THE TERMS, SECURITY AND
9 PAYMENT THEREOF; EXEMPTING THE PROPERTY, INCOME AND BONDS OF
10 SUCH AUTHORITY FROM TAXES; AND PROVIDING FOR THE INVESTMENT OF
11 FUNDS DERIVED AS PROCEEDS OF SUCH BONDS OR REVENUES OF SUCH
12 PROJECTS.

13
14 The General Assembly of North Carolina do enact:

15
16 **Section 1.** Short Title. This Act shall be known, and may be cited, as the "North
17 Carolina Industrial Development Financing Act".

18 **Sec. 2.** Legislative Findings and Purposes. The General Assembly finds and
19 determines that in order to meet the challenge of attracting new industry posed by the
20 inducements to industry offered through legislative enactments in other jurisdictions and to
21 continue the State's progress in industrial development, it is necessary to establish a public
22 agency and an instrumentality of the State to facilitate the provision of facilities promoting
23 industrial development in the State and otherwise effectuating the purposes of this Act, without
24 the levy of any additional taxes therefor. The purposes of this Act are to promote the industry
25 and natural resources of the State, increase opportunities for gainful employment, increase
26 purchasing power, improve living conditions, advance the general economy, expand facilities
27 for research and development, increase vocational training opportunities and otherwise
28 contribute to the prosperity and welfare of the State and its inhabitants by providing facilities
29 for operation by private operators useful for industrial and research pursuits, such purposes
30 being, and are hereby declared to be, public purposes.

31 **Sec. 3.** Definitions. The following words and terms, unless the context clearly
32 indicates a different meaning, shall have the following respective meanings:

- 33 (1) "authority", the North Carolina Industrial Development Financing Authority
34 created by this Act.
35 (2) "bonds" or "revenue bonds" or "industrial revenue bonds", the bonds
36 authorized to be issued by the authority under this Act.
37 (3) "cost" as applied to any project shall embrace the cost of construction, the
38 cost of acquisition of all property, including rights in land and other
39 property, both real and personal and improved and unimproved, the cost of
40 demolishing, removing or relocating any buildings or structures on lands so
41 acquired, including the cost of acquiring any lands to which such buildings
42 or structures may be moved or relocated, the cost of all machinery and
43 equipment, financing charges, interest prior to and during construction and,

1 if deemed advisable by the authority, for a period not exceeding one year
2 after completion of construction, the cost of engineering and architectural
3 surveys, plans and specifications, the cost of consultants' and legal services,
4 other expenses necessary or incident to determining the feasibility or
5 practicability of constructing such project, administrative and other expenses
6 necessary or incident to the construction of such project and the financing of
7 the construction thereof, including reimbursement to any governmental
8 agency or any lessee of such project for such expenditures, made with the
9 prior approval of the authority, that would be costs of the project hereunder
10 had they been made directly by the authority.

11 (4) "governing body", the board, commission or body in which the general
12 legislative powers of any local unit are vested.

13 (5) "governmental agency", any department, division, public agency, political
14 subdivision or other public instrumentality, including any economic
15 development commission or local unit, of the State, any other State or local
16 public agency, or any two or more thereof.

17 (6) "local unit", the city, town or, as to any project that shall be located outside
18 the boundaries of any city or town, the county, in which any project shall be
19 located, and as to any project that shall be located partly inside and partly
20 outside the corporate boundaries of any city or town, both such city or town
21 and the county thereof.

22 (7) "project", any one or more buildings or other structures, whether or not on
23 the same site or sites, and any rehabilitation, improvement, renovation or
24 enlargement of, or any addition to, any building or structure for use as a
25 factory, mill, processing plant, assembly plant, fabricating plant, industrial
26 distribution center or research and development facility, including facilities
27 for industrial, medical, electronic and other types of research and
28 development and facilities for manufacturing, processing, assembling, or
29 handling of any manufactured, agricultural or animal products or products of
30 mining and other natural resources, or any combination of the foregoing, and
31 including also the sites thereof and all other rights in land, whether improved
32 or unimproved, furnishings, machinery, equipment, landscaping and site
33 preparation, and all appurtenances and incidental facilities such as
34 headquarters or office facilities whether or not at the location of the
35 remainder of the project, warehouses, distribution centers, access roads,
36 sidewalks, utilities, railway sidings, trucking and similar facilities, parking
37 facilities, landing strips and other facilities for aircraft, waterways, dockage,
38 wharfage and other improvements necessary or convenient for the
39 construction, maintenance and operation of any such building or structure, or
40 addition thereto; provided that no retail or wholesale store and no office,
41 storage or other commercial facility not incidental to said use of any such
42 building or structure shall be included in any project.

43 (8) "State", the State of North Carolina.

