

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1999

SESSION LAW 1999-386  
HOUSE BILL 1120

AN ACT TO AUTHORIZE PUBLIC HOSPITALS TO ENGAGE IN INSTALLMENT PURCHASE FINANCING AND TO ISSUE REVENUE ANTICIPATION NOTES AND TO VALIDATE PRIOR CONVEYANCES BY MUNICIPALITIES OR HOSPITAL AUTHORITIES OF HOSPITAL FACILITIES SERVING AS COLLATERAL IN A TRANSACTION INVOLVING NORTH CAROLINA MEDICAL CARE COMMISSION BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-20(h) is amended by adding a new subdivision to read:

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

...

(12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

Section 2. G.S. 160A-20 is amended by adding a new subsection to read:

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

- (1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by such entity.
- (2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated bank eligible indebtedness under federal tax laws.
- (3) The entering into of the contract would have a material adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or otherwise materially interfere with an anticipated financing by such entity."

Section 3. G.S. 159-170 reads as rewritten:

**"§ 159-170. Revenue anticipation notes.**

(a) Authorization; Term. – A unit of local government or a nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39, is authorized to borrow money for the purpose of paying appropriations made or expenses budgeted or incurred for the current fiscal year in anticipation of the receipt of revenues, other than taxes, estimated in its budget to be realized or collected in cash during the fiscal year, and to issue its negotiable notes in evidence thereof. A nonprofit corporation or association operating or leasing a public hospital may only borrow money pursuant to this section if it is legally entitled to collect and pledge such revenues to the payment of the noted as provided in this section. A revenue anticipation note shall mature not later than 30 days after the close of the fiscal year in which it is issued, and may not be renewed beyond that time.

(b) Limit on Amount; Disclosure. – No revenue anticipation loan shall be made if the amount thereof, together with the amount of all revenue anticipation notes authorized or outstanding on the date the loan is authorized, would exceed eighty percent (80%) of the revenues of the issuing ~~unit,~~ unit or the nonprofit corporation or association operating or leasing a public hospital, other than taxes, estimated in its budget to be realized or collected in cash during the fiscal year. Each revenue anticipation note shall bear on its face a statement to the effect that it is payable solely from budgeted nontax revenues of the issuing unit ~~and~~ or the nonprofit corporation or association operating or leasing a public hospital and that the faith and credit of the issuing unit or, in the case of revenue anticipation notes issued by a nonprofit corporation or association operating or leasing a public hospital, the local government unit that owns the public hospital are not pledged for the payment of the ~~note, and~~ note. Each note shall also bear on its face or reverse the following certificate signed by the finance officer: 'This note and all other revenue anticipation notes of (~~issuing unit~~) (issuer) authorized or outstanding as of (date) amount to eighty percent (80%) or less of the budgeted nontax revenues for the current fiscal year as of the above date.' No revenue anticipation note shall be valid without this certificate.

(c) Faith and Credit Not Pledged. – Revenue anticipation notes issued under this section shall be special obligations of the issuing ~~unit,~~ unit or the nonprofit corporation or association operating or leasing a public hospital. Neither the credit nor the taxing power of the issuing ~~unit,~~ unit or, in the case of revenue anticipation notes issued by a nonprofit corporation or association operating or leasing a public hospital, the local government unit that owns the public hospital may be pledged for the payment of revenue anticipation ~~notes, and~~ no notes. No holder of a revenue anticipation note shall have the right to compel the exercise of the taxing power by the issuing unit or, in the case of revenue anticipation notes issued by a nonprofit corporation or association operating or leasing a public hospital, the local government unit that owns the public hospital or the forfeiture of any of its property in connection with any default thereon.

(d) Any revenue anticipation notes issued by a nonprofit corporation or association operating or leasing a public hospital pursuant to this section are subject to the approval of the city, county, hospital district, or hospital authority which owns the

hospital. Approval of the city, county, hospital district, or hospital authority may be withheld only under one or more of the following circumstances:

- (1) The contract would cause the city, county, hospital district, or hospital authority to breach or violate any covenant in an existing financing instrument entered into by such entity.
- (2) The contract would restrict the ability of the city, county, hospital district, or hospital authority to incur anticipated bank eligible indebtedness under federal tax laws.
- (3) The entering into of the contract would have a material adverse impact on the credit ratings of the city, county, hospital district, or hospital authority or otherwise materially interfere with an anticipated financing by such entity."

Section 4. Notwithstanding the requirements of G.S. 131E-8, G.S. 131E-13, G.S. 131E-14, G.S. 153A-176, and Article 12 of Chapter 160A of the General Statutes, and any past compliance or failure to comply with those requirements, the prior conveyance by a municipality as defined in G.S. 131E-6(5), or by a hospital authority as defined in G.S. 131E-16(14), of a hospital facility that currently serves as collateral in a transaction involving North Carolina Medical Care Commission bonds issued under Part 10 of Article 3 of Chapter 143B of the General Statutes is hereby validated.

Section 5. This act is effective when it becomes law. Section 4 of this act shall not apply to litigation pending on or before the effective date.

In the General Assembly read three times and ratified this the 14th day of July, 1999.

s/ Dennis A. Wicker  
President of the Senate

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

s/ James B. Hunt, Jr.  
Governor

Approved 10:07 p.m. this 4th day of August, 1999