§ 63A-9. Bonds and notes.

(a) The Authority may provide for the issuance, at one time or from time to time, of bonds and notes, including bond anticipation notes and renewal notes, of the Authority to carry out its corporate purposes including financing the costs of projects. The principal of and interest on the bonds or notes shall be payable from funds provided under this Chapter for their payment. A bond anticipation note may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, from any available Authority revenues or other funds provided for this purpose. Bonds and notes may also be paid from the proceeds of any credit facility.

All bonds, notes, or refunding bonds or notes of the Authority are subject to this section and G.S. 63A-10. All bonds, notes, or refunding bonds or notes to finance or refinance a special user project are also subject to G.S. 63A-11.

The bonds and notes of each issue shall be dated and may be made redeemable prior to maturity at the option of the Authority or otherwise, at one or more prices, on one or more dates, and upon the terms and conditions set by the Authority. The bonds or notes may also be made payable from time to time on demand or tender for purchase by the owner upon terms and conditions set by the Authority.

A bond or note shall bear interest at a rate or rates, including variable rates, as determined by the Local Government Commission with the approval of the Authority. A bond or note may be secured by a reserve fund created for that purpose and funded from proceeds of the bond or note, revenues, or any other source of funds available to the Authority.

(b) In fixing the details of bonds or notes, the Authority may provide that the bonds or notes may:

(1) Be payable from time to time on demand or tender for purchase by the owner of the bond or note if a credit facility supports the bond or note, unless the Local Government Commission specifically determines that a credit facility is not required because the absence of a credit facility will not materially and adversely affect the financial position of the Authority and the marketing of the bonds or notes at a reasonable interest cost to the Authority.

(2) Be additionally supported by a credit facility.

(3) Be made subject to redemption or a mandatory tender for purchase prior to maturity.

(4) Be capital appreciation bonds.

(5) Bear interest at a rate or rates that may vary, including variations permitted pursuant to a par formula.

(6) Be made the subject of a remarketing agreement whereby an attempt is made to remarket the bonds or notes to new purchasers prior to their presentment for payment to the provider of the credit facility or to the Authority.

(c) Notes and bonds shall mature at the times determined by the Authority, not to exceed 40 years from the date of issue. The Authority shall determine the form and manner of execution of a bond or note, including any interest coupons to be attached to the bond or note. The Authority shall fix the denominations and places of payment of principal and interest of the bond or note. The principal of and interest on a bond or note may be paid at any bank or trust company, whether located inside or outside the United States of America.

(d) The validity of a bond, note, or coupon that has the signature or facsimile signature of a person who was an officer when the bond, note, or coupon was signed or the facsimile signature attached but who is not that officer when the bond, note, or coupon is delivered is not affected by the change in officers. A bond, note, or coupon may bear the signature or facsimile signature of a person who will be the proper officer to sign the bond, note, or coupon when it is executed but who is not the officer on the date of the bond, note, or coupon.

(e) The Authority may provide for any of the following:

(1) Authentication of a bond or note by a trustee or other authenticating agent.
(2) Issuance of a bond or note as a certificated obligation, an uncertificated obligation, or both.
(3) Issuance of a bond or note in coupon form, in registered form, or both.
(4) Registration of a coupon bond or note as to principal alone or as to both principal and interest.
(5) The reconversion of a bond or note registered as to both principal and interest into a coupon bond or note.
(6) The interchange of registered and coupon bonds or notes.
(7) A system for registration in accordance with Chapter 159E of the General Statutes.
(8) Replacement of a bond or note that has been mutilated, lost, or destroyed.

(f) The Authority may not issue a bond or note under this Chapter, other than an obligation permitted under G.S. 63A-4(a)(22), unless its issuance is approved by the Local Government Commission, and it is sold by the Local Government Commission. To obtain approval of a bond or note, the Authority shall file an application for approval with the Local Government Commission. The application shall contain the information required by the Local Government Commission.

In determining whether to approve a proposed bond or note issue of the Authority, the Local Government Commission shall consider the following:

(1) For bonds or notes to finance airport projects, the criteria for its approval of revenue bonds under G.S. 159-86.
(2) For bonds or notes to finance special user projects, the criteria used for its approval of industrial bonds under G.S. 159C-8.
(3) The effect of the proposed financing upon any proposed or scheduled sale of obligations by the State, another State agency, or a unit of local government.

The Local Government Commission shall approve the proposed bond or note issue if it determines that the proposed financing for the issue meets the criteria and will effect the purposes of this Chapter.

When the Local Government Commission approves a bond or note issue of the Authority, the Authority may submit a written request to the Local Government Commission to sell the approved bonds or notes. Upon receiving a written request, the Local Government Commission shall consult with the Authority on the manner in which the bonds or notes will be sold and the price or prices at which the bonds or notes will be sold. With the approval of the Authority, the Local Government Commission shall sell the bonds or notes either at public or private sale in the manner and at the prices determined to be in the best interest of the Authority and to effect the purposes of this Chapter.

Bonds or notes may be issued under this Chapter without obtaining, except as otherwise expressly provided in this Chapter, the consent of any department, division, commission, board, body, bureau, or other agency of the State or without any other proceedings or conditions except as specifically authorized by this Chapter or by the provisions of the resolution authorizing the issuance of, or any trust agreement securing, the bonds or notes.