44 **Sec. 4.** North Carolina Industrial Development Financing Authority. (a) There is
45 hereby created a body politic and corporate to be known as the "North Carolina Industrial
46 Development Financing Authority" which shall be constituted a public agency and an
47 instrumentality of state for the performance of essential public functions. The authority shall be
48 composed of seven members. The State Treasurer and the Chairman of the Department of
49 Conservation and Development and their successors in office from time to time shall, by virtue
50 of their incumbency in such offices and without further appointment or qualification, be
51 members of the authority. The Governor shall appoint the other five members of the authority

1 who shall be residents of the State and shall not hold other public office. One of such
2 appointees shall have had experience in industrial real estate, one shall have had experience in
3 county government in the capacity of an elected officer thereof and another shall have had
4 experience in municipal government in the capacity of an elected officer thereof and two of
5 such appointees shall be selected at large. The five members of the authority thus appointed
6 shall continue in office for terms of one year, two, three, four and five years, respectively, as
7 designated by the Governor, and until their successors shall be duly appointed and qualified.
8 The successor of each such member shall be appointed for a term of five years and until his
9 successor shall be duly appointed and qualified, except that any person appointed to fill a
10 vacancy shall serve only for the unexpired term. Any member of the authority shall be eligible
11 for reappointment. Each member of the authority appointed by the Governor may be removed
12 by the Governor for misfeasance, malfeasance or wilful neglect of duty after reasonable notice
13 and a public hearing, unless the same are in writing expressly waived. Each member of the
14 authority, other than the State Treasurer and the Chairman of the Department of Conservation
15 and Development, before entering upon his duty shall take an oath of office to administer the
16 duties of his office faithfully and impartially and a record of such oath shall be filed in the
17 office of the Secretary of State. The Governor shall designate a member of the authority to
18 serve as chairman. The term of the chairman shall extend to the earlier of either the date of
19 expiration of his then current term as a member of the authority or a date six months after the
20 expiration of the then current term of the Governor designating such chairman. The authority
21 shall annually elect one of its members as vice chairman. The authority shall also elect or
22 appoint, and prescribe the duties of, such other offices as the authority deems necessary or
23 advisable, including an executive director and a secretary, and the Governor and the Advisory
24 Budget Commission shall fix the compensation for such officers.

25 (b) The members of the authority shall be entitled to receive, from funds of the
26 authority, for attendance of meetings of the authority or any committee thereof and for other
27 services for the authority reimbursement for actual expenses as may be incurred for travel and
28 subsistence in the performance of official duties and, as to only the members appointed by the
29 Governor, such per diem as is allowed by law for members of other State boards, commissions
30 and committees. The Executive Director shall administer, manage and direct the affairs and
31 business of the authority, subject to the policies, control and direction of the authority. The
32 secretary of the authority shall keep a record of the proceedings of the authority and shall be
33 custodian of all books, documents and papers filed with the authority, the minute book or
34 journal of the authority and its official seal. He shall have authority to cause copies to be made
35 of all minutes and other records and documents of the authority and to give certificates under
36 the official seal of the authority to the effect that such copies are true copies, and all persons
37 dealing with the authority may rely upon such certificates. Four members of the authority shall
38 constitute a quorum and the affirmative vote of four member shall be necessary for any action
39 taken by the authority, except adjournment. No vacancy in the membership of the authority
40 shall impair the rights of a quorum to exercise all the rights and to perform all the duties of the
41 authority.

42 **Sec. 5. General Powers.** The authority shall have all of the powers necessary or
43 convenient to carry out and effectuate the purposes and provisions of this Act, including, but
44 without limiting the generality of the foregoing, the power:

- 45 (1) to adopt bylaws for the regulation of its affairs and the conduct of its
46 business and to prescribe rules, regulations and policies in connection with
47 the performance of its functions and duties;
- 48 (2) to adopt an official seal and alter the same at pleasure;
- 49 (3) to maintain an office in the City of Raleigh and at such other place or places
50 as it may determine;
- 51 (4) to sue and be sued in its own name, plead and be impleaded;

- 1 (5) to receive, administer and comply with the conditions and requirements
2 respecting any gift, grant or donation of any property or money;
- 3 (6) to make and execute agreements of lease, contracts and other instruments
4 necessary or convenient in the exercise of the powers and functions of the
5 authority under this Act, including contracts with persons, firms,
6 corporations, governmental agencies and others, and governmental agencies
7 are hereby authorized to enter into contracts and otherwise cooperate with
8 the authority to facilitate the financing and construction of any project;
- 9 (7) to acquire by purchase, lease, gift or otherwise, or to obtain options for the
10 acquisition of, any property, real or personal, improved or unimproved, and
11 interests in land less than the fee thereof, for the construction, operation or
12 maintenance of any project; provided that no project shall be financed
13 hereunder unless the authority shall, in acquiring the site thereof, obtain
14 thereby at least a leasehold interest, sufficient for the purpose, terminating
15 not earlier than 25 years from the final maturity date of the bonds that shall
16 be initially issued to pay any part of the cost of such project;
- 17 (8) to sell, lease, exchange, transfer or otherwise dispose of, or to grant options
18 for any such purposes with respect to, any real or personal property or
19 interest therein;
- 20 (9) to pledge or assign any money, rents, charges, fees or other revenues and any
21 proceeds derived from sales of property, insurance or condemnation awards
22 by the authority;
- 23 (10) to issue industrial revenue bonds of the authority for the purpose of
24 providing funds to pay all or any part of the cost of any project and any
25 revenue refunding bonds;
- 26 (11) to construct, acquire, own, repair, maintain, extend, improve, rehabilitate,
27 renovate, furnish and equip projects and to pay all or any part of the costs
28 thereof from the proceeds of bonds of the authority or from any contribution,
29 gift or donation or other funds made available to the authority for such
30 purpose;
- 31 (12) to fix, charge and collect rents, fees and charges for the use of any project;
32 and
- 33 (13) to employ consulting engineers, architects, attorneys, real estate counselors,
34 appraisers and such other consultants and employees as may be required in
35 the judgment of the authority and to fix and pay their compensation from
36 funds available to the authority therefor.

