

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 289*

Short Title: Raise HFA Bond Limit/AB.

(Public)

Sponsors: Senator Hoyle.

Referred to: Finance.

March 4, 1997

A BILL TO BE ENTITLED

AN ACT TO RAISE THE CAP ON THE AMOUNT OF BONDS THAT MAY BE
ISSUED BY THE NORTH CAROLINA HOUSING FINANCE AGENCY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 122A-8 reads as rewritten:

"§ 122A-8. Bonds and notes.

The Agency is hereby authorized to provide for the issuance, at one time or from time to time, ~~of not exceeding one billion five hundred million dollars (\$1,500,000,000) bonds of the Agency to carry out and effectuate its corporate purposes; provided, however, that not more than fifty million dollars (\$50,000,000) bonds shall be issued prior to June 30, 1971.~~ of bonds and notes of the Agency to carry out and effectuate its corporate purposes.

The Agency also is hereby authorized to provide for the issuance, at one time or from time to time of (i) bond anticipation notes in anticipation of the issuance of such bonds and (ii) construction loan notes to finance the making or purchase of mortgage loans to sponsors of residential housing for the construction, rehabilitation or improvement of residential housing; ~~provided, however, that the housing.~~ The total amount of bonds, bond anticipation notes, and construction loan notes outstanding at any one time shall not exceed one billion five hundred million dollars (\$1,500,000,000) excluding therefrom any bond anticipation notes for the payment of which bonds shall have been issued. The principal of and the interest on such bonds or notes shall be payable solely

1 from the funds herein provided for such payment. Any such notes may be made payable
2 from the proceeds of bonds or renewal notes or, in the event bond or renewal note
3 proceeds are not available, such notes may be paid from any available revenues or assets
4 of the Agency. The bonds or notes of each issue shall be dated and may be made
5 redeemable before maturity at the option of the Agency at such price or prices and under
6 such terms and conditions as may be determined by the Agency. Any such bonds or notes
7 shall bear interest at such rate or rates as may be determined by the Local Government
8 Commission of North Carolina with the approval of the Agency. Notes shall mature at
9 such time or times not exceeding 10 years from their date or dates and bonds shall mature
10 at such time or times not exceeding 43 years from their date or dates, as may be
11 determined by the Agency. The Agency shall determine the form and manner of
12 execution of the bonds or notes, including any interest coupons to be attached thereto,
13 and shall fix the denomination or denominations and the place or places of payment of
14 principal and interest, which may be any bank or trust company within or without the
15 State. In case any officer whose signature or a facsimile of whose signature shall appear
16 on any bonds or notes or coupons attached thereto shall cease to be such officer before
17 the delivery thereof, such signature or such facsimile shall nevertheless be valid and
18 sufficient for all purposes the same as if he had remained in office until such delivery.
19 The Agency may also provide for the authentication of the bonds or notes by a trustee or
20 fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both,
21 as the Agency may determine, and provision may be made for the registration of any
22 coupon bonds or notes as to principal alone and also as to both principal and interest, and
23 for the reconversion into coupon bonds or notes of any bonds or notes registered as to
24 both principal and interest, and for the interchange of registered and coupon bonds or
25 notes. Upon the filing with the Local Government Commission of North Carolina of a
26 resolution of the Agency requesting that its bonds and notes be sold, such bonds or notes
27 may be sold in such manner, either at public or private sale, and for such price as ~~said the~~
28 Commission shall determine to be for the best interest of the Agency and best effectuate
29 the purposes of this ~~Chapter provided that such sale shall be Chapter,~~ as long as the sale
30 is approved by the Agency.

31 The proceeds of any bonds or notes shall be used solely for the purposes for which
32 issued and shall be disbursed in such manner and under such restrictions, if any, as the
33 Agency may provide in the resolution authorizing the issuance of such bonds or notes or
34 in the trust agreement hereinafter mentioned securing the same.

35 Prior to the preparation of definitive bonds, the Agency may, under like restrictions,
36 issue interim receipts or temporary bonds, with or without coupons, exchangeable for
37 definitive bonds when such bonds shall have been executed and are available for
38 delivery. The Agency may also provide for the replacement of any bonds or notes which
39 shall become mutilated or shall be destroyed or lost.

40 Bonds or notes may be issued under the provisions of this Chapter without obtaining,
41 except as otherwise expressly provided in this Chapter, the consent of any department,
42 division, commission, board, body, bureau or agency of the State, and without any other
43 proceedings or the happening of any conditions or things other than those proceedings,

1 conditions or things which are specifically required by this Chapter and the provisions of
2 the resolution authorizing the issuance of such bonds or notes or the trust agreement
3 securing the same."

4 Section 2. G.S. 122A-11 reads as rewritten:

5 **"§ 122A-11. Trust funds.**

6 Notwithstanding any other provisions of law to the contrary, all moneys received
7 pursuant to the authority of this Chapter shall be deemed to be trust funds to be held and
8 applied solely as provided in this Chapter. The resolution authorizing any obligations or
9 the trust agreement securing the same may provide that any of such moneys may be
10 temporarily invested pending the disbursement thereof and shall provide that any officer
11 with whom, or any bank or trust company with which, such moneys shall be deposited
12 shall act as trustee of such moneys and shall hold and apply the same for the purposes
13 hereof, subject to such regulations as this Chapter and such resolution or trust agreement
14 may provide.

