

NORTH CAROLINA GENERAL ASSEMBLY
1977 SESSION

CHAPTER 201
HOUSE BILL 408

AN ACT TO AMEND CHAPTER 159 OF THE GENERAL STATUTES OF NORTH CAROLINA BY PROVIDING FOR THE APPLICATION OF THE PROCEEDS OF REFUNDING BONDS; TO PERMIT THE ISSUANCE OF SPECIAL OBLIGATION BONDS PAYABLE SOLELY FROM THE PROCEEDS OF SECURITIES PURCHASED WITH THE PROCEEDS OF REFUNDING BONDS AND SPECIAL OBLIGATION REFUNDING BONDS; AND TO PERMIT THE PRIVATE SALES OF CERTAIN REFUNDING BONDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 159-72 is hereby amended to read as follows:

"§ 159-72. A unit of local government may issue funding and refunding bonds under this Article for the purposes listed in G.S. 159-48(a)(4), (5), (6), or (7). Funding bonds may be issued if the debt, judgment, or other obligation to be paid is payable at the time of the passage of the bond order or within one year thereafter. Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds shall be applied only as follows: either (i) to the immediate payment and retirement of the obligations being refunded or (ii) if not required for the immediate payment of the obligations being refunded such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded, and to pay any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any amounts in excess of the amounts required for such purposes, including, without limitation, provision for the pledging of any such excess to the payment of the principal of and interest on any issue or series of refunding bonds issued pursuant to Section 159-78. Money in any such trust fund may be invested in (a) direct obligations of the United States government, or (b) obligations the principal of and interest on which are guaranteed by the United States government, or (c) to the extent then permitted by law in obligations of any agency or instrumentality of the United States government, or (d) in certificates of deposit issued by a bank or trust company located in the State of North Carolina if such certificates shall be secured by a pledge of any of said obligations described in (a), (b), or (c) above having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

The principal amount of refunding bonds issued pursuant to this section, together with the principal amount of refunding bonds, if any, issued under G.S. 159-78 in conjunction with refunding bonds issued pursuant to this section, shall not exceed the amount set forth in G.S. 159-78.

Except as expressly modified in this Part, funding and refunding bonds issued under the provisions of this Part shall be subject to the limitations and procedures set out in Parts 1 and 2 of this Article."

Sec. 2. Chapter 159 is amended by adding a new section numbered G.S. 159-78 which shall read as follows:

"§ 159-78. Special obligation refunding bonds. — In conjunction with the issuance of refunding bonds pursuant to G.S. 159-72 or G.S. 159-84 a unit of local government may issue a series of refunding bonds which shall be payable from the excess of the amount required by a trust fund established pursuant to G.S. 159-72 or G.S. 159-84 to provide for the payment and retirement of the obligations being retired and the amount required to pay any expenses incurred in connection with such refunding to the extent such expenses are payable from said trust fund.

Such refunding bonds shall be special obligations of the municipality issuing them. The principal of and interest on such refunding bonds shall not be payable from the general funds of the municipality, nor shall they constitute a legal or equitable pledge, charge, lien, or encumbrance upon any of its property or upon any of its income, receipts, or revenues, except the trust fund established pursuant to G.S. 159-72 or G.S. 159-84 from which such refunding bonds are payable. Neither the credit nor the taxing power of the municipality is pledged for the payment of the principal or interest of such refunding bonds, and no holder of such refunding bonds has the right to compel the exercise of the taxing power of the municipality or the forfeiture of any of its property in connection with any default thereon. Every such refunding bond shall recite in substance that the principal of and interest on the bond is payable solely from the trust fund established for its payment and that the municipality is not obligated to pay the principal or interest except from such trust fund.

Any refunding bonds issued under this section shall be issued in compliance with the procedure set forth in Article V of this Chapter.

The principal amount of any issue of refunding bonds issued pursuant to G.S. 159-72 or G.S. 159-84, together with the principal amount of refunding bonds, if any, issued pursuant to this section in conjunction with a series of bonds issued under G.S. 159-72 or G.S. 159-84, shall not exceed the sum of the following: (a) the principal amount of the obligations being refinanced, (b) applicable redemption premiums thereon, (c) unpaid interest on such obligations to the date of delivery or exchange of the refunding bonds, (d) in the event the proceeds from the sale of the refunding bonds are to be deposited in trust as provided by G.S. 159-72 or G.S. 159-84, interest to accrue on such obligations being refinanced from the date of delivery of the refunding bonds to the first or any subsequent available redemption date or dates selected, in its discretion, by the governing body of the unit of local government, or to the date or dates of maturity, whichever shall be determined by the governing body of the unit of local government to be most advantageous or necessary and (e) expenses, including bond discount, deemed by the governing body to be necessary for the issuance of the refunding bonds."

Sec. 3. G.S. 159-84 is amended by adding two new paragraphs at the end of said section to read as follows:

"Refunding bonds may be issued at any time prior to the final maturity of the debt or obligation to be refunded. The proceeds from the sale of any refunding bonds shall be applied only as follows: either, (i) to the immediate payment and retirement of the obligations being refunded or (ii) if not required for the immediate payment of the obligations being refunded such proceeds shall be deposited in trust to provide for the payment and retirement of the obligations being refunded, and to pay any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any amounts in excess of the amounts required for such purposes, including, without limitation, provision for the pledging of any such excess to the payment of the principal of and interest on any issue or series of refunding bonds issued pursuant to Section 159-78. Money in any such trust fund may be invested in (a) direct obligations of the United States government or (b) obligations the principal of and interest on which are guaranteed by the United States government, or (c) to the extent then permitted by law in obligations of any agency or instrumentality of the United

States government, (d) certificates of deposit issued by a bank or trust company located in the State of North Carolina if such certificates shall be secured by a pledge of any of said obligations described in (a), (b), or (c) above having any aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing herein shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption.

The principal amount of refunding bonds issued pursuant to this section, together with the principal amount of refunding bonds, if any, issued under G.S. 159-78 in conjunction with refunding bonds issued pursuant to this section, shall not exceed the amount set forth in G.S. 159-78."

Sec. 4. G.S. 159-123(b) is amended by rewriting subdivision (3) thereof and adding new subdivisions (4) and (5) as follows:

- "(3) Revenue bonds, including any refunding bonds issued pursuant to Section 159-84.
- (4) Refunding bonds issued pursuant to G.S. 159-78.
- (5) Refunding bonds issued pursuant to G.S. 159-72 if the Local Government Commission determines that a private sale is in the best interest of the issuing unit."

Sec. 5. All laws and clauses of laws in conflict with the provisions of this act are hereby repealed.

Sec. 6. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 15th day of April, 1977.