37 **Sec. 6.** Criteria and Requirements. In undertaking any project pursuant to this Act,
38 the authority shall be guided by and shall observe the following criteria and requirements;
39 provided that the determination of the authority as to its compliance with such criteria and
40 requirements shall be final and conclusive:

- 41 (1) the project, in the determination of the authority, shall make a significant
42 contribution to the economic growth of the local unit in which it shall be
43 located, shall provide gainful employment and shall serve a public purpose
44 by advancing the economic prosperity and the public welfare of the State
45 and its people;
- 46 (2) the project shall not involve the relocation of an industrial or research
47 facility existing in the State to some other part of the State unless the
48 authority determines that there is a clear and justifiable reason therefor;
- 49 (3) no project shall be leased to any lessee which is not financially responsible
50 and fully capable and willing to fulfill its obligations under the agreement of
51 lease, including the obligation to pay rent in the amounts and at the times

1 required, the obligation to operate, repair and maintain at its own expense
2 the project leased and to serve the purposes of the Act and such other
3 responsibilities as may be imposed under the lease, and in determining the
4 financial responsibility of such lessee consideration shall be given to the
5 lessee's ratio of current assets to current liabilities, net worth, earnings
6 trends, coverage of all fixed charges, the nature of the industry or business
7 involved, its inherent stability, any guarantee of the obligations by some
8 other financially responsible corporation, firm or person, and other factors
9 determinative of the capability of the lessee, financially and otherwise, to
10 fulfill its obligations consistently with the purposes of this Act;

- 11 (4) the local unit in which the project is to be located, in the determination of the
12 authority, will be able to cope satisfactorily with the impact of such project
13 and will be able to provide, or cause to be provided, when needed the public
14 facilities, including utilities, and public services that will be necessary for
15 the construction, operation, repair and maintenance of the project and on
16 account of any increases in population resulting therefrom; and
17 (5) adequate provision shall be made for the operation, repair and maintenance
18 of the project at the expense of the lessee and for the payment of principal of
19 and interest on the bonds and for reserves therefor.

20 **Sec. 7. Procedural Requirements.** (a) Any one or more governmental agencies may
21 submit to the authority a proposal for financing a project, using such forms and following such
22 instructions as may be prescribed by the authority. Such proposal shall set forth the type and
23 location of the project and may include other information and data, available to the
24 governmental agency or agencies submitting the proposal, respecting the project, the proposed
25 lessee, if any, and the extent to which such project conforms to the criteria and requirements set
26 forth in this Act. The authority shall promptly consider every project and cooperate with any
27 governmental agency submitting any such proposal. The authority may request governmental
28 agencies to provide such information and data as the authority may deem pertinent, and
29 governmental agencies are authorized to provide to the authority any information or data
30 available to them and otherwise to render assistance to and cooperate with the authority in
31 carrying out the purposes of this Act. The authority may also request any proposed lessee of
32 any project to provide information and data respecting the project and such lessee. The
33 authority is authorized to make or cause to be made, in cooperation with governmental agencies
34 to the fullest extent feasible, such investigations, surveys, studies, reports and reviews as in its
35 judgment are necessary and desirable to determine the feasibility and desirability of the project,
36 the extent to which the project contributes to the development and advancement of the
37 prosperity and economic welfare of the State, and, as to the proposed lessee, the experience,
38 background, past and present financial condition, record of earnings, credit standing, present
39 and future markets and prospects and the integrity and capability of the management of such
40 lessee, the extent to which the project or such proposed lessee otherwise conform to the criteria
41 and requirements of this Act, and such other factors as may be deemed relevant or convenient
42 in carrying out the purposes of this Act.

43 (b) If the authority determines that the project is feasible and desirable and that the
44 criteria and requirements of this Act may be complied with in undertaking and financing such
45 project, the authority shall promptly notify the local unit in which the project is to be located
46 and request the approval of the project by the governing body of the local unit. For the purpose
47 of determining whether to approve the project, the governing body of such local unit may in its
48 discretion or shall, at the request of the authority, hold a public hearing within the boundaries of
49 the local unit after giving notice of such hearing by one publication thereof, in a newspaper of
50 general circulation in the local unit, at least 10 days before such hearing. The governing body
51 of the local unit and a representative or representatives of the authority shall attend such public

1 hearing to provide information and otherwise hear and consider the comments and suggestions
2 made at such hearing. No further action respecting such project shall be taken by the authority
3 unless the governing body of the local unit shall adopt (after the public hearing, if one shall be
4 held) a resolution approving the project and requesting the authority to finance and carry out
5 the project.

