

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE DRS35108-LCx-46 (03/04)

Short Title: Airport Authority Debt Financing.

(Public)

Sponsors: Senator Metcalf.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CERTAIN AIRPORT AUTHORITIES TO ENTER INTO
INSTALLMENT CONTRACTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 160A-20 reads as rewritten:

"§ 160A-20. **Security interests.**

(a) Units of local government, as defined in subsection (h), may purchase or finance the purchase of real or personal property by installment contracts that create in the property purchased a security interest to secure payment of the purchase price to the seller or to an individual or entity advancing moneys or supplying financing for the purchase transaction.

(b) Units of local government, as defined in subsection (h), may finance the construction or repair of fixtures or improvements on real property by contracts that create in the fixtures or improvements, or in all or some portion of the property on which the fixtures or improvements are located, or in both, a security interest to secure repayment of moneys advanced or made available for such construction or repair.

(c) Units of local government, as defined in subsection (h), may use escrow accounts in connection with the advance funding of transactions authorized by this section, whereby the proceeds of such advance funding are invested pending disbursement.

(d) No contract entered into under this section may contain a nonsubstitution clause that restricts the right of a unit of local government to:

(1) Continue to provide a service or activity; or

(2) Replace or provide a substitute for any fixture, improvement, project, or property financed or purchased pursuant to such contract.

(e) A contract entered into under this section is subject to approval by the Local Government Commission under Article 8 of Chapter 159 of the General Statutes if it:

1 (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and
2 159-148(a)(3), or involves the construction or repair of fixtures or
3 improvements on real property; and

4 (2) Is not exempted from the provisions of that Article by one of the
5 exemptions contained in G.S. 159-148(b).

6 (e1) A nonprofit corporation or association operating or leasing a public hospital
7 may only enter into a contract pursuant to this section if the nonprofit corporation or
8 association will have an ownership interest in the property being financed, including a
9 leasehold interest, and the security interest granted in such property being financed shall
10 only be to the extent of such property interest. In addition, any contract entered into by a
11 nonprofit corporation or association operating or leasing a public hospital pursuant to
12 this section is subject to the approval of the city, county, hospital district, or hospital
13 authority which owns such hospital. Approval of the city, county, hospital district, or
14 hospital authority may be withheld only under one or more of the following
15 circumstances:

16 (1) The contract would cause the city, county, hospital district, or hospital
17 authority to breach or violate any covenant in an existing financing
18 instrument entered into by such entity.

19 (2) The contract would restrict the ability of the city, county, hospital
20 district, or hospital authority to incur anticipated bank eligible
21 indebtedness under federal tax laws.

22 (3) The entering into of the contract would have a material adverse impact
23 on the credit ratings of the city, county, hospital district, or hospital
24 authority or otherwise materially interfere with an anticipated
25 financing by such entity.

26 (f) No deficiency judgment may be rendered against any unit of local
27 government in any action for breach of a contractual obligation authorized by this
28 section, and the taxing power of a unit of local government is not and may not be
29 pledged directly or indirectly to secure any moneys due under a contract authorized by
30 this section.

31 (g) Before entering into a contract under this section involving real property, a
32 unit of local government shall hold a public hearing on the contract. A notice of the
33 public hearing shall be published once at least 10 days before the date fixed for the
34 hearing.

35 (h) As used in this section, the term "unit of local government" means any of the
36 following:

37 (1) A county.

38 (2) A city.

39 (3) A water and sewer authority created under Article 1 of Chapter 162A
40 of the General Statutes.

41 (3a) A metropolitan sewerage district created under Article 5 of Chapter
42 162A of the General Statutes.

43 (3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of
44 the General Statutes.

- 1 (4) An airport authority whose situs is entirely within a county that has (i)
2 a population of over 120,000 according to the most recent federal
3 decennial census and (ii) an area of less than 200 square miles.
- 4 (5) An airport authority in a county in which there are two incorporated
5 municipalities with a population of more than 65,000 according to the
6 most recent federal decennial census.
- 7 (5a) An airport board or commission authorized by agreement between two
8 cities pursuant to G.S. 63-56, one of which is located partially but not
9 wholly in the county in which the jointly owned airport is located, and
10 where the board or commission provided water and wastewater
11 services off the airport premises before January 1, 1995, except that
12 the authority granted by this subdivision may be exercised by such a
13 board or commission with respect to water and wastewater systems or
14 improvements only.
- 15 (5b) A local airport authority that was created pursuant to a local act of the
16 General Assembly.
- 17 (6) A local school administrative unit whose board of education is
18 authorized to levy a school tax.
- 19 (6a) Any other local school administrative unit, but only for the purpose of
20 financing energy conservation measures acquired pursuant to Part 2 of
21 Article 3B of Chapter 143 of the General Statutes.
- 22 (6b) A community college, but only for the purpose of financing energy
23 conservation measures acquired pursuant to Part 2 of Article 3B of
24 Chapter 143 of the General Statutes.
- 25 (7) An area mental health, developmental disabilities, and substance abuse
26 authority, acting in accordance with G.S. 122C-147.
- 27 (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- 28 (9) Repealed by Session Laws 2001-414, s. 52, effective September 14,
29 2001.
- 30 (10) A regional natural gas district, as defined by Article 28 of this Chapter.
- 31 (11) A regional public transportation authority or a regional transportation
32 authority created pursuant to Article 26 or Article 27 of this Chapter.
- 33 (12) A nonprofit corporation or association operating or leasing a public
34 hospital as defined in G.S. 159-39."

35 **SECTION 2.** This act is effective when it becomes law.