

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 1048
HOUSE BILL 1307

1 AN ACT TO CREATE A STATE CONSTRUCTION FINANCE AUTHORITY
2 AUTHORIZED TO ISSUE REVENUE BONDS TO FINANCE CERTAIN STATE
3 GOVERNMENT BUILDING PROJECTS.
4

5 The General Assembly of North Carolina do enact:
6

7 **Section 1.** Creation of Authority. There is hereby created a body corporate and
8 politic and constituting an agency of the State government to be known as the North Carolina
9 State Construction Finance Authority. It shall consist of five members, all of whom shall serve
10 ex officio: The Governor, the Director of the Department of Administration, the State
11 Treasurer, the State Auditor, and the Lieutenant Governor. The Governor shall serve as
12 Chairman unless he elects to designate some other member as Chairman. The members of the
13 Authority shall receive no compensation for their services in that capacity, but shall be entitled
14 to reimbursement for all reasonable expenses necessarily incurred in connection with
15 performance of their duties and functions as such members.

16 Three members of the Authority shall constitute a quorum for the transaction of
17 business, and in the absence of a quorum one or more members may adjourn from time to time.
18 The Authority shall elect a secretary and a treasurer who need not be members of the Authority,
19 each of whom shall serve at the pleasure of the Authority and, if not members of the Authority,
20 receive such compensation as the Governor and the Advisory Budget Commission shall
21 determine. The treasurer shall give such bond as the Authority shall prescribe.

22 **Sec. 2.** Purpose of Act. The purpose of this Act is to provide a method of financing,
23 through the Authority, the acquisition or construction of buildings and other facilities
24 authorized by the General Assembly for the operation of the State Government and its
25 departments, institutions and agencies, without a pledge of the faith and credit or the taxing
26 power of the State.

27 **Sec. 3.** Definitions. As used in this Act, the following words shall have the
28 following meanings, unless another or different meaning or intent shall be clearly indicated by
29 the context:

30 (1) The word "Authority" shall mean the North Carolina State Construction Finance
31 Authority.

32 (2) The word "bonds" shall mean bonds or revenue refunding bonds of the
33 Authority issued under the provisions of this Act.

34 (3) The word "project" shall mean any building, structure or other facility
35 authorized by the General Assembly to be acquired, constructed, enlarged, extended,
36 remodelled or improved by the Authority for the operation of the State Government or any
37 department, agency or institution thereof, and such authorization shall state the maximum
38 authorized cost thereof, and any such project may include any necessary land, furnishings and
39 equipment and parking facilities, utilities and landscaping.

40 (4) The word "cost" as applied to a project shall include the cost of acquisition or
41 construction, the cost of acquisition of all property, both real and personal, or interests therein,
42 the cost of demolishing, removing or relocating any buildings or structures on land so acquired,
43 including the cost of acquiring any lands to which such buildings or structures may be moved

or relocated, the cost of all labor, materials, equipment and furnishings, financing charges, interest prior to and during construction and, if deemed advisable by the Authority, for a period not exceeding one year after completion of such construction, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost, administrative expenses, and such other expenses as may be necessary or incident to the acquisition or construction of the project and the financing of such acquisition or construction. Any obligation or expense incurred by the State or the Authority prior to the issuance of bonds under the provisions of this Act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

Sec. 4. Revenue bonds not debts. Revenue bonds issued pursuant to this Act shall not be deemed to constitute a debt or liability of the State or any political subdivision thereof or a pledge of the faith and credit of the State or of any such political subdivision, but shall be payable solely from the funds herein provided therefor from revenues. All such revenue bonds shall contain on the face thereof a statement to the effect that neither the State nor the Authority shall be obligated to pay the same or the interest thereon except from revenues as herein defined and that neither the faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds hereunder shall not directly or indirectly or contingently obligate the State or any political subdivision thereof to levy or to pledge any taxes whatsoever therefor.