6 **Sec. 8.** Agreements of Lease. No project financed under the provisions of this Act
7 shall be operated by the authority or any other governmental agency; provided, that the
8 authority may temporarily operate or cause to be operated all or any part of a project to protect
9 its interest therein pending any leasing of such project in accordance with this Act. The
10 authority shall lease a project or projects to one or more persons, firms or private corporations
11 for operation and maintenance in such manner as shall effectuate the purposes of this Act,
12 under an agreement of lease in form and substance not inconsistent herewith. Any such
13 agreement of lease may provide, among other provisions, that:

- 14 (1) the lessee shall, at its own expense, operate, repair and maintain the project
15 or projects leased thereunder;
- 16 (2) the rent payable under the lease shall in the aggregate be not less than an
17 amount sufficient to pay all of the interest, principal and redemption
18 premiums, if any, on the bonds that shall be issued by the authority to pay
19 the cost of the project or projects leased thereunder;
- 20 (3) the lessee shall pay all other costs incurred by the authority in connection
21 with the financing, construction and administration of the project or projects
22 leased, except as may be paid out of the proceeds of bonds or otherwise,
23 including, but without limitation, insurance costs, the cost of administering
24 the bond resolution authorizing such bonds and any trust agreement securing
25 the bonds and the fees and expenses of trustees, paying agents, attorneys,
26 consultants and others;
- 27 (4) the term of the lease shall terminate not earlier than the date on which all
28 such bonds and all other obligations incurred by the authority in connection
29 with the project or projects leased thereunder shall be paid in full, including
30 interest, principal and redemption premiums, if any, or adequate funds for
31 such payment shall be deposited in trust; and
- 32 (5) the lessee's obligation to pay rent shall not be subject to cancellation,
33 termination or abatement by the lessee until such payment of the bonds or
34 provision for such payment shall be made. Such agreement of lease may
35 contain such additional provisions as in the determination of the authority
36 are necessary or convenient to effectuate the purposes of this Act, including
37 provisions for extensions of the term and renewals of the lease and vesting in
38 the lessee an option to purchase the project or projects leased thereunder
39 pursuant to such terms and conditions consistent with this Act as shall be
40 prescribed in the lease; provided, that, except as may otherwise be expressly
41 stated in the agreement of lease to provide for any contingencies involving
42 the destruction or condemnation of the project or projects leased, or any
43 substantial portion thereof, such option to purchase may not be exercised
44 until the expiration of a period of not less than 10 years from the date the
45 final installment of the first year's rent under the lease shall be paid by the
46 lessee and until all bonds issued for such project or projects, including all
47 interest and redemption interest and redemption premiums, if any, and all
48 other obligations incurred by the authority in connection with such project or
49 projects shall have been paid in full or sufficient funds shall have been
50 deposited in trust for such payment; and provided further that the purchase
51 price of such project or projects shall not be less than the increase, if any,

1 from the date the lease becomes legally effective to the date of the lessee's
2 exercise of the option in the value of all of the authority's interest in the site
3 or sites of such project or projects, whether such interest be in fee, a
4 leasehold or other lesser estate, as determined for the purposes of and in
5 conformity with the provisions of the next succeeding Section.

6 **Sec. 9.** Tax Exemption; Payments in Lieu of Taxes. (a) The exercise of the powers
7 granted by this Act in all respects will be for the benefit of the people of the State, for the
8 increase of their industry and prosperity, for the provision of gainful employment and for the
9 improvement of their health and living conditions and will constitute the performance of
10 essential public functions, and the authority shall not be required to pay any taxes on any
11 project or any other property owned by the authority under the provisions of this Act or upon
12 the income therefrom, and the bonds issued under the provisions of this Act, their transfer and
13 the income therefrom(including any profit made on the sale thereof), shall at all times be free
14 from taxation by the State or any local unit or political subdivision or other instrumentality of
15 the State, excepting inheritance or gift taxes. Nothing in this Section, however, shall be
16 construed as exempting from taxation or assessments the leasehold interest of any lessee in any
17 project or any other property or interest owned by any lessee.