15 Any moneys received pursuant to the authority of this Chapter and any other moneys
16 available to the Agency for investment may be invested:

- 17 (1) As provided in G.S. 159-30, except that for purposes of G.S. 159-30(b)
18 the Agency may deposit moneys at interest in banks or trust companies
19 outside as well as in this State, ~~provided any such as long as any~~ moneys
20 at deposit outside this State are collateralized to the same extent and
21 manner as if at deposit in this State;
- 22 (2) In evidences of ownership of, or fractional undivided interests in, future
23 interest and principal payments on either direct obligations of the United
24 States government or obligations the principal of and the interest on
25 which are guaranteed by the United States government, which
26 obligations are held by a bank or trust company organized and existing
27 under the laws of the United States of America or any state in the
28 capacity of custodian;
- 29 (3) In obligations which are collateralized by mortgage pass-through
30 securities guaranteed by the Government National Mortgage
31 Association, the Federal Home Loan Mortgage Corporation, or the
32 Federal National Mortgage Association;
- 33 (4) In a trust certificate or similar instrument evidencing an equity
34 investment in a trust or other similar arrangement which is formed for
35 the purpose of issuing obligations which are collateralized by mortgage
36 pass-through or participation certificates guaranteed by the Government
37 National Mortgage Association, the Federal Home Loan Mortgage
38 Corporation or the Federal National Mortgage Association; and
- 39 (5) In repurchase agreements with respect to either direct obligations of the
40 United States government or obligations the principal of and the interest
41 on which are guaranteed by the United States government if all of the
42 following conditions are met: entered into with a broker or dealer, as
43 defined by the Securities Exchange Act of 1934, which is a dealer recognized

1 as a primary dealer by a Federal Reserve Bank, or any commercial bank, trust
2 company or national banking association, the deposits of which are insured by
3 the Federal Deposit Insurance Corporation or any successor thereof if

4 a. The repurchase agreement is entered into with an institution
5 whose ability to pay its unsecured long-term obligations
6 (including, if the institution is an insurance company, its claims
7 paying ability) is rated in one of the two highest ratings
8 categories by a nationally recognized securities rating agency. If
9 the term of the repurchase agreement is for a period of one year
10 or less, however, the repurchase agreement may be entered into
11 with an institution that does not have such a long-term rating if
12 its ability to pay its unsecured short-term obligations is rated in
13 one of the two highest ratings categories by a nationally
14 recognized securities rating agency. If the institution with which
15 the agreement is to be entered does not meet the ratings
16 requirement of this subparagraph, the repurchase agreement may
17 nevertheless be entered into with the institution if the obligations
18 of the institution under the repurchase agreement are fully
19 guaranteed by another institution that does meet the ratings
20 requirement of this subparagraph.

21 b. The repurchase agreement provides that it shall be terminated,
22 without penalty, if the institution with which the repurchase
23 agreement is entered or by whom the institution's obligations are
24 guaranteed fails to maintain (i) in the event that the repurchase
25 agreement was entered into in reliance upon the rating of the
26 institution's long-term obligations, a rating of its long-term
27 obligations in one of the three highest ratings categories by at
28 least one nationally recognized securities rating agency, or (ii) in
29 the event that the repurchase agreement was entered into in
30 reliance upon the rating of the institution's short-term obligations,
31 a rating of its short-term obligations in one of the two highest
32 ratings categories by at least one nationally recognized securities
33 rating agency. The repurchase agreement does not have to be
34 terminated, however, if a new guarantor meeting the rating
35 requirement set forth in subparagraph a. as the requirement
36 necessary for the Agency to enter the repurchase agreement
37 agrees to fully guarantee the obligations of the institution under
38 the repurchase agreement.

39 a- c. ~~such~~ The obligations that are subject to such the repurchase
40 agreement are delivered (in physical or in book entry form) to the
41 Agency, or any financial institution serving either as trustee for
42 obligations issued by the Agency or as fiscal agent for the Agency or the
43 State Treasurer or are supported by a safekeeping receipt issued by a

1 depository satisfactory to the ~~Agency, provided that such~~ Agency. The
2 repurchase agreement must provide that the value of the underlying
3 obligations shall be maintained at a current market value, calculated at
4 least daily, of not less than one hundred percent (100%) of the
5 repurchase ~~price;~~ price. The financial institution serving either as trustee
6 or as fiscal agent for the Agency holding the obligations subject to the
7 repurchase agreement hereunder or the depository issuing the
8 safekeeping receipt shall not be the provider of the repurchase
9 agreement.

10 ~~b.~~ d. ~~a~~ A valid and perfected first security interest in the obligations which
11 are the subject of ~~such~~ the repurchase agreement has been granted to the
12 Agency or its assignee or book entry procedures, conforming, to the
13 extent practicable, with federal regulations and satisfactory to the
14 agency have been established for the benefit of the Agency or its
15 ~~assignee;~~ assignee.

16 ~~e.~~ e. ~~such~~ The securities are free and clear of any adverse ~~third party~~
17 ~~claims;~~ and third-party claims.

18 ~~d.~~ f. ~~such~~ The repurchase agreement is in a form satisfactory to the
19 Agency."

20 Section 3. This act is effective when it becomes law.