(g) Each bond or note that is represented by an instrument shall contain a statement signed by the Secretary of the Local Government Commission, or an assistant designated by the Secretary, certifying that the issuance of the bond or note has been approved under this Chapter. The signature may be a manual signature or a facsimile signature, as determined by the Local Government Commission. Each bond or note that is not represented by an instrument shall be evidenced by a writing relating to the obligation that identifies the obligation or the issue of which it is a part, contains the signed statement certifying approval of the Local Government Commission that is required on an instrument, and is filed with the Local Government Commission. A certification of approval by the Local Government Commission is conclusive evidence that a bond or note complies with this Chapter.

(h) The proceeds of a bond or note shall be used solely for the purposes for which the bond or note was issued and shall be disbursed in accordance with the resolution authorizing the issuance of the bond or note and with any trust agreement securing the bond or note.

(i) Prior to the preparation of definitive bonds, the Authority may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when the bonds have been executed and are available for delivery.

(j) The Authority may secure a bond or note issued under this Chapter by a trust agreement between the Authority and a corporate trustee. The corporate trustee may be any trust company or bank having the powers of a trust company inside or outside the State. The Authority may secure a bond or note issued under this Chapter by a deed of trust. The trustee of the deed of trust may be an individual who is a resident of the State. A bank or trust company that is incorporated in this State and is a depository of the proceeds of obligations, revenues, or other money of an Authority may furnish indemnifying bonds or pledge securities required by the Authority.

The pledge of any assets, income, or revenues of the Authority to the payment of the principal of or the interest on any obligations of the Authority is binding from the time the pledge is made, and any assets, income, or revenues of the Authority are immediately subject to the lien of the pledge without any physical delivery or other act. The lien created by a pledge is binding against all persons who have claims of any kind against the Authority, regardless of whether they have notice of the lien.

(k) A resolution authorizing the issuance of a bond or note and a trust agreement securing a bond or note may provide that any moneys held under the resolution or trust agreement may be temporarily invested pending disbursement. Any officer with whom, or any bank or trust company with which, the moneys are deposited is considered a trustee of the moneys and must hold and apply the moneys for their stated purpose in accordance with this Chapter and the resolution or trust agreement. The Authority may invest any moneys, other than the proceeds of bonds issued to finance special user projects, as allowed in G.S. 147-69.1 for investments of the State Treasurer or in this subsection. The proceeds of bonds issued to finance special user projects may be invested as provided in the security document for the bonds.

In connection with or incidental to the acquisition or carrying of any investment relating to bonds, program of investment relating to bonds, or carrying of bonds, the Authority may, with the approval of the Local Government Commission, enter into a contract to place the investment or obligation of the Authority, as represented by the bonds, investment, or program of investment and the contract or contracts, in whole or in part, on an interest rate, currency, cash-flow, or other basis, including the following:

(1) Interest rate swap agreements, currency swap agreements, insurance agreements, forward payment conversion agreements, and futures.
(2) Contracts providing for payments based on levels of, or changes in, interest rates, currency exchange rates, or stock or other indices.
(3) Contracts to exchange cash flows or a series of payments.
(4) Contracts to hedge payment, currency, rate, spread, or similar exposure, including interest rate floors or caps, options, puts, and calls.

The Authority may enter a contract of this type in connection with, or incidental to, entering into or maintaining any agreement that secures bonds. A contract shall contain the payment, security, term, default, remedy, and other terms and conditions the Board considers appropriate. The Authority may enter a contract of this type with any person after giving due consideration, where applicable, of the person's credit-worthiness as determined by a rating by a nationally recognized rating agency or any other criteria the Board considers appropriate. In connection with, or incidental to, the issuance or carrying of bonds, or the entering of any contract described in this subsection, the Authority may enter into credit enhancement or liquidity agreements, with payment, interest rate, termination date, currency, security, default, remedy, and other terms and conditions as the Authority determines. Proceeds of bonds and any moneys set aside and pledged to secure payment of bonds or any of the contracts entered into under this subsection may be pledged to and used to service any of the contracts entered into under this section.

(l) Bonds and notes are exempt from all State, county, and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, excluding income taxes on the gain from the transfer of bonds and notes, and franchise taxes. The interest on bonds and notes is not subject to taxation as income.

(m) Bonds or notes issued under this Chapter shall not constitute a debt secured by a pledge of the faith and credit of the State or a political subdivision of the State and shall be payable solely from the revenues, income, or assets of the Authority that are pledged for their payment. The face of each bond or note issued shall contain a statement that the Authority is obligated to pay the bond or note or the interest on the bond or note only from the revenues, income, or assets pledged in payment of the bond or note and that neither the faith and credit nor the taxing power of the State or any political subdivision of the State is pledged in payment of the principal of or the interest on the bond or note.

(n) The State pledges to the holder of a bond or note issued under this Chapter that, as long as the bond or note is outstanding and unpaid, the State will not limit or alter the power the Authority had when the bond or note was issued in a way that impairs the ability of the Authority to produce revenues sufficient with other available funds to do all of the following:

(1) Maintain and operate the project for which the bond or note was issued.

(2) Pay the principal of, interest on, and redemption premium, if any, of the bond or note.

(3) Fulfill the terms of an agreement with the holder.

The State further pledges to the holder of a bond or note issued under this Chapter that the State will not impair the rights and remedies of the holder concerning the bond or note.

(o) Obligations issued under this Chapter are made securities in which all public officers and public bodies of the State and its political subdivisions, and 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. The obligations are made securities that 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, notes, or obligations of the State is now or may be authorized by law. (1991, c. 749, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 16; 1995, c. 46, s. 2; 2015-264, s. 16(a).)