18 (b) The agreement for the authority's leasing of any project shall require that the lessee
19 thereunder shall pay each year, in addition to all other obligations, an amount equal to the total
20 amount of ad valorem taxes that would otherwise be levied upon the property owned and leased
21 by the authority thereunder which is exempted from taxation. The agreement of lease shall
22 require the lessee to covenant and agree that, for the purposes of this Section and during the
23 term of such lease, the amount of such annual payment in lieu of taxes, the time, method and
24 place of payment thereof, its apportionment to the various local government taxing units
25 entitled thereto, the procedures and the rights of review and appeal of the lessee shall, to the
26 fullest extent appropriate, be deemed to be the same as if such payment were an ad valorem tax
27 payment and as if the property of the authority leased by the lessee thereunder were actually
28 owned by the lessee and legally subject to ad valorem taxation under applicable law, including
29 particularly the Machinery Act, G.S. §§ 105-271 to 105-398, inclusive, as amended, and further
30 to covenant and agree that the lessee shall file a tax list, listing such property in the name of,
31 and as if owned by, the lessee (referring expressly therein to this Section) in the form and
32 manner and at the place or places and at the time or times required under said Machinery Act
33 for the listing of real and personal property in the local unit subject to ad valorem taxation.
34 Upon the execution of any such agreement of lease, the property of the authority leased
35 thereunder to the lessee during the term of such lease shall be treated (but only for the purposes
36 of this Section) as if it were subject to ad valorem taxation and, pursuant to the Machinery Act,
37 said property shall be listed, appraised, assessed and revalued and shall be subject to the
38 imposition of an amount in lieu of taxes equal to the ad valorem taxes that would otherwise be
39 levied against such property if it were actually owned by the lessee and the lessee shall be
40 deemed to be, for the purposes hereof, the owner of such property and to have such rights of
41 review and appeal respecting such property as are vested in owners of property subject to ad
42 valorem taxation under applicable law. The amount imposed in lieu of taxes against such
43 property shall constitute the amount of payment in lieu of taxes required to be made by the
44 lessee hereunder and such amount shall be imposed and collected in the same manner and at
45 such time as ad valorem taxes under said Machinery Act, and shall be apportioned and made
46 available to the local government taxing units that would have been entitled thereto if such
47 payment were a tax payment on such property, and may be used for the same purposes for
48 which ad valorem property tax proceeds may be lawfully used by such taxing units, to be
49 expended pro rata for purposes for which the unit levies property taxes.

50 **Sec. 10.** Construction Contracts. Contracts for the construction of the project may
51 be awarded by the authority in such manner as in its judgment will best promote free and open

1 competition, including advertisement for competitive bids in a newspaper of general circulation
2 in the local unit in which the project is to be located; provided, however, that if the authority
3 shall determine that the purposes of the Act will thereby be more effectively served, the
4 authority in its discretion may award contracts for the construction of any project, or any part
5 thereof, upon a negotiated basis as determined by the authority. The authority shall prescribe
6 such bid security requirements and other procedures in connection with the award of such
7 contracts as in its judgment shall protect the public interest. The authority may by written
8 contract engage the services of the lessee or prospective lessee of any project in the
9 construction of such project and may provide in such contract that the lessee or prospective
10 lessee may act as an agent of, or an independent contractor for the authority for the
11 performance of the functions described therein, subject to such conditions and requirements,
12 consistent with the provisions of this Act, as shall be prescribed in such contract, including
13 such functions as the acquisition of the site and other real property for such project, the
14 preparation of plans, specifications and contract documents, the award of construction and
15 other contracts upon a competitive or negotiated basis, the construction of such project, or any
16 part thereof, directly by such lessee or prospective lessee, the inspection and supervision of
17 construction, the employment of engineers, architects, builders and other contractors and the
18 provision of money to pay the cost thereof pending reimbursement by the authority. Any such
19 contract may provide that the authority may, out of proceeds of bonds, make advances to or
20 reimburse the lessee or prospective lessee for its costs incurred in the performance of such
21 functions and shall set forth the supporting documents required to be submitted to the authority
22 and the reviews, examinations and audits that shall be required in connection therewith to
23 assure compliance with the provisions of this Act and such contract.

24 **Sec. 11. Conflict of Interest.** No officer, member, agent or employee of the
25 authority, the State or any local unit shall be interested either directly or indirectly in any
26 contract with the authority or in the sale of property, real or personal, to the authority for the
27 purposes of the project; provided, however, that this Section shall not apply to any interest
28 which the authority determines is so minor as not to be within the purview of the purpose of
29 this Section. If any such officer, member, agent or employee shall have any interest in real
30 property acquired prior to the determination of the location of any project, such interest shall
31 immediately be disclosed to the authority and shall be set forth in the minutes of the authority,
32 and the officer, member, agent or employee having any interest therein shall not participate on
33 behalf of the authority in the acquisition of such property by the authority.

34 **Sec. 12. Authorization of Funds for Initial Expenditures.** In order to enable the
35 authority to organize and commence its operations under the Act, the Governor and the Council
36 of State are authorized to transfer to the authority out of the contingency and emergency fund
37 not otherwise obligated such amount or amounts as the Governor and the Council of State shall
38 deem necessary to enable the authority to organize and to pay the expenses of administration
39 during the first two years of the authority's operations.

40 **Sec. 13. Credit of State Not Pledged.** (a) Bonds issued under the provisions of this
41 Act shall not be deemed to constitute a debt, liability or obligation of the State or of any
42 political subdivision thereof or a pledge of the faith and credit of the State or of any such
43 political subdivision, but shall be payable solely from the revenues and other funds provided
44 therefor. Each bond issued under this Act shall contain on the face thereof a statement to the
45 effect that the authority shall not be obligated to pay the same nor the interest thereon except
46 from the revenues, proceeds and other funds pledged therefor and that neither the faith and
47 credit nor the taxing power of the State or of any political subdivision thereof is pledged to the
48 payment of the principal of or the interest on such bonds.