Sec. 5. General powers of Authority. The Authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, but without limiting the generality of the foregoing, the following powers:

- (1) To sue and be sued;
- (2) To make contracts;
- (3) To adopt and use a common seal and to alter the same as may be deemed expedient;
- (4) to acquire by purchase or otherwise (including the power of condemnation by the exercise of the right of eminent domain under the eminent domain laws of the State), construct, complete, remodel, enlarge, extend, improve and equip any project;
- (5) to acquire property of any and every kind and description, real, personal, or mixed, by gift, purchase or otherwise, including property of the State or of any department, board, commission, or other agency of the State transferred to the Authority as herein authorized;
- (6) to lease any project to, and to charge and collect rents from, any officer, department, board, commission or other agency of the State for the use of any such project;
- (7) in the event of non-payment of rents under any such lease, to maintain and operate any such project or lease such project to others for any suitable purpose or dispose of any such project, all as hereinafter provided;
- (8) to borrow money and to issue bonds or notes or other obligations as hereinafter provided to pay all or any part of the cost of any project or projects, and to fund or refund the same;
- (9) to fix and revise and charge and collect rents and other charges for the use of any project;
- (10) to employ consulting engineers, architects, attorneys, accountants, construction and financial experts, superintendents, managers and such other employees and agents as may be necessary in the judgment of the Authority, and to fix their compensation;

- (11) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this Act;
- (12) to receive and accept from any federal, State or other public agency or from any private agency, person or other entity donations, loans, grants, aid or contributions of any money, property, labor or other things of value for any project or projects, and to agree to apply and use the same in accordance with the terms and conditions under which the same are provided; and
- (13) to do all acts and things necessary or convenient to carry out the powers granted by this Act.

Sec. 6. Issuance of revenue bonds and bond anticipation notes. The Authority is hereby authorized to issue, at one time or from time to time, revenue bonds of the Authority for the purpose of paying all or any part of the cost of any project or projects. The bonds of each issue shall be dated and shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. Any such bonds shall bear interest at such rate or rates as may be determined by the Local Government Commission of North Carolina with the approval of the Authority. The Authority shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this Act or any recitals in any bonds issued under the provisions of this Act, all such bonds shall be deemed to be negotiable instruments under the laws of this State, subject only to the provisions for registration in any resolution authorizing the issuance of such bonds or any trust agreement securing the same. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. Unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, if the proceeds of such bonds, by error of estimates or otherwise, shall be less than the cost of a project or projects for which such bonds shall have been issued, additional bonds may in like manner be issued to provide the amount of such deficit and shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

Any resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds thereunder as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable

1 for definitive bonds when such bonds shall have been executed and are available for delivery.
2 The Authority may also provide for the replacement of any bonds which shall become
3 mutilated or be destroyed or lost.

4 Except as herein otherwise provided, bonds may be issued by the Authority under
5 this Act and other powers vested in the Authority under this Act may be exercised by the
6 Authority without obtaining the consent of any department, division, commission, board,
7 bureau or agency of the State and without any other proceedings or the happening of any other
8 conditions or things than those proceedings, conditions or things which are specifically
9 required by this Act.

10 In anticipation of the issuance of bonds for any project the Authority may borrow
11 money at the lowest rate of interest obtainable and execute and issue notes of the Authority for
12 the payment of any of the costs of such project. The provisions of this Act relating to bonds of
13 the Authority and the proceeds thereof shall govern as to any bond anticipation notes issued
14 hereunder and the proceeds thereof in so far as such provisions may be made applicable thereto.
15 To the extent that any such notes shall not have been retired from revenues received by the
16 Authority on account of the project for which they were issued or from other sources, such
17 notes shall be paid from the proceeds of the bonds of the Authority issued for such project.

18 **Sec. 7.** Leases of projects. The Authority and the department, board, commission or
19 other agency of the State or the State Treasurer on behalf of the State Government are
20 authorized and empowered to enter into a lease or leases with respect to any project or projects
21 financed by the Authority hereunder for such department, board, commission or other agency
22 of the State or the State Government, as the case may be, any such lease to be payable solely
23 from appropriations to be made by the General Assembly for the payment of the rent therein
24 provided to be paid. Any such lease may be entered into contemporaneously with or at any time
25 after the financing by the Authority of the project described in such lease, and payments under
26 the lease may begin at any time after execution of such lease. Any such lease shall extend only
27 for the biennium in which it is executed, and shall be automatically renewed for the succeeding
28 biennium, effective on the first day thereof, unless the General Assembly shall fail to make an
29 appropriation or appropriations for the payment of the rent therein provided to be paid during
30 such succeeding biennium.

31 The rents provided for in the lease with respect to any project shall be sufficient at
32 all times to pay the principal of and the interest on the bonds issued therefor and a proportion of
33 the administrative expenses of the Authority as provided for by such lease and such reserves as
34 may be required by the resolution authorizing the issuance of such bonds.

