

§ 159D-6. Bonds.

(a) The agency is authorized to provide for the issuance, at one time or from time to time, of bonds of the agency for the purpose of paying all or any part of the cost of any project. The principal of, the interest on and any premium payable under the redemption of such bonds shall be payable solely from the funds herein authorized for such payment. The bonds of each issue shall bear interest as may be determined by the Local Government Commission of North Carolina with the approval of the agency and the obligor irrespective of the limitations of G.S. 24-1.1, as amended, and successor provisions. The bonds of each issue shall be dated, shall mature at such time or times not exceeding 30 years from the date of their issuance, and may be made redeemable before maturity at such price or prices and under such terms and conditions, as may be fixed by the agency prior to the issuance of the bonds. The agency shall determine the form and the 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. In case any officer whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be that officer before the delivery of the bonds, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery. The agency may also provide for the authentication of the bonds by a trustee or fiscal agent.

(b) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects, or a portion thereof, for which the bonds were issued, and shall be disbursed in such manner and under such restrictions, if any, as the agency may provide in the financing agreement and the security document. If the proceeds of the bonds of any issue, by reason of increased construction costs or error in estimates or otherwise, are less than such cost, additional bonds may in like manner be issued to provide the amount of such deficiency.

(c) The proceeds of bonds issued pursuant to this Article shall not be used to refinance the cost of a project. For the purposes of this section, a cost of a project is considered refinanced if both of the following conditions are met:

- (1) The cost is initially paid from sources other than bond proceeds, and the original expenditure is to be reimbursed from bond proceeds.
- (2) The original expenditure was paid more than 60 days before the agency took some action indicating its intent that the expenditure would be financed or reimbursed from bond proceeds.

(d) Notwithstanding subsection (c) of this section, preliminary expenditures that are incurred prior to the commencement of the acquisition, construction, or rehabilitation of a project, such as architectural costs, engineering costs, surveying costs, soil testing costs, bond issuance costs, and other similar costs, may be reimbursed from bond proceeds even if these costs are incurred or paid more than 60 days prior to the agency's action. This exception that allows preliminary expenditures to be reimbursed from bond proceeds, whether or not they are incurred or paid within 60 days of the agency's action, does not include costs that are incurred incident to the commencement of the construction of a project, such as expenditures for land acquisition and site preparation. In any event, an expenditure originally paid before the agency took some action indicating its intent that the expenditures would be financed or reimbursed from bond proceeds may be reimbursed from bond proceeds only if the agency finds that reimbursing those costs from bond proceeds will promote the purposes of this Article.

(e) Bonds may be issued under the provisions of this Article without obtaining, except as otherwise expressly provided in this Article, the consent of the State or of any political subdivision and without any other proceedings or the happening of any conditions or things other than those proceedings, conditions or things specifically required by this Article and the

provisions of the financing agreement and security document authorizing the issuance of such bonds and securing the same. (1977, 2nd Sess., c. 1198, s. 1; 2000-179, s. 2.)