49 (b) Expenses incurred by the authority in carrying out the provisions of this Act may be
50 made payable from funds provided pursuant to this Act and no liability or obligation shall be

1 incurred by the authority hereunder beyond the extent to which moneys shall have been so
2 provided.

3 **Sec. 14. Bonds.** (a) The authority is hereby authorized to provide for the issuance,
4 at one time or from time to time, of industrial revenue bonds of the authority for the purpose of
5 paying all or any part of the cost of any project or projects. The bonds shall be designated,
6 subject to such additions or changes as the authority deems advisable, "North Carolina
7 Industrial Development Financing Authority Revenue Bonds, _____
8 Series", inserting in the blank space the name of the local unit in which shall be located the
9 project for which the bonds are to be issued. The principal of and the interest on such bonds
10 shall be payable solely from the funds herein provided for such payment. The bonds of each
11 issue shall be dated, shall bear interest at such rate or rates, shall mature at such time or times
12 not exceeding 40 years from their date or dates, as may be determined by the authority, and
13 may be made redeemable before maturity, at the option of the authority, at such price or prices
14 and under such terms and conditions as may be fixed by the authority prior to the issuance of
15 the bonds. The authority shall determine the form and the manner of execution of the bonds,
16 including any interest coupons to be attached thereto, and shall fix the denomination or
17 denominations of the bonds and the place or places of payment of principal and interest, which
18 may be at any bank or trust company within or without the State. In case any officer whose
19 signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to
20 be such officer before the delivery of such bonds, such signature or such facsimile shall
21 nevertheless be valid and sufficient for all purposes the same as if he had remained in office
22 until such delivery. The authority may also provide for the authentication of the bonds by a
23 trustee or fiscal agent. The bonds may be issued in coupon or in registered form, or both, as the
24 authority may determine, and provision may be made for the registration of any coupon bonds
25 as to principal alone and also as to both principal and interest, and for the reconversion into
26 coupon bonds of any bonds registered as to both principal and interest, and for the interchange
27 of registered and coupon bonds. The authority may sell such bonds in such manner, either at
28 public or private sale, and for such price as it may determine will best effectuate the purposes
29 of this Act.

30 (b) The proceeds of the bonds of each issue shall be used solely for the payment of the
31 cost of the project or projects, or portion or portions thereof, for which such bonds shall have
32 been issued, and shall be disbursed in such manner and under such restrictions, if any, as the
33 authority may provide in the resolution authorizing the issuance of such bonds or in the trust
34 agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue,
35 by reason of increased construction costs or error in estimates or otherwise, shall be less than
36 such cost, additional bonds may in like manner be issued to provide the amount of such
37 deficiency, and, unless otherwise provided in the bond resolution or in the trust agreement,
38 shall be deemed to be of the same issue and shall be entitled to payment from the same fund
39 without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue
40 shall exceed such cost, such excess shall be deposited to the credit of the sinking fund for such
41 bonds, or, if so provided in such resolution or trust agreement, may be applied to the payment
42 of the cost of any additional project or projects.

43 (c) Prior to the preparation of definitive bonds, the authority may, under like
44 restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable
45 for definitive bonds when such bonds shall have been executed and are available for delivery.
46 The authority may also provide for the replacement of any bonds which shall become mutilated
47 or shall be destroyed or lost.

48 (d) Bonds may be issued under the provisions of this Act without obtaining, except as
49 otherwise expressly provided in this Act, the consent of any department, division, commission,
50 board, body, bureau or agency of the State, and without any other proceedings or the happening
51 of any conditions or things other than those proceedings, conditions or things which are

1 specifically required by this Act and the provisions of the resolution authorizing the issuance of
2 such bonds or the trust agreement securing the same.

3 **Sec. 15. Trust Agreement.** In the discretion of the authority any bonds issued under
4 the provisions of this Act may be secured by a trust agreement by and between the authority
5 and a corporate trustee, which may be any trust company or bank having the powers of a trust
6 company within or without the State. Such trust agreement or the resolution providing for the
7 issuance of such bonds may pledge or assign the fees, rents, charges, proceeds from the sale of
8 any project, or part thereof, insurance proceeds, condemnation awards and other funds and
9 revenues to be received therefor, but shall not convey or mortgage any project or any part
10 thereof. Such trust agreement or resolution providing for the issuance of such bonds may
11 contain such provisions for protecting and enforcing the rights and remedies of the bondholders
12 as may be reasonable and proper and not in violation of law, including covenants setting forth
13 the duties of the authority in relation to the acquisition of property and the construction,
14 improvement, maintenance, repair, operation and insurance of the project or projects in
15 connection with which such bonds shall have been authorized, the fees, rents and other charges
16 to be fixed and collected, the sale of any project, or part thereof, or other property, the terms
17 and conditions for the issuance of additional bonds, and the custody, safeguarding and
18 application of all moneys. It shall be lawful for any bank or trust company incorporated under
19 the laws of the State which may act as depository of the proceeds of bonds, revenues or other
20 money hereunder to furnish such indemnifying bonds or to pledge such securities as may be
21 required by the authority. Any such trust agreement or resolution may set forth the rights and
22 remedies of the bondholders and of the trustee, and may restrict the individual right of action
23 by bondholders. In addition to the foregoing, any such trust agreement or resolution may
24 contain such other provisions as the authority may deem reasonable and proper for the security
25 of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement
26 or resolution may be treated as a part of the cost of the project or projects in connection with
27 which bonds are issued or as an expense of administration of such project or projects, as the
28 case may be.