35 In the event any such lease is not renewed the Authority may maintain and operate
36 the project described therein, or lease all or any part of such project to any other person, firm or
37 corporation for any purpose deemed by the Authority to be suitable, or sell or otherwise dispose
38 of such project in any manner and on such terms and conditions as the Authority shall
39 determine to be for the best interest of the State, the Authority and the holders of bonds or other
40 obligations of the Authority issued to finance such project or payable in whole or in part from
41 the revenues thereof. Any fees, rents or charges on the part of the Authority or any such lessee
42 shall not be subject to supervision or regulation by any other com- mission, board, bureau or
43 agency of the State.

44 **Sec. 8.** Trust agreement; money received deemed trust funds; insurance: remedies.
45 In the discretion of the Authority, any revenue bonds issued under this Act may be secured by a
46 trust agreement by and between the Authority and a corporate trustee which may be any trust
47 company or bank having the powers of a trust company within or without the State. Such trust
48 agreement or the resolution providing for the issuance of such bonds may pledge or assign all
49 or any part of the revenues to be received, but shall not convey or mortgage any project or
50 projects or any part thereof. Such trust agreement or resolution may contain such provisions for
51 protecting and enforcing the rights and remedies of the holders of such bonds as may be

1 reasonable and proper and not in violation of law, including covenants setting forth the duties
2 of the Authority in relation to the acquisition, construction or provision of any project or
3 projects; the maintenance, repair, operation and insurance of any project or projects; rents,
4 charges or fees to be fixed and collected, and the custody, safeguarding and application of all
5 moneys. It shall be lawful for any bank or trust company incorporated under the laws of the
6 State which may act as depositary of the proceeds of bonds, revenues or other money hereunder
7 to furnish such indemnifying bonds or to pledge such securities as may be required by the
8 Authority. Any such trust agreement or resolution may set forth the rights and remedies of the
9 holders of the bonds and the rights, remedies and immunities of the trustee or trustees, if any,
10 and may restrict the individual right of action by such holders. In addition to the foregoing, any
11 such trust agreement or resolution may contain such other provisions as the Authority may
12 deem reasonable and proper for the security of such holders. All expenses incurred in carrying
13 out the provisions of such trust agreement or resolution may be treated as an administrative
14 expense of the Authority or as a part of the cost of the project or projects for which such bonds
15 are issued or as an expense of operation of such project or projects, as the case may be.

16 All moneys received pursuant to the authority of this Act, whether as proceeds from
17 the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely
18 as provided in this Act. The Authority may provide for the payment of the proceeds of the sale
19 of the bonds and the revenues, or part thereof, to such officer, board or depositary as it may
20 designate for the custody thereof, and for the method of disbursement thereof, with such
21 safeguards and restrictions as it may determine, and may provide for the temporary investment
22 thereof pending such disbursement. Any officer with whom or any bank or trust company with
23 which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and
24 apply the same for the purposes hereof, subject to such requirements as are provided in this Act
25 and in the resolution or trust agreement authorizing or securing such bonds.

26 Notwithstanding the provisions of any other law the Authority may carry insurance
27 on any project or projects in such amounts and covering such risks as it may deem advisable.

28 Any holder of bonds issued under this Act or of any of the coupons appertaining
29 thereto, and the trustee or trustees under any trust agreement, except to the extent the rights
30 herein given may be restricted by such trust agreement or the resolution authorizing the
31 issuance of such bonds, may, either at law or in equity, by suit, action, mandamus or other
32 proceedings, protect and enforce any and all rights under the laws of the State or granted
33 hereunder or under such trust agreement or resolution, and may enforce and compel the
34 performance of all duties required by this Act or by such trust agreement or resolution to be
35 performed by the Authority or by any officer thereof.

