

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 126\*  
Committee Substitute Favorable 3/25/91  
Senate Finance Committee Substitute Adopted 7/12/91

Short Title: Local Govt Security Interests.

(Public)

Sponsors:

Referred to:

February 21, 1991

A BILL TO BE ENTITLED

AN ACT TO EXTEND TO CERTAIN AIRPORT AUTHORITIES AND CERTAIN SCHOOL DISTRICTS THE AUTHORITY TO PURCHASE PROPERTY SUBJECT TO A PURCHASE MONEY SECURITY INTEREST.

The General Assembly of North Carolina enacts:

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

"§ 160A-20. Security interests.

(a) ~~Cities, counties, and water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes~~ 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) ~~Cities, counties, and water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes~~ 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) ~~Cities, counties, and water and sewer authorities created under Article 1 of Chapter 162A of the General Statutes~~ Units of local government, as defined in subsection (h), may

1 use escrow accounts in connection with the advance funding of transactions authorized  
2 by this section, whereby the proceeds of such advance funding are invested pending  
3 disbursement.

4 (d) No contract entered into under this section may contain a nonsubstitution  
5 clause that restricts the right of a ~~city, a county, or a water and sewer authority created under~~  
6 ~~Article 1 of Chapter 162A of the General Statutes~~ unit of local government to:

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

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

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

12 (1) Meets the standards set out in G.S. 159-148(a)(1), 159-148(a)(2), and  
13 159-148(a)(3), or involves the construction or repair of fixtures or  
14 improvements on real property; and

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

17 (f) No deficiency judgment may be rendered against any ~~city, county, or water and~~  
18 ~~sewer authority created under Article 1 of Chapter 162A of the General Statutes~~ unit of local  
19 government in any action for breach of a contractual obligation authorized by this  
20 section, and the taxing power of a ~~city or county~~ unit of local government is not and may  
21 not be pledged directly or indirectly to secure any moneys due under a contract  
22 authorized by this section.

23 (g) Before entering into a contract under this section involving real property, a  
24 ~~city, a county, or a water and sewer authority created under Article 1 of Chapter 162A of the~~  
25 ~~General Statutes~~ unit of local government shall hold a public hearing on the contract. A  
26 notice of the public hearing shall be published once at least 10 days before the date  
27 fixed for the hearing.

28 (h) As used in this section, the term 'unit of local government' means any of the  
29 following:

30 (1) A county.

31 (2) A city.

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

34 (4) An airport authority whose situs is entirely within a county that has (i)  
35 a population of over 120,000 according to the most recent federal  
36 decennial census and (ii) an area of less than 200 square miles.

37 (5) An airport authority in a county in which there are two incorporated  
38 municipalities with a population of more than 65,000 according to the  
39 most recent federal decennial census.

40 (6) A local school administrative unit whose board of education is  
41 authorized to levy a school tax."

42 Sec. 2. This act is effective upon ratification.