29 **Sec. 16. Revenues.** (a) The authority is hereby authorized to fix and to collect fees,
30 rents and charges for the use of any project or projects, and any part or section thereof, and to
31 contract with any person, partnership, association or corporation respecting the use thereof. The
32 authority may require that the lessee or users of any project, or any part thereof, shall operate,
33 repair and maintain the project and shall bear the cost thereof and other costs of the authority in
34 connection with the project or projects leased, as may be provided in the agreement of lease or
35 other contract with the authority, in addition to other obligations imposed under such agreement
36 or contract.

37 (b) The fees, rents and charges shall be so fixed as to provide a fund sufficient, with
38 such other funds as may be made available therefor, to pay the principal of and the interest on
39 such bonds as the same shall become due and payable and to create reserves for such purposes.
40 The fees, rents and charges and all other revenues and other proceeds derived from the project
41 or projects in connection with which the bonds of any issue shall have been issued, except such
42 part thereof as may be necessary to provide such reserves therefor as may be provided for in the
43 resolution authorizing the issuance of such bonds or in the trust agreement securing the same,
44 shall be set aside at such regular intervals as may be provided in such resolution or such trust
45 agreement in a sinking fund which is hereby pledged to, and charged with, the payment of the
46 principal of and the interest on such bonds as the same shall become due and the redemption
47 price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge
48 shall be valid and binding from the time when the pledge is made. The fees, rents, charges and
49 other revenues and moneys so pledged and thereafter received by the authority shall
50 immediately be subject to the lien of such pledge without any physical delivery thereof or
51 further act, and the lien of any such pledge shall be valid and binding as against all parties

1 having claims of any kind in tort, contract or otherwise against the authority, irrespective of
2 whether such parties have notice thereof. Neither the resolution nor any trust agreement by
3 which a pledge is created need be filed or recorded except in the records of the authority. The
4 use and disposition of money to the credit of such sinking fund shall be subject to the
5 provisions of the resolution authorizing the issuance of such bonds or of such trust agreement.
6 Except as may otherwise be provided in such resolution or such trust agreement, such sinking
7 fund shall be a fund for all such bonds without distinction or priority of one over another.

8 **Sec. 17.** Trust Funds. Notwithstanding any other provisions of law to the contrary,
9 all money received pursuant to the authority of this Act, whether as proceeds from the sale of
10 bonds, sale of property, insurance or condemnation awards, or as revenues, shall be deemed to
11 be trust funds to be held and applied solely as provided in this Act. The resolution authorizing
12 the bonds of any issue or the trust agreement securing such bonds may provide that any of such
13 moneys may be temporarily invested pending the disbursement thereof and shall provide that
14 any officer with whom, or any bank or trust company with which, such moneys shall be
15 deposited shall act as trustees of such money and shall hold and apply the same for the
16 purposes hereof, subject to such regulations as this Act and such resolution or trust agreement
17 may provide.

18 **Sec. 18.** Remedies. Any holder of bonds issued under the provisions of this Act or
19 any of the coupons appertaining thereto, and the trustee under any trust agreement, except to
20 the extent the rights herein given may be restricted by such trust agreement or the resolution
21 authorizing the issuance of such bonds, may, either at law or in equity, by suit, action,
22 •mandamus or other proceeding, protect and enforce any and all rights under the laws of the
23 State or granted hereunder or under such trust agreement or resolution authorizing the issuance
24 of such bonds, or under any agreement of lease or other contract executed by the authority
25 pursuant to this Act, and may enforce and compel the performance of all duties required by this
26 Act or by such trust agreement or resolution to be performed by any lessee or the authority or
27 by any officer thereof, including the fixing, charging and collecting of fees, rents and charges.

28 **Sec. 19.** Negotiable Instruments. Notwithstanding any of the foregoing provisions
29 of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds
30 and interest coupons appertaining thereto shall be and are hereby made negotiable instruments
31 under the laws of this State, subject only to the provisions for registration in any resolution
32 authorizing the issuance of such bonds or any trust agreement securing the same.

33 **Sec. 20.** Bonds Eligible for Investment. Bonds issued by the authority under the
34 provisions of this Act are hereby made securities in which all public officers and public bodies
35 of the State and its political subdivisions, all insurance companies, trust companies, banking
36 associations, investment companies, executors, administrators, trustees and other fiduciaries
37 may properly and legally invest funds, including capital in their control or belonging to them.
38 Such bonds are hereby made securities which may properly and legally be deposited with and
39 received by any State or municipal officer or any agency or political subdivision of the State for
40 any purpose for which the deposit of bonds or obligations of the State is now or may hereafter
41 be authorized by law.