36 **Sec. 9.** Sinking fund; pledge of revenues. Any resolution or trust agreement
37 providing for the issuance of and securing bonds hereunder shall provide that all revenues
38 derived from or on account of the leasing of any project, except such part thereof as may be
39 necessary to pay administrative costs of the Authority and the cost of maintenance, repair and
40 operation of any project during any operation thereof by the Authority and reserves for the
41 payment of such cost, shall be set aside in a sinking fund or funds which shall be and are
42 hereby pledged to and charged with the payment of the principal of and the interest on such
43 bonds as the same shall become due and the redemption or purchase price of bonds retired by
44 call or purchase as therein provided. Such pledge shall be valid and binding from the time when
45 the pledge is made; the fees, rents and charges and other revenues or other moneys so pledged
46 and thereafter received by the Authority shall immediately be subject to the lien of such pledge
47 without any physical delivery thereof or further act, and the lien of any such pledge shall be
48 valid and binding as against all parties having claims of any kind in tort, contract or otherwise
49 against the Authority, irrespective of whether such parties have notice thereof. Neither the
50 resolution nor any trust agreement by which a pledge is created need be filed or recorded
51 except in the records of the Authority. The use and disposition of moneys to the credit of such

sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of the trust agreement securing the same.

Sec. 10. Refunding bonds. The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds or revenue refunding bonds issued by the Authority under this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue refunding bonds for the combined purpose of (i) refunding any such revenue bonds or revenue refunding bonds issued by the Authority under this Act, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (ii) paying all or any part of the cost of acquiring or constructing any additional project or projects.

The issuance of such refunding bonds, the maturities and other details thereof, the rights and remedies of the holders thereof, and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be applicable.

Sec. 11. Sale of bonds; sale or exchange of refunding bonds. Upon the filing with the Local Government Commission of North Carolina of a resolution of the Authority so requesting, bonds authorized to be issued hereunder shall be sold on behalf of the Authority by the Local Government Commission in such manner, at public or private sale, and for such price as the Local Government Commission may determine to be for the best interests of the Authority and the State, provided that such sale shall be approved by the Authority.

Refunding bonds may be sold or exchanged by the Local Government Commission on behalf and with the approval of the Authority for outstanding bonds of the Authority issued under this Act and, if sold, the proceeds thereof may be applied to the purchase, redemption or payment of such outstanding bonds. Pending the application of the proceeds of any such refunding bonds, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of such refunding bonds or in the trust agreement securing the same, to the payment of any interest on such refunding bonds and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

Sec. 12. Exemption from taxation; bonds eligible for investment or deposit. Any bonds issued under this Act, including any of such bonds constituting a part of the surplus of any bank, trust company or other corporation, and the transfer of and the income from any such bonds (including any profit made on the sale thereof and all principal, interest and redemption premiums, if any), and all property of the Authority, shall at all times be exempt from all taxes or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, which are levied or assessed by the State or by any county, political subdivision, agency or other instrumentality of the State.

Bonds issued by the Authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the State and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them.

Such bonds are hereby made securities which may properly and legally be deposited with and received by any State or municipal officer or any agency or political subdivision of

the State for any purpose for which the deposit of bonds or obligations of the State is now or may hereafter be authorized by law.

Sec. 13. Transfer of State property. Any department, board, commission, agency or officer of the State may transfer jurisdiction of or title to any property under its or his control to the Authority when such transfer is approved in writing by the Governor as being advantageous to the State.

Sec. 14. Conveyance of property by the Authority to the State. Upon the final payment of all obligations of the Authority on account of any project financed hereunder the Authority shall convey such project, without charge, to the State or to the appropriate agency thereof.

Sec. 15. Authorization to accept appropriated moneys. The Authority is authorized to accept such moneys as may be appropriated from time to time by the General Assembly for effectuating the purposes of this Act, including, without limitation, the payment of expenses of administration and operation of the Authority or of any project, lease payments, and the establishment of a reserve or contingency fund to be available for the payment of the principal of and the interest on any bonds or notes of the Authority.

Sec. 16. Annual reports. The Authority shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor, the General Assembly, the Advisory Budget Commission and the Local Government Commission. Each such report shall set forth a complete operating and financial statement of the Authority during such year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by an independent certified public accountant and the cost thereof may be paid from any available moneys of the Authority.

Sec. 17. Officers not liable. No member or other officer of the Authority shall be subject to any personal liability or accountability by reason of his execution of any obligations or the issuance thereof.

Sec. 18. Additional method. The foregoing Sections of this Act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this Act need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

Sec. 19. Act liberally construed. This Act, being necessary for the prosperity of the State and its inhabitants, shall be liberally construed to effect the purposes thereof.

Sec. 20. Constitutional construction. The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Sec. 21. Inconsistent laws inapplicable. Insofar as the provisions of this Act are inconsistent with the provisions of any general or special laws, or parts thereof, the provisions of this Act shall be controlling.

Sec. 22. Effective upon ratification. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 26th day of June, 1969.