42 **Sec. 21.** Revenue Refunding Bonds. (a) The authority is hereby authorized to
43 provide by resolution for the issuance of revenue refunding bonds of the authority for the
44 purpose of refunding any bonds then outstanding which shall have been issued under the
45 provisions of this Act, including the payment of any redemption premium thereon and any
46 interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable
47 by the authority, for either or both of the following additional purposes: (i) constructing
48 improvements, additions, extensions or enlargements of the project or projects in connection
49 with which the bonds to be refunded shall have been issued, and (ii) paying all or any part of
50 the cost of any additional project or projects. The issuance of such bonds, the maturities and
51 other details thereof, the rights of the holders thereof, and the rights, duties and obligations of

1 the authority in respect to the same shall be governed by the provisions of this Act which relate
2 to the issuance of revenue bonds, insofar as such provisions may be appropriate therefor.

3 (b) Revenue refunding bonds issued under this Section may be sold or exchanged for
4 outstanding bonds issued under this Act and, if sold, the proceeds thereof may be applied, in
5 addition to any other authorized purposes, to the purchase, redemption or payment of such
6 outstanding bonds. Revenue refunding bonds may be issued, in the determination of the
7 authority, at any time not more than five years prior to the date of maturity or maturities or the
8 date selected for the redemption of the bonds being refunded thereby. Pending the application
9 of the proceeds of such refunding bonds, with any other available funds, to the payment of the
10 principal, accrued interest and any redemption premium on the bonds being refunded, and, if so
11 provided or permitted in the resolution authorizing the issuance of such refunding bonds or in
12 the trust agreement securing the same, to the payment of any interest on such refunding bonds
13 and any expenses in connection with such refunding, such proceeds may be invested in direct
14 obligations of, or obligations the principal of and the interest on which are unconditionally
15 guaranteed by, the United States of America which shall mature or which shall be subject to
16 redemption by the holder thereof, at the option of such holder, not later than the respective
17 dates when the proceeds, together with the interest accruing thereon, will be required for the
18 purposes intended.

19 **Sec. 22. Reversion to Local Unit.** When all revenue bonds issued for any project by
20 the authority under the provisions of this Act, including interest and redemption premiums, if
21 any, and other costs incurred by the authority therefor shall have been paid, or a sufficient
22 amount for such payment shall have been deposited in trust for the benefit of the holders of
23 such bonds and others entitled thereto, the authority shall convey by quitclaim deed to the local
24 unit in which such project is located, with the consent of the governing body of such local unit,
25 all of the interest of the authority in such project, subject to any agreement of lease, including
26 renewal and option to purchase provisions therein, and any other covenants, limitations, liens
27 and other encumbrances affecting the project. Any property so conveyed may be administered
28 and used by the local unit for the purposes of this Act or any other lawful purpose.

29 **Sec. 23. Annual Reports.** The authority shall, promptly following the close of each
30 fiscal year, submit an annual report of its activities for the preceding year to the Governor and
31 the General Assembly. Each such report shall set forth a complete operating and financial
32 statement covering the operations of the authority during such year. The authority shall cause
33 an audit of its books and accounts to be made at least once in each year by the State Auditor or
34 by certified public accountants and the cost thereof may be treated as a part of the cost of
35 construction of a project, to the extent such audit covers the construction of the project, or
36 otherwise as part of the expense of administration of the project covered by such audit.

37 **Sec. 24. Officers Not Liable.** No member or other officer of the authority shall be
38 subject to any personal liability or accountability by reason of his execution of any bonds or the
39 issuance thereof.

40 **Sec. 25. Additional Method.** The foregoing Sections of this Act shall be deemed to
41 provide an additional and alternative method for the doing of the things authorized thereby and
42 shall be regarded as supplemental and additional to powers conferred by other laws, and shall
43 not be regarded as in derogation of any powers now existing; provided, however, that the
44 issuance of revenue bonds or revenue refunding bonds under the provisions of this Act need not
45 comply with the requirements of any other law applicable to the issuance of bonds.

46 **Sec. 26. Act Liberally Construed.** This Act, being necessary for the prosperity and
47 welfare of the State and its inhabitants, shall be liberally construed to effect the purposes
48 thereof.

49 **Sec. 27. Constitutional Construction.** The provisions of this Act are severable, and
50 if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the
51 decision of such court shall not affect or impair any of the remaining provisions.

1 **Sec. 28.** Inconsistent Laws Inapplicable. Insofar as the provisions of this Act are
2 inconsistent with the provisions of any general or special laws, or parts thereof, the provisions
3 of this Act shall be controlling.

4 **Sec. 29.** Effective Date. This Act shall be in full force and effect from and after its
5 ratification.

6 In the General Assembly read three times and ratified, this the 19th day of May,
7 1967.